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Observing the Rules of Law: Experiences from Northern Ireland

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OBSERVING THE RULE OF LAW: 
EXPERIENCES FROM 
NORTHERN IRELAND

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The violence that erupted in the summer of 1996 marked the worst episode of civil unrest in Northern Ireland since the hunger strikes of the early 1980s... By all accounts, there was a serious breakdown in the rule of law resulting in grave consequences for the administration of justice in Northern Ireland.1

INTRODUCTION

WHILE civil disturbance on a large scale is part of the history of Northern Ireland, the incidence of such unrest had declined considerably in recent years. Before 1996, the last real period of widespread disturbances was during the Unionist protests over the Anglo-Irish Agreement of 1985.2

Although controversy over the way in which such unrest is policed is fairly common in Northern Ireland,3 the events of the summer of 1996 brought this issue into sharp focus once again. While protests against the Orange Order parades triggered the unrest,4 the policing of these protests generated serious and widespread criticism of the Royal Ulster Constabulary (“RUC”) and the British Army. After the summer of 1996, many questioned the state’s ability to carry out its law enforcement role in an impartial manner.5

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4. See infra Part II.

5. The chairman of the government-appointed Police Authority for Northern Ireland (“PANI”) wrote:
This article looks at the background to those events and examines the initiative undertaken by a local human rights non-governmental organization ("NGO") in monitoring that behavior. Part I briefly describes the demographics and political influences fueling the conflict in Northern Ireland. Part II explains and contextualizes the events of the summer of 1996 that sparked one of the worst periods of civil unrest in Northern Ireland. Part III introduces the Committee on the Administration of Justice ("CAJ") and reviews the measures it took to observe the efforts to police this civil unrest. Part IV recounts the findings of the CAJ's fact-finding operation and details how these findings were used as a basis for interventions with the various authorities. Part V highlights a number of factors which made the CAJ's operation successful and formulates them into general principles to be used in monitoring the behavior of the police or other state forces. In doing so, this article offers a model of human rights fact-finding that should be adopted by other human rights organizations.

I. THE CONFLICT

A. Demographics

Perhaps the most important feature of Northern Ireland is its population breakdown. Fifty percent of residents are Protestant while around thirty-eight percent are Roman Catholic. Although seemingly simple, these denominational labels invoke a more complex set of identities: "Protestants are largely Unionists—people who want to maintain the union with the United Kingdom. Most Catholics, on the other hand, are Nationalists, who wish to reunite with the Republic of Ireland, which has a population of about 3.5 million, of whom 95 percent are Catholic." Within these two groups, there are subdivisions: "Some Unionists call themselves ‘Loyalists,’ some of whom support the use of violence for political ends. Some Nationalists call themselves ‘Republicans,’ some of whom support the use of violence for political ends."

The conflict in Northern Ireland is familiar to many. What is less understood is the complex origins of the conflict. The conflict is generally characterized as a clash between two bitterly divided religious factions, with the U.K. government portraying itself as the impartial

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8. Id. at 1 n.1
The reality is much more complicated. While a discussion of all the historical and political factors is beyond the scope of this article, it is important to note that the conflict is more properly characterized as one of conflicting political identities—Irish Nationalism and Ulster Unionism—rather than of opposing religious beliefs.

B. "Loyal Order" Parades

The events which sparked "the most serious episodes of unrest in Northern Ireland in recent years" center around the Orange Order and associated parades in Northern Ireland. These parades generally celebrate the victory of the Protestant King William over the Catholic King James at the Battle of the Boyne in County Louth in 1690. Several different organizations take part in organizing and marching in these parades—the Orange Order being the foremost among them:

[The Orange Order is] the largest Protestant organization in Northern Ireland, with . . . members in the Republic. The Loyal Orange Institution owes its character to the victories of King William III (William of Orange) in the religious wars of the late seventeenth century. Its annual twelfth of July demonstrations at more than twenty centres in Northern Ireland celebrate King William's victory over King James at the Battle of the Boyne. It was formed . . . in Co. Armagh, after a clash between Protestants and Catholics at the "Battle of the Diamond." Its lodges were based on those of the Masonic Order. Although one of its main objectives is the defense of the Protestant succession to the British throne, its relations with London have often been strained.

In addition to the Orange Order, other groups that sponsor parades include the Apprentice Boys of Derry and the Royal Black Precep-

11. The conflict was much more than a religious one. See generally R.F. Foster, Modern Ireland 1600-1972 (1988) (describing the political developments that formed the contours of the conflict).
13. The Apprentice Boys, who are named for the thirteen apprentices who closed the gates and saved the walled city of Derry from the army of James II in 1689, organize a December demonstration to commemorate this event and a July parade to mark the end of the siege of the city. For a history of the Siege of Derry, see Brian Lacy, Siege City: The Story of Derry and Londonderry (1990).
Collectively, these organizations are sometimes known as "the Loyal Orders." These groups require that any person must be Protestant to become a member. Most leading Unionist politicians, including members of the Democratic Unionist Party, are members of the Loyal Orders.

The number of these parades has increased in the past decade. The "marching season," as it has become known, begins on Easter Monday with an Orange Order Parade down Belfast's Ormeau Road. The season runs throughout the late spring and summer months and peaks with the Twelfth of July parades across Northern Ireland. While most of these parades are uncontentious, a small number, which pass through or along roads which abut largely nationalist areas, are opposed by the residents of the areas.

These parades are viewed very differently by the two communities in Northern Ireland:

Many in the Unionist community see them as a means of expressing their identity, a commemoration of key historical events and as an essential part of their cultural heritage. A high proportion of the parades have been held on the same route over many years and are now regarded by the Protestant community as "traditional." Many Nationalists, however, object to parades, particularly when they pass through areas where the Nationalists are in the majority, arguing they are consciously designed to assert the subordinate status of the [Nationalist] minority community.

Thus, nationalists generally regard Orange and other Loyal Order parades as offensive, sectarian, and triumphalist. Such feelings are long standing, as illustrated by an incident some years ago. There, a section of the Twelfth of July parade down Belfast's Ormeau Road stopped outside the site of the murder of five Catholics by loyalist [14. This organization is more properly called the Imperial Grand Black Chapter of the British Commonwealth. Flackes & Elliot, supra note 12, at 248. "[It is] effectively the senior branch of the Orange Order. . . . [I]t is just as committed as the Orange Order generally to unionism and the defence of Protestantism." Id.]

15. David Trimble M.P., the leader of the Ulster Unionists, is a member of the Portadown Orange Order. Rev. Martin Smyth M.P. was, until recently, the Grand Master of the Orange Order.


17. Northern Ireland's demographics are such that people tend to live in fairly well-segregated areas that are either "unionist" or "nationalist." Thus parades that travel down roads in or near nationalist areas tend to be most contentious. Examples of such roads are the Garvaghy Road in Portadown which abuts a large nationalist estate close to the parish of Drumcree, the Lower Ormeau Road in Belfast, Dunloy in County Antrim, and the Bogside in Derry.


19. For example, the parade by the Apprentice Boys in Derry in August 1969 precipitated widespread protests. For a fuller discussion of the history of such parades and the opposition to them, see Jarman & Bryan, supra note 16.
paramilitaries.\textsuperscript{20} The murders had taken place only five months earlier on the lower part of the Ormeau Road ("the Lower Ormeau") which is predominantly Nationalist.\textsuperscript{21} As the parade halted, many participants sang and shouted sectarian abuse.\textsuperscript{22} Although some members of the Orange Order were subsequently disciplined for their activities, the local community continued to vociferously oppose the parades thereafter.\textsuperscript{23}

C. Public Order: The Role of the State

The state, in the form of the Secretary of State for Northern Ireland and the Chief Constable of the RUC, has a range of legal powers available in relation to the parades. The use of these powers has drawn as much attention as the controversial parades themselves. The issue of policing is thus central to the debate.

Any organization that wishes to conduct a parade or demonstration must apply to the RUC at least twenty-one days in advance.\textsuperscript{24} Such notice of application must include the date, time, and proposed route of the march.\textsuperscript{25} The RUC has the power to impose conditions upon any such parades, such as rerouting,\textsuperscript{26} when it believes that the parade has an intimidatory purpose,\textsuperscript{27} or may lead to serious damage to property or disruption to "the life of the community."\textsuperscript{28} The power to actually ban parades lies with the Secretary of State, who is authorized

\begin{itemize}
  \item \textsuperscript{20} The Pat Finucane Centre, \textit{supra} note 12, at 29.
  \item \textsuperscript{21} \textit{Id}.
  \item \textsuperscript{22} \textit{Id}.
  \item \textsuperscript{23} The residents have organized themselves into diverse residents' associations. \textit{See} Jarman, \textit{supra} note 6, at 130. Some examples are the Garvaghy Road Residents' Coalition ("GRRC") of Portadown, the Lower Ormeau Concerned Community ("LOCC") of Belfast, the Dunloy Residents Association, and the Bogside Residents' Group ("BRG") of Derry. These resident associations are made up of local community workers, politicians, clergymen, and others. Controversially, some of their spokesmen are former republican prisoners (i.e. Breandán MacCionnaith in Portadown, Gerard Rice in Belfast, and Donnacha MacNaillais in Derry), and for this reason and others, members of the Loyal Orders have refused to enter into dialogue with them. Because of this deadlock, an independent organization, the Northern Ireland Mediation Network, engages in dialogue with both residents' groups and the Loyal Orders. Nevertheless, the Dunloy Lodge of the Orange Order has refused to meet the Mediation Network.
  \item \textsuperscript{25} Public Order 1987 art. 3.
  \item \textsuperscript{26} \textit{See infra} notes 46-48 and accompanying text.
  \item \textsuperscript{27} Public Order 1987 art. 4(1)(b).
  \item \textsuperscript{28} \textit{Id}.' art. 4(1)(a).
\end{itemize}
to prohibit marches or meetings in a specified area for up to three months.  

As the only police force in Northern Ireland, the RUC is also responsible for policing the parades along their approved route. Although the U.K. government maintains that the RUC is an impartial police force, it is predominantly Protestant. Moreover, the RUC has been accused of numerous serious human rights abuses in the past thirty years. The most recent U.S. State Department human rights report notes that the Catholic community harbors "widespread antipathy . . . to the security forces." The report also states that "some members of the [RUC] have committed human rights abuses. . . . Police occasionally abused detainees."

Unlike other police forces operating in the United Kingdom, RUC members are routinely armed. Controversy has long surrounded the RUC's use of plastic baton rounds—more often known as "plastic bullets"—and their predecessors, rubber bullets. Although plastic bullets are only to be used in certain circumstances according to guidelines, evidence suggests that they have been used in breach of these guidelines or outside of civil disturbances. Accordingly, plastic bullets have caused at least 565 injuries since they were first deployed in 1973. Seventeen people have been killed including eight children. Because of such risks, plastic bullets have never been used in England, Scotland, or Wales despite incidents of large scale civil unrest there.

29. Id. art. 5(1). This power was invoked last August, when the Secretary of State issued such a banning order in relation to a stretch of Derry's city walls. See CAJ, supra note 10, at 84.
30. Recent figures supplied by the RUC to Human Rights Watch suggest that 88.67% of regular RUC members and 88.12% of full-time reservists are Protestant. Of those in the part-time reserve, 93.62% are Protestant. See Human Rights Watch/Helsinki, supra note 1, at 28 (quoting Letter from Ronnie Flanagan, RUC Chief Constable, to Human Rights Watch/Helsinki (Mar. 7, 1997)).
31. See supra note 3.
33. Id. at 1191.
34. The rounds are 135 grams in weight, cylindrical in shape, three and a half inches in length, and one and a half inches in diameter. For a discussion of the technical specifications of this weapon, see Her Majesty's Inspectorate of Constabulary, Northern Ireland Office, 1996 Primary Inspection: The Royal Ulster Constabulary 67, paras. 3-4 (1996) [hereinafter HMIC Report].
35. See CAJ, Plastic Bullets and the Law (1990); Human Rights Watch/Helsinki, supra note 1, at 76-78.
37. CAJ, supra note 10, at 25.
38. CAJ, supra note 35, at 2.
Other policing problems result from a specialized legislative regime,\textsuperscript{39} which has led to a series of rulings against the U.K. government in the European Commission and Court of Human Rights.\textsuperscript{40} This regime has statutory provisions which comprise an "emergency law," that permits seven-day detentions, denial of access to lawyers, and routine stop and search operations without a warrant requirement.\textsuperscript{41} These widely drawn powers, combined with inadequate accountability mechanisms, have invited widespread allegations of harassment, ill-treatment, and excessive use of force by the RUC and the British Army.\textsuperscript{42} To summarize the situation:

Northern Ireland is politically, socially, and culturally divided. These divisions are reflected throughout the whole society and create problems in areas of life which remain relatively uncontested elsewhere. One of the key areas of dispute and concern is the criminal justice system. Alongside the development of the political/military conflict since the 1960s, there has been the development of a whole infrastructure of "emergency powers" and a massive increase in the numbers of police and army. While critical questions can be raised about aspects of policing and the criminal justice system in the rest of United Kingdom and in other liberal democracies across western Europe and beyond, the nature and extent of emergency legislation and policing in Northern Ireland suggests that the situation here is "abnormal."\textsuperscript{43}

The next part illustrates how the civil unrest of the summer of 1996 challenged the Northern Ireland's law enforcement infrastructure.

\textsuperscript{39} See, for example, the Northern Ireland (Emergency Provisions) Act 1996, the Prevention of Terrorism (Temporary Provisions) Act 1989, and their predecessors.


\textsuperscript{43} McVeigh, supra note 42, at 11.
II. **Drumcree and Its Aftermath**

In the summer of 1996, the Loyal Order parades sparked serious civil unrest that again tested the policing practices of the RUC and the British Army. This part examines the background of the Orange Parade on the Garvaghy Road. It then describes the sequence of events during that particular summer which resulted in much violence that, to a large extent, was beyond the control of the RUC.

A. **The Orange Parade at Drumcree**

The Orange Parade which takes place in Portadown every year on the Sunday before July 12 has long been contentious. The following excerpt from *The Irish Times* illustrates the positions of the two sides in what is described as "this rigidly segregated town," where the majority of Catholics live along Garvaghy Road:

Orange parades are "just another opportunity for unionists to stamp their supremacy on this town," [Breandán MacCionnaith of the Garvaghy Road Residents' Coalition] claims.

Drumcree Church is a five-minute walk from the Garvaghy Road. On their way to the church, the Orangemen take another route, via the Corcrain Road, which brings them past some, but not as many, Catholic homes. Nationalists have not objected to this route.

... "Why do they have to go home via Garvaghy Road?" asks Mr. MacCionnaith. He says the parade places a blanket of oppression on nationalists.

"For days beforehand, there is a very heavy British army and RUC presence. We are virtually under martial law."

But for Mr. Joel Patton, a member of a militant Orange Order faction, the Spirit of Drumcree, it is the Protestant community which is being victimised.

"We have been going to Drumcree for 189 years. Nobody decided to march down Garvaghy Road just to annoy Catholics. It was a religiously mixed area until Protestants were driven out. It's a form of ethnic cleansing. Protestants are forced out, an area becomes Catholic, then Orange marches are not allowed through. But we have been marching from that church for 189 years."

This long-standing conflict became particularly acute in the summer of 1996 when the Garvaghy Road Residents' Coalition sought to compel the Secretary of State to exercise his powers and reroute the parade away from the nationalist Garvaghy Road estate. Of course,

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44. A useful and extensive chronology is provided by the British Irish Rights Watch, Chronology of Disturbances in Northern Ireland: July and August 1996 (1996).
the Orange Lodges opposed any rerouting. The judicial review was adjourned, awaiting the decision of the RUC.\textsuperscript{47} In the meantime, attempts to negotiate a compromise continued. When those failed, the RUC Chief Constable, Hugh Annesley, announced the decision to reroute the parade away from Garvaghy Road.\textsuperscript{48} The Orange Order and all the main unionist parties declared their opposition to the decision and promised widespread protests.\textsuperscript{49}

The protests amounted to "severe and orchestrated Province-wide disorder, including rioting and road blocks."\textsuperscript{50} Roads all over Northern Ireland were blocked, including the road to the main airport.\textsuperscript{51} One man, a Catholic from near Portadown, was murdered, apparently by a section of the loyalist paramilitaries.\textsuperscript{52} A Catholic priest was attacked in his home.\textsuperscript{53} Numerous Catholic families were driven from their homes, largely in Belfast.\textsuperscript{54} Many residents were victims of widespread damage to property.\textsuperscript{55}

The RUC was stretched and apparently unable to control the disorder. RUC personnel were attacked and their families were threatened.\textsuperscript{56} The RUC was criticized by human rights groups for its use of plastic bullets.\textsuperscript{57} Meanwhile, the U.K. government reiterated its support for the Chief Constable's decision.\textsuperscript{58} On July 12, 1996, however, four principal church leaders were scheduled to meet to broker a compromise between the residents and the Orange Order.\textsuperscript{59} Only two hours after the meeting was due to begin, the Chief Constable had reversed his decision, authorizing the Orange Parade to pro-

\textsuperscript{47} Id.
\textsuperscript{48} British Irish Human Rights Watch, supra note 44, at 2.
\textsuperscript{49} Marie O'Halloran, Trimble, Paisley Give Marchers Their Full Backing, Irish Times, July 8, 1996, at 9.
\textsuperscript{50} See Security, Crime, and Policing in Northern Ireland, supra note 18, at 10.
\textsuperscript{51} See CAJ, supra note 10, at 80.
\textsuperscript{52} See id. at 29, 80; Human Rights Watch/Helsinki, supra note 1, at 44.
\textsuperscript{53} Gerry Moriarty, Priest Forced to Leave his Home After 'Vicious' Mob Attack by a Loyalist Mob, Irish Times, July 10, 1996, at 6. The priest, Fr. Frank Mullan, is the curate at the Catholic church in Harryville, Ballymena in County Antrim, which has been the object of sustained loyalist protests at Saturday evening mass. Id.
\textsuperscript{54} See CAJ, supra note 10, at 29.
\textsuperscript{55} The figure for overall damage caused in the first fortnight of July 1996 is estimated at £20M. The Northern Ireland Compensation Agency received claims relating to 1300 incidents for the period of July 1 through July 11, 1996 and to approximately 1000 for the period of July 11 to August 30, 1996. See CAJ, supra note 10, at 29, 32.
\textsuperscript{56} Marie O'Halloran, RUC Officers and Families Have Been Threatened, Irish Times, July 10, 1996 at 6.
\textsuperscript{57} Letter from P. Kelly on behalf of United Campaign Against Plastic Bullets, CAJ, British Irish Rights Watch, the Pat Finucane Centre, Liberty and the Irish Council for Civil Liberties to Hugh Annesley, RUC Chief Constable (July 5, 1996); CAJ Press Release (July 8, 1996).
\textsuperscript{58} Gerry Moriarty, RUC will be Backed in Upholding Rule of Law—Mayhew, Irish Times, July 10, 1996, at 7.
\textsuperscript{59} Padraig O'Morain, Dr. Daly Says Community was Treated Shamefully, Irish Times, July 12, 1996, at 6.
ceed along its planned route.60 The Chief Constable subsequently explained his decision as such:

We had reached the stage where potentially tens of thousands of Orangemen stood to face thousands of policemen and soldiers. . . . In any operational situation which deteriorates day by day, we assess it day by day, and make decisions accordingly. . . . I reached the point where the potential risk to life had become so great that it was necessary to put the parade down the Garvaghy Road.61

Although Sir Hugh Annesley has since repeatedly denied it, there is some evidence to suggest that the U.K. government and the Northern Ireland Office influenced the reversal of the decision.62

Despite Annesley's concern for safety, the situation remained tense. Television pictures, press reports,63 and witness and observer statements64 indicated that the RUC used excessive force to remove peaceful protesters from the road. Subsequently, the RUC fired plastic bullets, while some from the nationalist estate threw bricks, bottles, and petrol bombs at the RUC.

B. Criticism of Policing Methods

The manner in which the RUC removed protesters produced a catastrophic result. The RUC's inadequate response prompted widespread criticism. As might be expected, reaction in Ireland was harsh and swift:

The mobs which attempted to make Northern Ireland ungovernable in recent days have had their way. And the rights of one community have been trampled upon. Inevitably, many will draw the same conclusion that was reached after the Ulster Workers' strike in 1974 that the British government will inevitably bend in the face of widespread civil disobedience and defiance.65

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60. Some evidence suggests that the Orange Order knew that the decision was to be reversed well in advance of the meeting. Such rumors infuriated the church leaders; for example, Cardinal Cathal Daly declared himself betrayed. See David McKittrick, The Present is Orange, Independent (London), July 12, 1996, at 1.


62. Philip Webster & Nicolas Watt, Ministers Urged Annesley to Make Drumcree U-turn, Times (London), July 15, 1996, at 6. The article cites a senior government source as saying that unless the decision was reversed, "we will have all the Protestants of Ulster at our throats." Id.


64. See CAJ, supra note 10, at 88-91; Human Rights Watch/Helsinki, supra note 1, at 39-42.

Deep concern was also expressed by the Irish President, who remarked that one must "reflect on how much worse it is when the aggressive and sectarian manifestation is by someone in uniform."

Similarly, the British establishment criticized the State for its failure to act impartially: "A perception exists across nationalist Ireland that the British state abdicated its responsibility to be a neutral referee . . . by caving in to Orange pressure at Drumcree. The decision to allow Portadown's Orangemen to march is seen by nationalists as a victory for physical force and threatened violence." The U.S. Government likewise disapproved, characterizing the Government's reversal as a "victory of might over the rule of law."

The debacle on the Garvaghy Road was compounded by the near total curfew imposed on the Ormeau Road which began a couple of hours later. The Lower Ormeau Road was effectively sealed off, with an estimated 150 armored vehicles and 500 police officers, most clad in full riot gear. The entrances to streets were sealed off, as were doorways of individual houses. People could not enter or leave the area, and some could not leave their homes. Elected representatives were arrested and members of a residents group were corralled in the designated offices. All of this drew international media attention. More importantly, local television showed pictures of the situation and these were seen by thousands of people across Northern Ireland.

C. Unrest in Derry

During that night, trouble erupted in a number of towns and cities, continuing throughout the weekend. Derry experienced serious unrest, although the accounts vary as to what happened. The RUC

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68. U.S. Dep't of State, supra note 32, at 1196.

69. CAJ, supra note 10, at 47.


71. CAJ, supra note 10, at 49 (describing a television clip showing a man climbing over a RUC land rover to get out of his home).

72. In excess of 700 residents of Lower Ormeau are in the process of suing the Chief Constable for false imprisonment. Suzanne Breen, Republic of Ireland: Nationalist Groups to Meet Politicians in Dublin Today, Irish Times, July 17, 1996, at 7.

73. See CAJ, supra note 10, at 49 (detailing how RUC officers used land rovers to block the doors of the Lower Ormeau Residents Action Group office and keep its members inside).

claimed that they "were subjected to a vicious onslaught and sustained volleys of petrol bombs and missiles." Witness statements, however, indicate that while a riot did occur, it began only after several RUC officers, dressed in riot gear, fired plastic bullets on a large group of young people leaving a disco and neighboring fast food bars in Derry City Centre.

The RUC described the rioting in Derry as "the worst night of rioting ever in the city." Riots ensued the following two nights resulting in serious property damage. Many people were injured as more than 3000 plastic bullets were fired in a three night period. One young man was killed.

All of Northern Ireland was convulsed by the effects of that one week in July. The repercussions were political, economic, and cultural. As the marching season moved into August, the civil unrest continued in many places across Northern Ireland.

III: The Committee on the Administration of Justice

Throughout this period of unrest, the Committee on the Administration of Justice monitored the policing of events across Northern Ireland. By mid-August, other organizations began to follow their lead, sending observers to flashpoints, most particularly Derry, where the annual Apprentice Boys Parade took place on August 10.
This part describes such responses to the alleged human rights violations in Northern Ireland, primarily focusing on the methodology developed by the CAJ.

A. Background

The Committee on the Administration of Justice is an independent, human rights NGO affiliated with the International Federation of Human Rights, Amnesty International, Lawyers' Committee for Human Rights, and Human Rights Watch. Although it is based in Belfast, it works across Northern Ireland with various individuals and groups from all sections of society. The CAJ concentrates on many human rights concerns, ranging from criminal and civil justice issues to socio-economic and cultural rights.

The CAJ has four permanent staff members, all of whom have extensive experience in the human rights field. For example, Martin O'Brien, the Director, is a past recipient of the Reebok Human Rights Prize while Maggie Beirne, the Research and Policy Officer, is a former Campaigns Director of Amnesty International. Their work and that of the other staff members is supported by the organization's general membership. The membership is drawn from all of the communities in Northern Ireland, including the two major political traditions and religious denominations.

The CAJ staff and members meet regularly with various domestic and foreign decision-makers, from politicians to senior police officers. The CAJ produces reports and submissions to the many international human rights monitoring bodies, including the UN Human Rights Committee, the UN Committee on the Elimination of Racial Discrimination, and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. The CAJ also sends reports to Dunloy, County Antrim, and Bellaghy, County Derry. It also ran an hourly-updated news service on its web site.


84. See id. at 159 (noting that CAJ members have a general concern for civil libertarian values and principles).


86. Whelan, supra note 83, at 163-65.

87. Id. at 157.

88. See CAJ, Civil Liberties in Northern Ireland: A Submission to the Clinton Administration (1995); CAJ, Civil Liberties in Northern Ireland: A Submission to the Clinton Administration (1994).

89. For a listing of these submissions, see the CAJ official web site, CAJ Publications (visited Oct. 21, 1997) <http://ourworld.compuserve.com/homepages/Comm_Admin_J ustice>. The CAJ also makes submissions to the Special Rapporteurs. See id.
volunteers to observe trials and appeals which raise particular human rights concerns.90

Although the CAJ takes no position on the issue of the border, it is firmly opposed to the use of violence for political ends.91 The CAJ’s position is that respect for and defense of human rights must be a part of any lasting political settlement in Northern Ireland.92 It argues that human rights concerns are central: “A significant element of the conflict in Northern Ireland has been the failure of the law to guarantee to those people who live here equal and adequate protection of rights and liberties.”93 The CAJ believes that “issues of justice and fairness have been at the very heart of the conflict . . . and that they must therefore be at the heart of the peace process.”94

In furtherance of this mission, the CAJ objects to the use of plastic bullets because they are lethal weapons, the deployment of which is unjustifiable.95 The CAJ has repeatedly called for the withdrawal of plastic bullets from use in Northern Ireland.96 Others share the CAJ’s concerns,97 including John Shattuck, the U.S. Assistant Secretary of State for Democracy, Human Rights, and Labor, who said, “[a]nyone and everyone desiring a peaceful future for Northern Ireland must support the dissolution of terrorist organisations, the decommissioning of arms, the demobilisation of troops and the elimination of such deadly security measures as the use of plastic bullets for civilian crowd control.”98

B. The Purpose of the Observer Operations

The CAJ has long researched, published, and campaigned on a wide range of human rights concerns in Northern Ireland, including the thorny issue of policing. While some members of the organization previously had monitored the police reaction to the controversial

90. CAJ, supra note 10, at 7.
91. CAJ, supra note 10, What is the CAJ?.
93. Id.
95. Fourteen people have been killed by plastic bullets in Northern Ireland, seven of them children. For a detailed consideration of the CAJ’s position, see CAJ, supra note 35.
96. Id.
97. The European Parliament, the Democratic Unionist Party, the Labour Party, and the United Nations Committee Against Torture have all expressed their concern about the use of plastic bullets. See CAJ, supra note 10, at 25; Human Rights Watch/Helsinki, supra note 1, at 83-84; see also Marching Season in Northern Ireland, N.Y. Times, June 18, 1997, at A22. (calling for a ban on the use of plastic bullets in Northern Ireland).
parade on the Garvaghy Road, no extensive operation monitored the police prior to the summer of 1996.

The decision to send observers to the parades was partially prompted by a video camera which was donated by the human rights organization, Witness.99 The CAJ decided to train volunteers to film the experience of those members sent to observe the controversial Orange Order parade on June 21, 1996 in North Belfast. According to Maggie Beirne: “We saw things there which we were very disturbed by. This was followed by worrying accounts of police behavior in another area of Belfast later that day. It became clear to us that there would be a need for independent observers to monitor the policing of controversial parades.”100

While the CAJ did not expect such an extensive observer operation, it decided to send out observers to as many of the contentious parades as possible:

One problematic area for all police services is . . . [striking the] difficult balance[ ] between conflicting needs and conflicting rights. . . . Accordingly, particularly given the problems which arose last year around marches and demonstrations, we decided to act as observers at certain contentious events this summer. We did not await invitations because this might appear to limit our independence. Instead, we chose for ourselves which events to attend and where to position ourselves, so that we could observe policing from the perspective of both marchers and residents.101

This strategy to send observers was the cornerstone of the CAJ’s operation, whose overall objective was to monitor “the state’s compliance with its international obligations to protect human rights.”102 In pursuit of this objective, the CAJ’s task was twofold. First, the CAJ monitored how effectively the authorities maintained public order by creating a system for adjudicating competing rights.103 Second, it monitored the police’s response to disorder at specific events.104 The CAJ monitored whether the RUC “restore[d] public order with minimum force”105 in “an impartial and even-handed way vis-à-vis all the parties involved.”106

100. Interview with Maggie Beirne, CAJ Research and Policy Officer, Belfast, Northern Ireland (May 15, 1997) [hereinafter May 1997 Interview].
101. CAJ, supra note 10, at 3.
102. Id.
103. Id.
104. Id.
105. Id. at 4.
106. Id. at 3.
The CAJ itself had to play a neutral role to properly monitor state activity. Thus, the CAJ was careful to observe and comment only upon the policing of the parades and demonstrations.

C. The CAJ's Observer Operation in 1996

The CAJ's observers of the summer of 1996 were all volunteers. They were drawn from a wide pool of experienced CAJ members and others. The observers were local and non-local people, including those from outside Northern Ireland and beyond. They included academics, trade unionists, community workers, human rights workers, practicing lawyers, teachers, unemployed people, and students. A number of the observers had experience as independent observers in other parts of the world.

Despite its experienced group, the CAJ was aware of the dangerous situations in which observers might find themselves and sought to prevent any problems. Thus, in advance, the organization explained the task to those acting as observers. The CAJ also carefully managed the composition of the observer teams, seeking to ensure that each team consisted of both women and men from across the sectarian divide.

The CAJ also required observers to go through a comprehensive training to prepare them for the operation. Observers attended thorough briefings and received a set of guidelines. Observers also received formal identification from the CAJ and copies of an "announcement" which explained why the CAJ was engaged in the observation operation.

The CAJ also worked to notify all interested parties before each observer operation. Thus, in advance of the event, it notified the RUC, parade organizers, and residents' groups about the presence of the CAJ's observers. The purpose of this strategy was to explain

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107. The author served as an observer during this period.
108. CAJ, supra note 10, at 7.
109. Id.
110. Author's Notes of Observer Meeting, Derry, Northern Ireland (July 13, 1996); see also CAJ, supra note 10, at 7-8.
111. May 1997 Interview, supra note 100.
112. Johannes Hentschel, a German volunteer on a year-long placement with the CAJ, handled the coordination of observers. See CAJ, supra note 10, Preface.
113. See id. at 8. The guidelines were detailed, running several pages, and went through a number of refinements throughout the months of July and August.
114. The announcement stated in part:
We are concerned to monitor the state's compliance with its international human rights obligations and accordingly wish to study the extent to which policing is carried out in an impartial and even-handed way .... The role of the independent observers will be to monitor the events and to provide our office with a report. They will be expected to act at all times in an independent and impartial manner.
See CAJ Press Release, June 20, 1996 (titled "Announcement").
115. CAJ, supra note 10, at 8.
the aim of the observer operation and thus reduce any tension around the presence of the observers.

At the event itself, the observers worked in pairs and sometimes in shifts where necessary.\textsuperscript{116} Each team was equipped with certain tools; for example, at least one of each pair wore a bright yellow vest that identified the wearer as a "CAJ Legal Observer."\textsuperscript{117} This uniform gradually became familiar to the population at large. The teams also had access to a mobile telephone, which was used to communicate with other groups of observers and the CAJ's headquarters. In addition, at least one observer at every event had a still camera. At some events, a team of observers carried the camcorder donated by Witness.\textsuperscript{118}

The observer operations always concluded with a debriefing session. These debriefing sessions solicited immediate feedback and concerns.\textsuperscript{119} After events, observers also submitted a written report, describing in detail what they had seen.\textsuperscript{120}

In addition to the observer operation, the CAJ took written statements from witnesses at particular events.\textsuperscript{121} The CAJ routinely receives requests from individuals in the course of its work, asking for statements to be taken in relation to allegations of human rights abuses. During the summer of 1996, people directly contacted the organization and voluntarily offered information about numerous incidents.\textsuperscript{122} In fact, three separate incidents\textsuperscript{123} prompted larger statement-taking operations which required member and volunteer participation. In Derry, the CAJ worked alongside the local Pat Finucane Centre in taking statements.\textsuperscript{124} These statements supported the

\textsuperscript{116} As more than one pair of observers usually attended the event, one pair stood with the supporters of the parade while another pair stood with the protesters. Interview with Maggie Beirne, CAJ Research and Policy Officer, Derry, Northern Ireland (July 13, 1996).

\textsuperscript{117} Although the decision was generally left up to each of the observers, some reported feeling uncomfortable wearing the vests. \textit{Id.}

\textsuperscript{118} \textit{See CAJ, supra} note 10, at 10. Throughout the period the CAJ had occasional access to other video cameras, owned by members.

\textsuperscript{119} \textit{Id.} at 8.

\textsuperscript{120} \textit{Id.}

\textsuperscript{121} \textit{Id.} at 9.

\textsuperscript{122} May 1997 Interview, \textit{supra} note 100.

\textsuperscript{123} These three incidents occurred at the Short Strand in Belfast on June 22, 1996; on the Garvaghy Road in Portadown on July 11, 1996; and in the City Centre, the Bogside, and the Altnagelvin Hospital areas of Derry from July 11 to 13, 1996. \textit{See CAJ, supra} note 10, at 79-83.

\textsuperscript{124} \textit{Id.} at 10. The Pat Finucane Centre has published its own report on the events in Derry. \textit{See Pat Finucane Centre, supra} note 76. The Pat Finucane Centre for Human Rights and Social Change is named after the lawyer Pat Finucane, who was murdered by loyalist paramilitaries in February 1989. \textit{See} The Pat Finucane Centre, \textit{supra} note 11, at 1. It is based in the nationalist Bogside area of Derry and advocates human rights and encourages political development and social change in Ireland. \textit{Id.}

The Centre promotes a nonviolent ethos and actively works to build alliances with groups and individuals within the radical and progressive wings of Irish politics. The
view that the RUC and the government had serious questions to answer about the behavior of the police and, on occasion, the Army.

IV. THE FINDINGS AND INTERVENTIONS

Between June 21 and October 19, 1996, the CAJ’s volunteers monitored more than twenty-five separate events throughout Northern Ireland—from an Orange Order parade in North Belfast to an Apprentice Boys march in Derry. The monitored events included scheduled parades as well as counter-demonstrations and civil disturbances. Over those four months, the CAJ compiled information from over sixty observers. The CAJ took over one hundred and sixty witness statements related to the behavior of the RUC and the British Army. This part analyzes the results of the CAJ’s monitoring efforts and discusses how the CAJ used its findings to impact the State’s policy in policing civil unrest.

A. The Findings

The observers had mixed experiences. Some observers reported situations where the RUC acted with great courtesy. For example, the RUC allowed observers behind police lines to be briefed by the senior officer present. On the other hand, other observers reported situations where the RUC treated them “with contempt or abuse.” An example of such an instance occurred when a number of private individuals removed a pair of observers from a parade. The observers then appealed to the RUC for help but they received no immediate response. Only after some time did a RUC officer intervene and the observers were released. In another situation, a RUC officer fired a plastic bullet at a CAJ observer who narrowly escaped injury.

The CAJ observer reports also recorded RUC personnel engaging in “extremely provocative behaviour” which included apparent assaults of protesters, bystanders, and journalists and the reckless driving of armored land rovers. Observer accounts reported RUC
officers in a state "bordering on hysteria." Some witnessed RUC officers firing plastic bullets quite indiscriminately.

The witness statements taken by CAJ volunteers reported, amongst other things, indiscriminate beatings by RUC officers; assaults and beatings of peaceful protesters; refusal to come to the aid of people; attacks on civilians in a hospital casualty department; firing of plastic bullets at young people leaving a disco and at people trying to administer help to people wounded by plastic bullets.

The most serious incident reported was the killing of Dermot McShane, who was crushed by an armored British Army saxon.

The witness statements suggested that

[[[the driver of the [Saxon] must have been aware that there was someone . . . behind the fencing when he drove at the blockage; . . . eyewitness accounts appear to suggest that the vehicle remained on top of Mr. McShane's body for a few moments, thereby rendering his recovery less likely . . . ; several witness statements report that plastic bullets were being fired at people who came forward to help Mr. McShane.]]

Moreover, although the McShane family and the public were assured that an inquiry into the death was underway, the driver of the army saxon was not interviewed by the RUC until August 29—some seven weeks later. No one yet has been charged in relation to this death.

B. CAJ Interventions

The CAJ used the details of such incidents primarily as a means of communicating with the Police Authority of Northern Ireland

133. Id.
134. See id. at 25-39.
135. For instance, witness statements indicated that indiscriminate beatings occurred at Short Strand on June 22, 1996, id. at 79, and at Garvaghy Road, Lower Ormeau Road, and Derry City Center from July 11 to 12, 1996, id. at 47-52, 81-83.
136. At Garvaghy Road on July 11, 1996, the RUC forcibly removed a number of peaceful protesters who were sitting in the road. Id. at 50-52, 81.
137. Witness statements given to the CAJ indicate that in Finaghy, South Belfast on July 9, 1996, the RUC failed to assist a man who was dragged from his car and beaten. Id. at 81.
138. At the Altnagelvin Hospital in Derry on July 11-12, 1996, witness statements indicated that RUC members entered the casualty department and attacked some people there. Id. at 45-47, 81. Newspaper reports at the time reported that the hospital administrator, Stella Burnside, eventually asked the RUC to leave the hospital. Id. at 81. Mrs. Burnside has subsequently denied this. Human Rights Watch/Helsinki, supra note 1, at 64.
139. CAJ, supra note 10, at 36.
140. A Saxon is a large armored car deployed by the British Army in Northern Ireland. Human Rights Watch/Helsinki, supra note 1, at 65 n.131.
141. CAJ, supra note 10, at 43-44.
142. Id. at 44 n.63 (citing a letter from RUC to CAJ (Sept. 3, 1996)).
(“PANI”) and the RUC itself. The information gathered over the summer was used in its communications and discussions with the U.K. government and other governments, and was circulated to other human rights organizations in Ireland and abroad.

Although the CAJ had met with PANI before the marching season began, the CAJ reiterated its concerns about the policing of parades and protests in North Belfast in late July 1996. After asking PANI to send its own observers to the parades, the CAJ received a rather peculiar response—PANI complained that sending observers to such incidents only made the job of the RUC more difficult. Given the widespread criticism of the RUC during the period, this response, from the body to whom the RUC is supposed to be accountable, was inadequate.

In October 1996, the CAJ met with the community relations subcommittee of PANI to discuss the issues raised by the behavior of the RUC during the summer. In the meantime, the CAJ continued to write to PANI, asking for its response to *The Misrule of Law* and to HMIC’s Report. Despite four such letters in the period from November until June 1997, the CAJ received no substantial replies.

The CAJ was likewise persistent in opening up a dialogue with the RUC. It wrote a number of letters to the then Deputy Chief Constable, Ronnie Flanagan, outlining its concerns. The letters used the

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143. PANI, set up by the Police Act of 1970, is a statutory body responsible for the maintenance of an efficient and effective police force in Northern Ireland. It has influence in the budget, community relations, and appointment and discipline of senior RUC officers. See Police and Criminal Evidence (Northern Ireland) Order 1989, S.I. 1989, No. 1341 (N.I. 12). While PANI is the civilian body responsible for supervising the RUC, it has been criticized for failure to hold the RUC accountable. See Stephen Livingstone, *Policing, Criminal Justice, and the Rule of Law*, in Lessons from Northern Ireland 104 (Jon Hayes & Paul O’Higgins eds, 1990); The Labour Party of Great Britain, *Policing in Northern Ireland: A Service for All the People* (A Labour Party Consultation Paper) paras. 3.7-3.10 (1996); see also *Human Rights Watch/Helsinki*, *supra* note 1, at 25 & n.37 (listing other publications reviewing the performance of PANI).

144. In April 1996, the CAJ wrote to the Chairman of PANI raising queries about potential policing problems at the first controversial march of the season. CAJ, *supra* note 10, at 56. PANI responded, remarking that it regularly discussed such matters with the RUC’s senior officers, but declaring: “[I]t is for the Chief Constable and his senior officers to exercise their professional judgment in deciding precisely how any particular event might be policed within the law.” See *id.* (quoting Letter from PANI to CAJ (Apr. 16, 1996)).

145. See CAJ, *supra* note 10, at 56-58. (describing Letter from CAJ to PANI (July 1, 1996)).

146. *Id.* at 58.

147. CAJ received two letters from PANI acknowledging receipt of CAJ’s letters. *Id.*

148. Letter from CAJ to Ronnie Flanagan, RUC Deputy Chief Constable (June 29, 1996); Letter from CAJ to Ronnie Flanagan (July 13, 1996); Letter from CAJ to Ronnie Flanagan (July 17, 1996). Sir Hugh Annesley had consistently refused to meet the CAJ. To his credit, Ronnie Flanagan established a dialogue with the organization. In August 1996, he was appointed Chief Constable to succeed Sir Hugh Annesley who
information which had been garnered from the CAJ's observers at various events and offered a very serious critique of policing during those incidents. Later in August, the CAJ wrote again outlining its concerns about police behavior throughout Northern Ireland.

In September, the CAJ held meetings with Ronnie Flanagan and PANI. The CAJ delegates to these meetings had all served as observers and as such had experienced the unrest in different parts of Northern Ireland. The detailed information was extremely helpful, allowing the discussions to be focused and rigorous. Today, the CAJ continues to raise these issues with the authorities.

C. The Response of the U.K. Government

The CAJ used the information it gathered to encourage the U.K. government to respond to the upheavals of July and August. Sir Patrick Mayhew, the Secretary of State, had previously announced a rather limited response to the unrest. The response required Colin Smith, Her Majesty's Inspector of Constabulary ("HMIC"), to conduct, in the course of his annual review,

a review of the RUC's procedures and training for handling public order situations including those relating to the use of plastic bullet rounds. That review will take account the disorders associated with recent marches, including the need to ensure adequate protection of RUC officers faced with determined assaults and petrol bombs. Apparently, the U.K. government already had decided not to investigate the very serious allegations of police misconduct in situations other than those envisaged by the remit. The government instead simply referred people to the widely distrusted police complaints process. The CAJ even discovered that the HMIC report did not require taking submissions from the public, nor did it address the conduct of the Army.

The CAJ found this response highly unsatisfactory. It accordingly stated its disappointment publicly and sought to meet with Colin

was to retire in November. See David McKittrick, Ulster's New Police Chief Sets Out to Rebuild Trust, Independent (London), August 31, 1996, at 4.
149. See letters cited in supra note 148.
150. CAJ, supra note 10, at 67 (quoting the Northern Ireland Office, Information Service, Press Release (July 24, 1996)).
151. The figures for the numbers of plastic bullets fired by the British Army are just as confused as those for the RUC. According to HMIC Report, the Army fired 327 plastic bullets between January 1 and August 25, 1996. HMIC Report, supra note 34, at 68, tbl. D2. Yet a briefing given to The Independent by the Ministry of Defence records that 1387 such rounds were fired by the Army in all of 1996. Anthony Bevins & Fran Abrams, MOD Knew for a Year of Faulty Plastic Bullets, Independent (London), June 21, 1997, at 1. It is inconceivable that the Army could have fired an additional 1059 plastic bullets in the period of relative calm from September to December.
Smith, but was refused. The CAJ also lobbied other political parties. This tactic succeeded in part when Dr. Mo Mowlam, the Shadow Secretary of State, wrote to Sir Patrick Mayhew expressing concern about “the lack of public consultation” on the part of the HMIC.

Nevertheless, when the HMIC Report was published it asserted that “the response to the major public disorders of July and August 1996 demonstrated the RUC’s commitment to the impartial policing of a divided society, peaceful resolution of conflict wherever possible and resort to minimum force only as a last resort.”

On the other hand, the report obliquely criticized the RUC: it recommended, for example, that the guidelines for the use of plastic bullets in Northern Ireland be brought into line with those in Great Britain. Although the RUC Chief Constable immediately rejected this proposal, the CAJ responded to the HMIC report in a detailed commentary which observed that “[HMIC’s] report appears to confirm in many regards several of our own serious misgivings about the RUC’s handling of difficult public order situations, and their resort to plastic bullets . . . .”

152. Letter from HMIC to CAJ (Nov. 5, 1996).
153. The Secretary of State acts as the Labour Party’s Northern Ireland spokesperson. Following the Labour victory in the May 1997 General Election in the United Kingdom, Dr. Mowlam is now Secretary of State.
154. Letter from Dr. Mo Mowlam, Shadow Secretary of State, to Sir Patrick Mayhew, Secretary of State (Nov. 13, 1996).
155. HMIC Report, supra note 34, at 2.
156. The Northern Ireland guidelines apparently allow the use of plastic bullets in defense of life and property. Fran Abrams & Anthony Bevins, Mowlam Targets Plastic Bullets, Independent (London), August 29, 1997, at 1. The Great Britain (i.e. England, Scotland, and Wales) guidelines require them to be used only in defense of life. Robert Love, Concern Over Plastic Bullets: Official Guidelines on Use Do Not Apply to RUC Claim, (visited Nov. 5, 1997) <http://www.irishnews.com/currentnews4/story from July 18, 1997>. No police force in Great Britain has ever used plastic bullets. See supra note 38 and accompanying text. The guidelines have only recently been placed in the public domain, after a series of parliamentary questions. See Abrams & Bevins, supra. Prior to this, according to the Association of Chief Police Officers of England, Wales and Northern Ireland (“ACPO”), “[t]he authorities to deploy officers with [plastic bullets] . . . together with tactical instructions so deployed, are contained in ACPO’s Public Order Manual. This document is subject to privilege therefore [ACPO is] not at liberty to describe or discuss its contents.” Letter from ACPO Secretariat to CAJ (Apr. 3, 1997).
157. Dick Grogan, RUC Chief Backs Plastic Bullets for Property Protection, Irish Times, Jan. 23, 1997, at 7. A letter from the RUC to CAJ on March 28, 1997, notes however that “[t]he RUC is currently working with our ACPO colleagues in a review of police tactics for dealing with public order situations and this will include the guidelines for the use of plastic baton rounds.” Letter from RUC to CAJ (March 28, 1997).
158. CAJ, Commentary on 1996 Primary Inspection Report by Her Majesty’s Inspectorate of Constabulary with Reference to the Royal Ulster Constabulary 1 (1997). On the other hand, the HMIC report failed to disclose that faulty plastic baton round equipment had been used by the RUC during the period of unrest. See Bevins & Abrams, supra note 151, at 1. The Ministry of Defence knew this for more than a year before it officially communicated the fact to the RUC, who then took a month to withdraw the faulty equipment. See House of Commons Hansard Written
The U.K. government also established a Review of Parades and Marches. The Review was to reevaluate the law governing the regulation of parades and “open air public meetings.” While this safeguard was welcomed by many organizations, it failed to address the CAJ’s concerns regarding police tactics and behavior. Although the government temporarily postponed the Commission’s report (“the North Report”) and its recommendations, it recently announced a plan to introduce the bulk of the North Report into law.

Because both the HMIC Report and the North Report were inadequate government responses, the CAJ supplied the only proper comprehensive investigation and report on the summer’s unrest. On October 26, 1996, the CAJ published The Misrule of Law: A Report on the Policing of Events During the Summer of 1996 in Northern Ireland. While some loyalist politician criticized it for its “anti-RUC” nature, most other commentators credited it as a detailed, serious approach to the subject. The RUC’s view, however, as expressed by Ronnie Flanagan, the Chief Constable, was less complimentary—the RUC set out to “question its impartiality.”

Answers for 19 June 1997 (pt. 9), supra note 36 (written parliamentary answer from Paul Ingram M.P., Minister of State (Secretary), Northern Ireland Office, col. 275).


160. Id. at 66.

161. Id. at 67.


In Northern Ireland my Government will seek reconciliation and a political settlement which has broad support, working in cooperation with the Irish Government. They will work to build trust and confidence in Northern Ireland by bringing forward legislation to deal with terrorism and to reduce tension over parades, and other measures to protect human rights, combat discrimination in the workplace, increase confidence in policing and foster economic development.

Id.

164. The report was largely written by Maggie Beirne, CAJ Research and Policy Officer, who drew upon more than 60 observer reports, more than 160 witness statements, newspaper reports, correspondence with the authorities and relevant agencies, and government and RUC information.


D. Plastic Bullets

The use of plastic bullets continued to draw serious scrutiny during the civil unrest in Northern Ireland. The CAJ, through research and observation, created a detailed picture of the improper use of plastic bullets during this period. In particular, it successfully substantiated claims that large amounts of plastic bullets were fired at nationalists in Derry in the period of July 11 to July 14, 1996 while it also raised serious questions about the discriminatory use of the weapons. The CAJ issued a press release in conjunction with the local Pat Finucane Centre on July 14, 1996 and held a press conference, outlining their concerns.

The CAJ issued a press release in conjunction with the local Pat Finucane Centre on July 14, 1996 and held a press conference, outlining their concerns. Although the press conference revealed specific allegations of misuse of plastic bullets and actions by RUC officers in the casualty department of the local hospital, it also focused on the CAJ's opposition to the use of plastic bullets in general, claiming that at least 200 people had been injured by plastic bullets over the period.

Civil liberties issues are often sectarianized in Northern Ireland. This sectarianism is so strong that criticisms from the minority Catholic community are often dismissed as predictable. However, the CAJ was respected for its cross-community membership and support, its long record of responsible human rights work, and the reputation which it had earned in the decade since its foundation. Further, the CAJ had always been non-partisan and had refused to associate itself with any one political cause. All of these factors allowed the CAJ to exert a different kind of pressure on the authorities. That pressure, both domestic and international, was simply focused upon protecting human rights.

V. Lessons from the Operation

While the methodology was key in the success of the CAJ's observer operation, it was partially developed in an ad hoc fashion to respond to the increasing scope of the operation. No one expected

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168. See CAJ, supra note 10, at 25-44.
169. Id. at 29-34 (comparing the use of plastic bullets during the predominantly unionist protest of July 7 to July 11, 1996, with the use during the predominantly nationalist protest of July 11 to July 14, 1996).
171. Id.
172. The degree of pressure it was able to exert is illustrated by the fact that the RUC felt obliged to explain its use of plastic bullets publicly. It said that the reason for the differential was the number of petrol bombs fired. The CAJ responded to this utilizing its observation experience. How, the CAJ asked, could anyone tell exactly how many petrol bombs were fired? The RUC revised its position: It no longer said that a precise number of petrol bombs were fired—instead, their figures related to "petrol bomb incidents." UTV Live Insight (Ulster Television broadcast, Jan. 16, 1997) (debate between author and Ronnie Flanagan, RUC Chief Constable).
events to take the dramatic turn that they did: "Our initial involve-
ment was intended to be a one-off on the Antrim Road on June 21st. But experiences of our observers there made us realize just how nec-
essary it would be to have independent observers and our own evi-
dence which we could assess."\textsuperscript{173}

This part discusses implementation of the CAJ observer operation to highlight the lessons to be learned. It reviews the key elements to the procedure which involved a fact-finding mission aimed at gather-
ing information to form the basis for government interventions. This part concludes that the CAJ observer operation of the summer of 1996 should be used as a model for other human rights NGOs.

\subsection*{A. The Methodology}

Although the fact-finding methodology was a product of evolution, the framework of the first observer operation was thoroughly planned. This framework structured the conditions and standards to be applied throughout the summer. The CAJ had considered the need for impartiality, balance, and a clearly defined role for CAJ ob-
servers. The observers did not serve as mediators between sides: They had a mission to monitor only the policing of the demonstrations and the civil disturbances. This gave the operation a distinct focus and structure regarding the manner in which the observation operation unraveled.

The CAJ highlighted its purpose by setting very clear and detailed guidelines for observers: The volunteers were expected to adhere to a tightly drawn brief. Before the operation, their task was reinforced by a briefing or training session that explained the purpose of the opera-
tion. The CAJ required observers to agree to the brief in advance, thereby reducing the risk of confusion or deviation from the defined role. The CAJ also stressed the need for balance and impartiality. Although most of those who volunteered to observe in 1996 were CAJ members,\textsuperscript{174} others, for the most part, had experience observing in other parts of the world on behalf of other human rights organiza-
tions. Every volunteer was required to agree with the CAJ's aims and objectives, including its opposition to the use of violence for political ends.

The CAJ also organized balanced observer teams, only too aware that human rights concerns have often been portrayed as the concern only of the nationalist community. The CAJ's membership and sup-
port, however, is drawn from across the political divide, making balanced observer teams possible. The CAJ also benefited from previously working on a number of civil liberties campaigns concern-

\textsuperscript{173} May 1997 Interview, \textit{supra} note 100.

\textsuperscript{174} For the 1997 operation, the CAJ has introduced a tighter criteria—all of the observers must be CAJ members.
ing the unionist community.\textsuperscript{175} It therefore could draw from its network of contacts and supporters in that community. Nonetheless, the CAJ still had difficulty in communicating its concern about the way in which every community was treated: “The loyalist community seems deeply suspicious of any external interest and therefore any group like us has to work particularly hard at making ourselves known and explaining that our interests are in their rights too.”\textsuperscript{176}

To ensure this understanding, the CAJ contacted in advance as many interested parties as possible to explain the role of the observers.\textsuperscript{177} Although this helped to defuse any tension from lack of such information, difficulties remained in some circumstances.\textsuperscript{178} For example, some observers recorded hostility to CAJ observers from sections of the Loyalist crowds.\textsuperscript{179}

Communicating the purpose was a key factor whose effect was bolstered by a coherent media strategy in which several key CAJ players publicly explained the role of the organization and the observers.\textsuperscript{180} The CAJ also used the print and broadcast media to highlight their concerns about what was occurring.\textsuperscript{181} Those who appeared on television and radio broadcasts were seasoned CAJ activists and staff, who knew the complexities of the situation in Northern Ireland.

Equally important was the way in which the observers operated in practice. The coherence of the operation, including the use of distinctive yellow vests,\textsuperscript{182} reliable identification cards, and the “announcements” created a momentum of its own. This formality enhanced the purpose and the credibility of the operation.

It also appears that the very presence of the CAJ observers had its own impact: “In some incidents the presence of our observers reduced human rights abuses. In other instances that presence obliged

\textsuperscript{175} See, e.g., Ian Paisley Jr., \textit{UDR Four}, Just News: Bulletin of the Committee on the Administration of Justice, Sept. 1992, at 2 (describing the CAJ’s campaign to release the “UDR Four”).

\textsuperscript{176} May 1997 Interview, supra note 100.

\textsuperscript{177} Maggie Beirne felt that the manner in which this was done was important. “We were open and above board with everyone. We informed people in advance and we made contact with all the different players. Throughout we behaved professionally and impartially.” Id.

\textsuperscript{178} CAJ Observer Report, supra note 128.

\textsuperscript{179} Id.

\textsuperscript{180} CAJ, supra note 10, at 8.

\textsuperscript{181} See Policing Launch—“Standing Room Only,” Just News: Bulletin of the Committee on the Administration of Justice, Nov. 1996, at 1 (describing the press conference held by CAJ to launch \textit{The Misrule of Law}); supra note 167 and accompanying text.

\textsuperscript{182} The yellow vests have become a trademark of the human rights observer in Northern Ireland. See Leonard Doyle, \textit{World Will Monitor Ulster Marches}, Observer (London), June 15, 1997, at 3 (“Civil liberty groups and human rights organisations around the world are sending monitors to Northern Ireland for the imminent marching season . . . . The hot spots should be blanketed with observers dressed in bright yellow tabards.”). In fact, only the CAJ’s observers last year wore such vests.
people to behave better towards each other."\textsuperscript{183} Furthermore, the CAJ was able to monitor a range of events across Northern Ireland. While it typically had time to plan, it often had to prepare for an event on very short notice. As Maggie Beirne notes: "We did have practical difficulties. We simply didn’t have the resources to monitor every flashpoint. We did have difficulties at times getting enough of the right people to places in time."\textsuperscript{184}

B. Using the Information Effectively

The CAJ used the information it gathered from its observers and from the witness statements in its successive interventions with the authorities, other governments, and other human rights groups. While *The Misrule of Law* was partly a collation of all of the information, it was also a culmination of all of the interventions which had preceded it. Because the information gathered was used in the most effective way possible, it essentially became the fuel of the campaign. The observer reports provided the organization with detailed information about the nature of policing throughout the summer and, ultimately, the motivation to raise the matter with those responsible. In fact, the information from the very first observer operation sparked the summer-long initiative, and the information gathered throughout the summer fueled the exchanges between the CAJ and the authorities in the following months.

Finally, the CAJ’s status as an established, bona fide human rights organization was crucial: It would have been vastly more difficult for a new human rights group to succeed in the task. The CAJ had the experience, the local knowledge, and the volunteers to create the initiative it did. The CAJ’s pre-existing, understood role assisted it in undertaking what was quite a difficult and at times dangerous operation.

C. The Impact

The CAJ’s own assessment of the observation experience is illuminating:

\[\text{W}e \text{ have a very strong sense that the experience was very valuable and should be a regular technique used by the CAJ to collect information on alleged or potential human rights abuses. The value of the experience lies in the extensive first hand evidence gained about policing and the problems of policing public order disturbances; in the opportunity to introduce CAJ to a much wider audience—residents’ groups, the Orange Order, the Royal Black Institution, the Apprentice boys, police officers of all ranks and indeed the TV watching public (the bright yellow tabards became quite distinctive!) and in our ability occasionally to have a positive impact on the}\]

\textsuperscript{183} May 1997 Interview, *supra* note 100. A number of observer reports from throughout the period support this view.

\textsuperscript{184} *Id.*
Clearly, the CAJ’s interventions were important. By initially gathering first-hand evidence of the actions of police officers on the ground and combining it with the organization’s expertise, it was able to raise questions about the role of the police in the months of unrest. It drew conclusions from its own observer reports and used the information gathered from witness statements to construct a picture which was as complete as any other about the events in question.

Further, it was able to publicly communicate those views and the claims of illegal police action. The CAJ’s concerns were publicized throughout the summer—its final report receiving extensive coverage in October. Because the CAJ was considered a respected, responsible organization, its views were taken seriously and widely reported. This bolstered the view that, quite apart from the communal strife which had contributed to the unrest, the U.K. government and its agents, principally the RUC and the Army, had behaved in a questionable manner.

What is more, by relaying the reports of police behavior it was receiving, the CAJ assisted victims of human rights abuses by insisting that these violations were serious. Previously, the response of the authorities had been to deny that any wrong had been done. The CAJ raised questions about RUC and Army behavior, making it harder for the authorities to insist that such behavior was acceptable. The CAJ, through the observers’ first-hand experiences, reported these abuses, thereby underlining the inadequacy of the government’s response. In doing so, it successfully highlighted the United Kingdom’s political failure and placed the onus of protecting the principle of law firmly on the government.

Further, the CAJ shared its experience with not only other international human rights organizations, but also other governments, principally those of the United States and Ireland. The CAJ provided these bodies with a broader and yet more detailed picture of the civil unrest. While local human rights organizations and community groups could report occurrences in their town or locality, the CAJ was able to use its observer reports from across Northern Ireland to present a wider view. It was also able to make the policy connections and synthesize the experiences and testimony into an ongoing and evolving critique of the policing policy in Northern Ireland throughout the summer.

The impact of this holistic approach cannot be underestimated as demonstrated by the fact that a number of international human rights NGOs plan to send observers to the 1997 parades and demonstrations.186

While the effect of the CAJ’s initiative in wider terms is difficult to assess entirely, it is clear that some impact has been made upon the debate:

It isn’t too much to say that to a large extent we created the language and the framework around which much of the discussion of the issues took place. I think that the way we defined some of the problems influenced the North Commission and I think that is reflected in its Report.187

Certainly a comparison between the relevant sections of The Misrule of Law and of the North Report reveals a similarity.188 It certainly seems that the approach taken by the CAJ in its submission to the North Commission had an effect, particularly in the Commission’s consideration of the precepts of international law and their application in the matter of contentious parades.

The impact upon the language of the debate also is evidenced in the way in which many of the residents’ groups have altered their language. Much of their discourse is now framed in terms of “conflicts of rights” rather than around the notion of “consent.”189 In a sense, the CAJ’s contributions and interventions worked to reframe the debate as one much more clearly about rights.

CONCLUSION

The summer of 1997 promises to be at least as controversial as that of 1996. Whatever the impact of the CAJ’s interventions, it is clear that its fact-finding helped uncover the truth. While the CAJ and its supporters do not claim to have a monopoly on the truth, their story does present a perspective which is different than that promoted by the official sources. The CAJ’s detailed work last summer helped re-

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186. Human Rights Watch/Helsinki, the Lawyers Committee for Human Rights, and Amnesty International plan on implementing observer operations.
187. May 1997 Interview with Maggie Beirne, supra note 100.
188. The CAJ’s submission to the North Commission also bears comparison with the section of the Commission’s Report on “The Legal and Human Rights Framework.”
189. See, e.g., Maol Muire Tynan, Groups Fear Repeat of Drumcree, Irish Times, Jan. 31, 1997, at 6:

Father Eamon Stack SJ, secretary of the Garvaghy Road Residents Coalition, said his group was disappointed that the [North] review only really dealt with the political identity that expressed itself through parading. It did not deal with the cultural identity of the two communities. “They have given a definition of the right to march but they have not given an equivalent statement of the rights of the communities to be free from intimidation.”

Id.
fute at least parts of the “official version.” The next task it faces is to
decide how best to utilize those experiences in the coming months.

Already the CAJ has applied to a number of different funding bod-
ies for the money to employ an Observer Coordinator. It has set up a
small management group to plan its observer operation in 1997 and it
has revised its guidelines and procedures. Thus, it appears that the
CAJ will continue to be “the main organization behind the monitoring
of the marching season” in Northern Ireland. 190

190. Doyle, supra note 182, at 3.