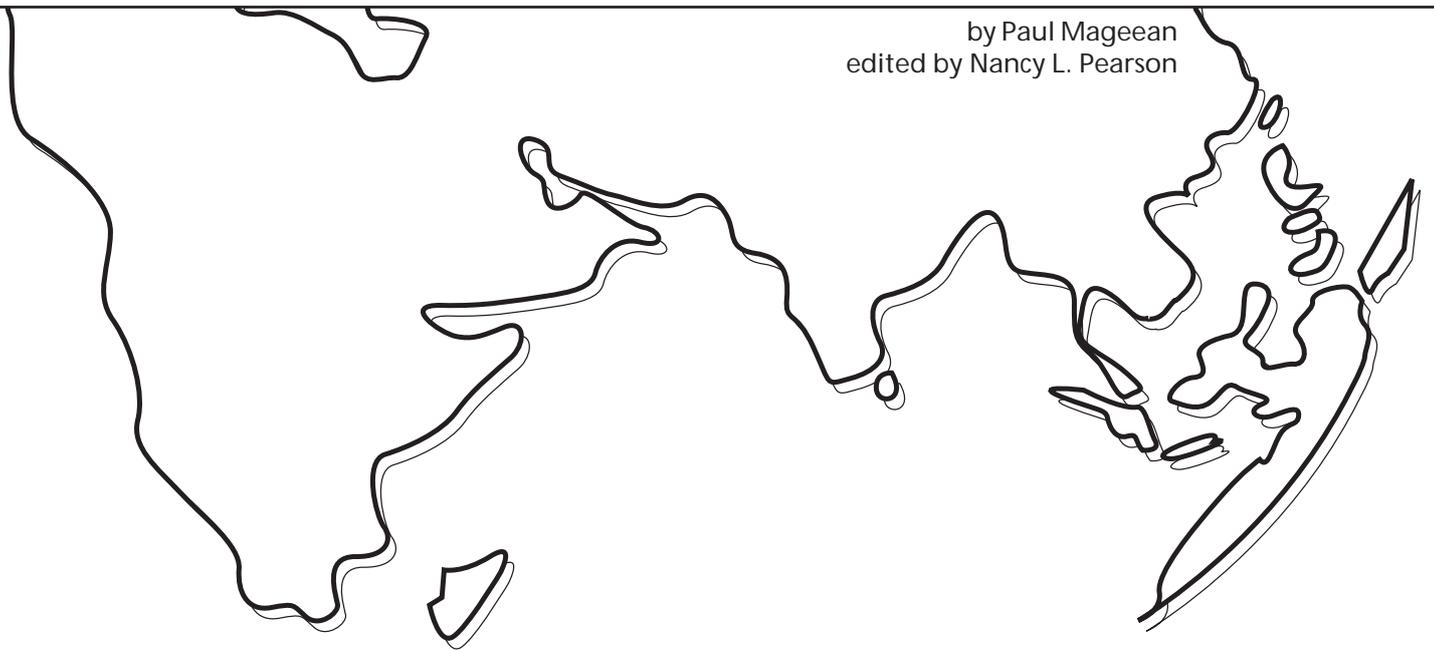


International Monitoring Bodies
Powerful tools for leveraging local change

by Paul Mageean
edited by Nancy L. Pearson



A Tactical Notebook published by
the New Tactics Project
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Paul joined CAJ in 1995 and has responsibility for case-work within CAJ and policy work in relation to emergency laws, criminal justice and some policing issues. He is also responsible for much of CAJ's lobbying work at the United Nations. He was the solicitor who brought the Kelly and Shanaghan cases, dealing with lethal force and collusion issues, to a successful conclusion before the European Court of Human Rights in May 2001.

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Committee on the Administration of Justice

CAJ is an independent nongovernmental organisation, and is affiliated with the International Federation of Human Rights. CAJ monitors the human rights situation in Northern Ireland and works to ensure the highest standards in the administration of justice. We take no position on the constitutional status of Northern Ireland, seeking instead to ensure that whoever has responsibility for this jurisdiction respects and protects the rights of all. We are opposed to the use of violence for political ends.

Since 1991, CAJ has made regular submissions to the human rights organs of the United Nations and to other international human rights mechanisms. These have included the Commission on Human Rights, the Sub-commission on the Promotion and Protection of Human Rights, the Human Rights Committee, the Committee Against Torture, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the European Commission and Court of Human Rights and the European Committee on the Prevention of Torture, as well as the special Rapporteurs on Torture, Independence of Judges and Lawyers, Extrajudicial, Summary and Arbitrary Executions and Freedom of Opinion and Expression.

CAJ works closely with international NGOs including Amnesty International, the Lawyers Committee for Human Rights, Human Rights Watch and the International Commission of Jurists.

Our activities include publishing human rights information, conducting research and holding conferences, lobbying, individual casework and giving legal advice. Our areas of expertise include policing, emergency laws, criminal justice, equality and the protection of rights.

Our membership is drawn from all sections of the community in Northern Ireland and is made up of lawyers, academics, community activists, trade unionists, students and other interested individuals.

In 1998 CAJ was awarded the Council of Europe Human Rights Prize in recognition of its work in defence of rights in Northern Ireland. Previous recipients of the award have included Médecins Sans Frontières, Raoul Wallenberg, Raul Alfonsín, Lech Wałęsa and the International Commission of Jurists. We acted as lawyers for the applicants in the Kelly et al, Shanaghan and McShane cases before the European Court of Human Rights.



September 2004

Dear Friend,

Welcome to the New Tactics in Human Rights Tactical Notebook Series. In each notebook a human rights practitioner describes an innovative tactic that was used successfully in advancing human rights. The authors are part of the broad and diverse human rights movement, including nongovernment and government perspectives, educators, law enforcement personnel, truth and reconciliation processes, women's rights and mental health advocates. They have both adapted and pioneered tactics that have contributed to human rights in their home countries. In addition, they have used tactics that, when adapted, can be applied in other countries and other situations to address a variety of issues.

Each notebook contains detailed information on how the author and his or her organization achieved what they did. We want to inspire other human rights practitioners to think tactically — and to broaden the realm of tactics considered to effectively advance human rights.

In this notebook, we discover how the Committee on the Administration of Justice succeeded in raising the issue of human rights abuses in Northern Ireland at the international level and, by doing so, brought about significant improvements in human rights conditions. This was accomplished through CAJ's utilisation of the Committee Against Torture—one of the mechanisms available through the United Nations for monitoring governments that have signed international conventions. In order to use these international mechanisms effectively, a number of supporting tactics were necessary, including writing submissions to the Committee, lobbying in Geneva and monitoring the implementation and impact that the reports and recommendations of Committee Against Torture have had on Northern Ireland in terms of actually improving the human rights situation on the ground. International mechanisms can be a powerful and effective tool for human rights organisations to leverage for change, especially when they have encountered significant obstacles and opposition at the local and national level.

The entire series of Tactical Notebooks is available online at www.newtactics.org. Additional notebooks are already available and others will continue to be added over time. On our web site you will also find other tools, including a searchable database of tactics, a discussion forum for human rights practitioners and information about our workshops and symposium. To subscribe to the New Tactics newsletter, please send an e-mail to newtactics@cvt.org.

The New Tactics in Human Rights Project is an international initiative led by a diverse group of organizations and practitioners from around the world. The project is coordinated by the Center for Victims of Torture and grew out of our experiences as a creator of new tactics and as a treatment center that also advocates for the protection of human rights from a unique position — one of healing and reclaiming civic leadership.

We hope that you will find these notebooks informational and thought-provoking.

Sincerely,

A handwritten signature in cursive script that reads "Kate Kelsch".

Kate Kelsch
New Tactics Project Manager

Introduction

There has been a violent political conflict in Northern Ireland since 1969. The conflict involves three sets of protagonists: the Irish Republican Army and other republican groups that want Northern Ireland to unite with the rest of Ireland; loyalist groups that want Northern Ireland to remain within the UK; and the state.

From the beginning of the conflict the forces of the state have been involved in human rights abuses. A key aspect of the human rights abuse has involved allegations of ill-treatment of those in custody. This notebook will outline how the Committee on the Administration of Justice (CAJ) was able to successfully utilise the United Nations Committee Against Torture to pressure the UK not only to address the allegations of ill-treatment of those in custody but also to establish mechanisms and standards ensuring protection for the accused and accountability of state actors.

The Committee on the Administration of Justice, the foremost human rights organisation operating in Northern Ireland, had long been concerned with the rights of those in detention. Concerns about the use and abuse of emergency law gave rise to our establishment in 1981. We had devised a set of recommendations to guarantee the rights of those arrested by the police and particularly those held in the detention centres. These proposals included suggestions that interviews be recorded electronically, that lawyers be permitted to be present during the interviews, that there be an independent system of monitoring the detention process, that those detained be brought before a judge or released after a shorter period than seven days and that there be independent investigation of complaints of ill-treatment.

These proposals were strongly resisted by the government and the police, who maintained that the exceptional powers granted by the emergency legislation were necessary to deal effectively with those suspected of paramilitary activity. Both the government and police denied that any abuse was taking place even though those who alleged ill-treatment and were released without charge by the police often successfully sued for damages. In addition, it was difficult to get media coverage of the issue because at the height of the conflict much of the media was reluctant to give extensive coverage to allegations of this nature.

We needed to devise a response to this problem that would be effective in terms of improving the situation of those arrested under the emergency laws but would also trigger such a significant news story that the media could not avoid covering it. It became increasingly clear that this response could not be generated internally in Northern Ireland. Although we were still a relatively young NGO (having hired our first staff

members in 1985), we had begun to think in terms of the boomerang theory.¹ We were therefore increasingly alive to the possibility of exposing what was going on in the detention centres before an international audience to shed light on the situation from outside the country, which would demand accountability and a response from the government. It was clear to us that, on our own, we were not going to achieve our goal of ending the ill-treatment. We were not able to cultivate media interest in the issue—certainly not in Britain, where the key policy-makers were based. It was also the case that many simply disbelieved what we were saying. It is, of course, often the case that in a society in conflict human rights activists are disbelieved and dismissed as being partisan. This was a phenomenon not exclusive to Northern Ireland, but it did create problems for the credibility of what we were alleging and weakened our chances of creating the necessary momentum to improve the situation. We therefore needed to find a tactic that would address these weaknesses by raising the profile of the issue both internationally and domestically, also lending credibility to what we, as a small NGO in Northern Ireland, were saying.

We were fortunate to have a number of academic lawyers familiar with United Nations mechanisms on our executive committee. One of them suggested the use of the Committee Against Torture or CAT (referred to as “the Committee” for the remainder of this notebook). At this stage, we had not accessed any of the international mechanisms at the UN level designed to protect human rights.

The UK signed the Convention Against Torture in 1985 and ratified it in 1988, becoming thereafter subject to the reporting procedures of the Committee Against Torture. Essentially, this meant that the UK had to report periodically to the Committee about the extent to which the Convention was being respected in the UK. The UK must submit each report in written form to the Committee, which then holds a hearing on matters addressed in the report and questions UK representatives. The hearings take place in Geneva. Generally the Committee runs on a three-year cycle, but fortuitously for us, the UK was to be examined by the Committee for the first time in 1991. We consulted with our colleagues in international NGOs to assist us in using this UN mechanism when the UK had to appear before the Committee. We have subsequently been able to utilise such UN mechanisms with increasing success and the Committee Against Tor-

¹ Boomerang and spiral model theories: These refer to the dynamic effects which domestic-transnational-international linkages have on domestic political change. (More information can be found on these concepts and models in Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders*, Cornell University Press, 1998 and Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, *The Power of Human Rights: International Norms and Domestic Change*, Cambridge University Press, 1999.)

ture has been particularly instrumental in pressuring the state to implement actions long-recommended by CAJ.

These examinations by the Committee would have occurred with or without interventions from us. However, the Committee, like other UN human rights mechanisms, tends to rely on NGOs and others to provide it with credible information on which to base its questioning of the country involved. The previous recommendations from the Committee tend to set the parameters for each subsequent examination, so it was important for us to persuade the Committee to pay attention to the issues we wanted highlighted. This was particularly the case in 1991, as it was the first time that the UK had been examined. Increasingly, and certainly in 1998, the Committee would start the session by asking for information on what the state had done to meet the concerns highlighted by the Committee on the previous occasion. The UK has not been examined since 1998, although we anticipate an examination will be forthcoming again in the near future.

The Problem

During the 1970s, the state established a separate legal infrastructure to deal with those suspected of involvement in "terrorism." The security forces were granted special powers of ar-

rest, and there were separate places of detention for those arrested. In addition, when "terrorist" suspects went to trial, they faced special proceedings before single judges sitting without juries. There were also relaxed standards for the admissibility of confession evidence, which essentially meant that confessions that would have been excluded from an ordinary criminal trial because of concerns about the way they were obtained were admitted in these special courts. Allegations of physical ill-treatment were widespread and focused on the detention centres where those suspected of "terrorist" or paramilitary activity were detained. While these allegations began to recede in the mid-1980s, they began to increase later in the decade and were reaching crisis point by 1990. At that time, when suspects were arrested they could be held for seven days without being brought before a court. It was often the case that they were denied access to lawyers for the first 48 hours of their detention.

Even when granted access to lawyers, the lawyers could not attend the interrogations themselves and access was often deferred for a further two days after a single visit. Physical conditions were deliberately sparse in that there was no natural light and there was no access to exercise or fresh air. Detainees were often disorientated as to the time of day. Interviews were not

UN exposes Britain's human rights abuse

BRITISH Home and Foreign Office officials were red-faced yesterday after being slated by the United Nations Committee on Torture for their record on Northern Ireland.

British leaders had to face the music yesterday after being called in by a UN committee to account for abuses in Northern Ireland, reports Lucie Hyndley.

Irish Times 20.11.98

UN report calls for RUC to be reformed

and Scotland and those that exist in Northern Ireland." He described the British government argument that taped interviews would be vulnerable to falling into paramilitary hands as "facile — it would be equally true if anybody made verbal or written statements — it makes no difference." The Geneva showdown follows continued complaints of torture and mistreatment of suspects held at Castlereagh, Belfast which have been steadfastly denied by the Royal Ulster Constabulary. The government has promised a new code of practice and monitoring of interview procedures at Castlereagh. In Geneva, Professor Burns produced a list of more than 30 prisoners who had been awarded compensation from the gov-



By Deaglán de Bréadain Northern Editor

THERE has been much in the North to a United Nations report on past abuses in in in m Or be

News Letter 20.11.98 Politics

10 NEWS LETTER, Friday, November 20, 1998

UN urges closure of holding centre

BY MERVYN PAULEY

A UNITED Nations report which looks at its sit- and has mous and the best methods of modern police practices.

denied the behaviour of the RUC, as well as the approach of the British Government, he said.



recorded, and there was no independent oversight of the detention centres or the interview process. Allegations of ill-treatment most often centred on the detective officers who conducted the interviews. Suspects would allege slapping and punching to the head, chest, testicles and so on.

It was quite clear in our view from the late 1980s until following the first examination of the UK by the Committee Against Torture in 1991 that physical ill-treatment was being authorised and orchestrated. First, it was widespread, methods used were similar, existing safeguards did not work to stop the abuse and individual officers were not held accountable. We were often informed for instance that detainees would be told in the first interview that they would be assaulted and that this had been approved by those “higher up.” It was also the case that the abuse was carried out in such a way that it often did not leave extensive injuries, so evidence obtained as a result of the use of these techniques was not automatically excluded by trial judges. In our view, this of course was the purpose of the ill-treatment—to obtain confessions that would result in the conviction of the suspect.

It is not completely clear why the allegations about this type of treatment began to increase again in the late 1980s. There had always been a level of physical ill-treatment in the detention centres. However, it is possible that this apparent upsurge was a reaction to a marked rise in paramilitary/terrorist activity in the late 1980s. There were also widespread allegations of collusion at that time between elements of the security forces and loyalist paramilitaries to kill selected republican targets. The use of increasingly “robust” interview methods may have been a corollary to that, meaning the state was cracking down on what was seen as an upsurge in violence and fighting fire with fire. There did not seem to be any political resolution to the conflict in sight and so the state may have decided to pursue a more security-orientated agenda.

Building knowledge

Before we submitted a report to the Committee or attended hearings, we had to develop a knowledge base about how the Committee actually worked, including how we could transmit information to it and obtain information on the government’s submission to the Committee. The crucial partners in this endeavour were our colleagues in the international NGOs. Most of the large NGOs have legal departments or departments dealing with international mechanisms that are a rich reservoir of knowledge about international mechanisms like the Committee Against Torture. They are usually happy to share their knowledge with domestic NGOs.

There were a series of logistical challenges we faced, including the acquisition of details such as the names

of the Committee members and the dates of meetings. Other such challenges included:

GATHERING INFORMATION FOR OUR SUBMISSION

The tactic was carried out in alliance with individual lawyers in Northern Ireland who provided information on the cases of those who had suffered ill-treatment during custody. This formed the basis of the submissions we made to the Committee in Geneva. Some of these lawyers were active members of CAJ. Others had been in contact with us in relation to complaints their clients had. It is also important to remember that Northern Ireland is a small society and the human rights/legal defence community is tiny and close-knit. We used personal testimony from a number of those who had been ill-treated in our first and second submissions. Sometimes this was done through direct contact with the victim; sometimes we worked with the lawyers involved. It was also fortunate that a single firm in Northern Ireland represented many of those who had been detained and that it was a dynamic firm interested in our work. They actually sent a local lawyer, one of their senior partners, to be part of our delegation to Geneva for the first Committee hearing.

The importance of having lawyers as close allies was also made evident during our first visit to the Committee. The representatives of the British government rejected our allegations that individuals were being ill-treated in detention in Northern Ireland. The local lawyer was then able to produce a dossier detailing scores of cases in which he had acted. The dossier contained not only medical evidence and photographs but details of out-of-court settlements with some of the individuals. In other words, the authorities in Northern Ireland had made payments to individuals on the basis of injuries detainees had received in the course of their detention. Following this, the Committee was much more prepared to question government representatives on the accuracy of what they were saying. Indeed, the country rapporteur on the Committee said that if the complaints about ill-treatment were not true then, the United Kingdom must have “the most loose-pocketed government I have ever known when you think a crime has not been committed.”

The task of deciding what to put in the submission is perhaps the most crucial to ensuring that the relevant issues get the attention of the members of the Committee Against Torture. Considerable attention needs to be given to gathering the information and deciding what is presented and how it is presented. This can be partly determined by the way in which the report is written. For instance, if the government is asserting something in its report that you believe to be patently false, you will want to concentrate on providing information to the Committee members to show that. It will also often be the case that the most compelling

information is the personal testimony from those who have been ill-treated. We were able to include a number of case studies in our first report based on interviews we had had with such individuals. We also drew from newspaper reports, court reports, documents we obtained from local lawyers and reports conducted by international NGOs about the situation in Northern Ireland. In our first report in 1991 we included the following statement:

“Summary of allegations of ill-treatment in Castlereagh holding centre.

The following details allegations, which CAJ has received from detainees themselves or their relatives arising out of some 28 periods of detention ranging from 1 to 7 days. The arrests all took place between May and September 1991. One of those interviewed had no serious complaint to make. A number of others had no allegations of physical abuse. In addition to the cases we have documented, we have noted press reports of further allegations of ill-treatment covering some 20 to 25 periods of detention. We have had meetings with the Northern Ireland Office (the UK government headquarters in Northern Ireland), the police authority and the Independent Commission for Police Complaints to raise our concerns and press for the introduction of safeguards to protect detainees under emergency legislation. It is a matter of deep regret and serious concern to us that the Chief Constable of the RUC (the Northern Ireland police force) has refused access to the holding centre to a member of parliament and a member of the House of Lords.

On the basis of the experience of meeting those involved and studying the allegations they make, CAJ is satisfied that there is serious cause for concern about the situation in Castlereagh. We have medical evidence in relation to a number of the cases. In other cases, the treatment involved would be of a nature not to leave marks identifiable by doctors. However, despite the lack of corroborating evidence, CAJ is satisfied that the lack of safeguards makes the regime governing detention open to abuse and fails to provide adequate protection against ill-treatment.”

In addition, and perhaps surprisingly, it is often the case that government publications contain information and statistics that undermine the case they are putting to the Committee. If such information is available, it is very useful in alerting the Committee to holes in the government's submissions. It is also almost impossible for the government to discredit. For instance, the United Kingdom, in its submissions to the Committee in 1998, made great play of the fact that there was an Independent Commission for Police Complaints in Northern Ireland that investigated allegations of ill-treatment made by those detained un-

der the emergency law. The government did not, of course, alert the Committee to the pitifully low levels of complaints the ICPC actually upheld. These figures were, however, in the public domain, and we were able to draw the attention of the members of the Committee to these by comparing them with the figures about compensation paid to those who alleged ill-treatment by police. In our 1998 submission we included the following on the issue of police complaints:

“We believe, nevertheless, that the figures which are publicly available in relation to compensation claims against the police, suggest that adverse findings in such cases do not result in disciplinary charges against officers. For instance, £400,000, £440,000 and £700,000 was paid in compensation in 1995, 96 and 97 respectively resulting from 640, 860 and 980 claims. Given that the number of substantiated complaints from members of the public in those years was 8, 5, and 1 according to the Chief Constable's figures, it is difficult to detect any correlation to the quite high compensation figures.

In addition, there is a great deal of confusion about the actual number of complaints lodged against the police. The figures provided by the government (left hand column, para 116) reflect the number of cases not the number of complaints which are higher. Secondly, we do not know the source of the figure in the right hand column in para 116. It does not appear to accord with any publicly available figures.

However, perhaps the most revealing fact of all is that the vast majority of formal disciplinary charges each year relate to complaints from supervisory officers. In addition, a much higher percentage of those complaints is upheld and much heavier punishments imposed. For instance in 1997, 145 of the 159 formal charges came from fellow officers. None of these resulted in a “not guilty” verdict. However, of the 14 charges which arose from members of the public making complaints, only one resulted in a guilty finding. This means that only one complaint from a member of public was substantiated in 1997 out of approximately 5500 complaints completed.

Perhaps the Committee could ask the government to explain this astonishing statistic. In addition it may be useful to ask why the Police Act will not provide a mechanism for complaints about policy decisions.”

In fact, a Committee member did clearly recognise the significance of these incredible statistics and asked the government how it was that only one complaint from 5,500 was upheld by a supposedly independent complaints system.

WRITING THE SUBMISSION

Submissions need to be cogently argued and well written. They do not necessarily need to reflect interna-



tional legal expertise, but that probably helps. Essentially they need to reflect the situation in the jurisdiction under consideration in a balanced, convincing and detailed way and refer, when appropriate, to relevant parts of the Convention Against Torture. Perhaps the most difficult exercise in this regard is knowing how to describe actual allegations of ill-treatment. In our 1991 submission we included the following description of abuse in the holding centres:

“Five people alleged that they were slapped repeatedly on the face, while one person added that her mouth and chin were squeezed for long periods. One of the most common allegations concerned repeated hitting with the base or flat of the hand or the knuckles on the side, top or front of the head for up to fifteen minutes on one occasion. Twelve people described this technique, which involved no marks as it was kept above the hairline and rarely involved heavy blows. Three people alleged that they were poked or jabbed on the temple or in the ribs. On one occasion this involved prolonged pressure on the temples.

It was alleged that, on a number of occasions prolonged pressure was exerted on various parts of the anatomy. One example was standing behind the detainee and pressing down on the shoulders. Two people alleged that their head was forced down between the legs, on one of these occasions, it is claimed, a detective sat on the head and bounced up and down. One young man says that his head was pulled back over the chair-upright for a prolonged period. Two people say that they were held against the wall by the throat until they nearly passed out. Half choking with hands or an arm lock was alleged by five people. Six people said that pressure was applied to their genitals by feet or hands, in one case causing bleeding to the penis.

Heavy punching, mostly to stomach but also to arms, thighs, chest and head was alleged by nine people. Two women allege they were punched by a male detective. Two allegations were made of kicking. One man said an elbow hit him across his face on a number of occasions. Three people allege that objects were thrown at them including chairs and a bullet. Four detainees said that they were thrown against the wall. A further three said they were forcibly pulled out of the chair on which they were sitting.

Various forms of ill-treatment involving limbs were described to us. Four people say they were made to stand for long periods, on one occasion with legs bent and hands behind the head. Two people allege their arm was twisted behind their back with pressure also to the hand. Finger bending has been a recurrent feature in the cases of compensation or of confessions being thrown out of court. The most

serious allegation involved a chair being placed over one man's chest while he was lying on the ground. The detective then sat on the chair and pulled the man's arms while the detective's foot was placed on the detainee's genitals.

Ill-treatment involving more than one detective was alleged on a number of occasions. Two people, one man and one woman say they were lifted bodily and then held upside down. In neither case did this last for long but both said that it had an extremely disturbing effect on them. The man says that he was dropped on the floor. One man says that he was lifted from and dropped back onto the chair. A further two people said they were pushed back and forth on the chair by the detectives.

Three people allege that hair was pulled out of their scalp, beard or chest. One man alleges that he suffered cigarette contact to the face. The contact was fleeting but definite. Two people allege that their ears were pulled. On one of these occasions two out of four stitches were pulled from a previous wound causing bleeding. One woman, who had a plaster cast on her arm for an injury to the wrist, alleges that her arm was attacked so severely that the plaster cast was broken.”

The submission should not be too long. It is also a good idea to follow the outline of the government submission, which makes it easier for the Committee members. It also makes it easier to rebut specific government points in a way that is readily comprehensible to Committee members. NGO activists should remember that the NGO reports are “mirror” reports which will often be read in consultation with the government reports. The government reports will often also form the agenda for the questioning so Committee members will be looking for questions to ask under relevant sections of the government report. If you have provided that, it is likely that your questions will be asked.

We adapted our submissions accordingly in that we would actually include the text of the questions we wanted asked.

We also tended, particularly in 1998, to focus the Committee's attention on the failure of the government to adequately implement the recommendations from the previous occasion. For instance, the following excerpt from our 1998 submission shows the use of this tactic:

Recommendations following the last oral hearing

Paragraph 10 [of the government's submission] indicates that the government has given careful consideration to the Committee's previous observations and recommendations. The Committee's recom-

mendations in respect of Northern Ireland were as follows:

- **the abolition of detention centres in Northern Ireland and the repeal of the emergency legislation.**

All three detention centres in Northern Ireland remain open. Not only has emergency legislation not been repealed, but the Prevention of Terrorism Act has been renewed annually, the Emergency Provisions Act has been renewed twice (in 1996 and 1998) and the new Criminal Justice (Terrorism and Conspiracy) Act was introduced in the wake of the Omagh bombing.

- **re-education and retraining of police officers, particularly investigating police officers, in Northern Ireland as a further step in the peace process.**

Insofar as we are aware, no such training has been introduced. The Royal Ulster Constabulary did introduce community awareness training but this was in October 1993 and therefore was not a response to the recommendation of the Committee. The training has little to do with the rights of detainees and no specific human rights training has been introduced for investigating officers.

- **the extension of taping interrogations to all cases and not merely those that do not involve terrorist related activities and in any event to permit lawyers to be present at interrogations in all cases.**

While the government announced the introduction of silent video recording of interviews of those individuals suspected of involvement in paramilitary activity in January 1996, this has only recently begun. The government has recently announced its intention to introduce audio recording of such interviews but this has not yet been introduced. Lawyers are still not permitted to be present at interrogations and restrictions continue to be placed more generally on their access to clients.

Role of nongovernmental organisations

*Paragraph 12 refers to the fact that the government sought the views of NGOs during preparation of their report. We wrote to the government expressing our concern that the main recommendations of the Committee had not been acted upon and asked that the government explain this in its Third Report. We do not believe that the government has adequately explained this failure in the context of their submission. **We would respectfully urge the Committee to ask the government why the recommendations have largely been ignored.***

It is also important not to “over egg the pudding.” In other words, if you are not completely sure of your ground on a particular point, illustrate that degree of uncertainty by using phrases such as “it appears” or “we believe.” This will allow Committee members to use their discretion as to how to phrase their questions and will increase your credibility with them because they will recognise you are not trying to be definitive when you are not sure. Most Committee members will realise that you may not always be able to be 100 percent certain of information but it is still important that the matter be raised.

The government submission should be publicly available from the relevant government department. If there are problems in this regard, it is probably a good idea to contact the secretary of the Committee. It is also important to contact the secretary in order to obtain information on the likely timeline for submission of the government report, when the NGO report needs to be submitted and when the hearing is likely to be scheduled.

GETTING COPIES OF THE NGO SUBMISSION TO GENEVA

It is important to stay in contact with the relevant secretary. Each of the UN human rights mechanisms will have a secretary who is a full-time member of staff. This person will normally be helpful but vastly overworked. Establishing a relationship with this person is important and will help you navigate your way around the sometimes labyrinthine human rights machinery of the UN. You can find out who this person is by looking at the UNHCHR website, by calling the UNHCHR or by asking one of the international NGOs. There are also a number of publications that will assist in this regard (see Resources). The secretary will also be able to advise you on who the country rapporteur will be for your country's examination. The country rapporteur will be a member of the Committee Against Torture asked by the Committee to undertake the role for a particular country. This will probably involve summarising government and NGO submissions for the other members of the Committee, and normally the country rapporteur will take the lead in asking questions at the actual examination of the relevant country.

The secretary to the Committee will be able to advise you *when* and *where* to send your submission. It is also a good idea to send about five copies more than there are members on the Committee. This can be quite expensive and needs to be built into the costs for the tactic. In addition, although language was not an issue for us because we were writing in English, one of the working languages of the UN, translation of submissions could be required, which may entail additional delay and expense.



SENDING A DELEGATION TO GENEVA

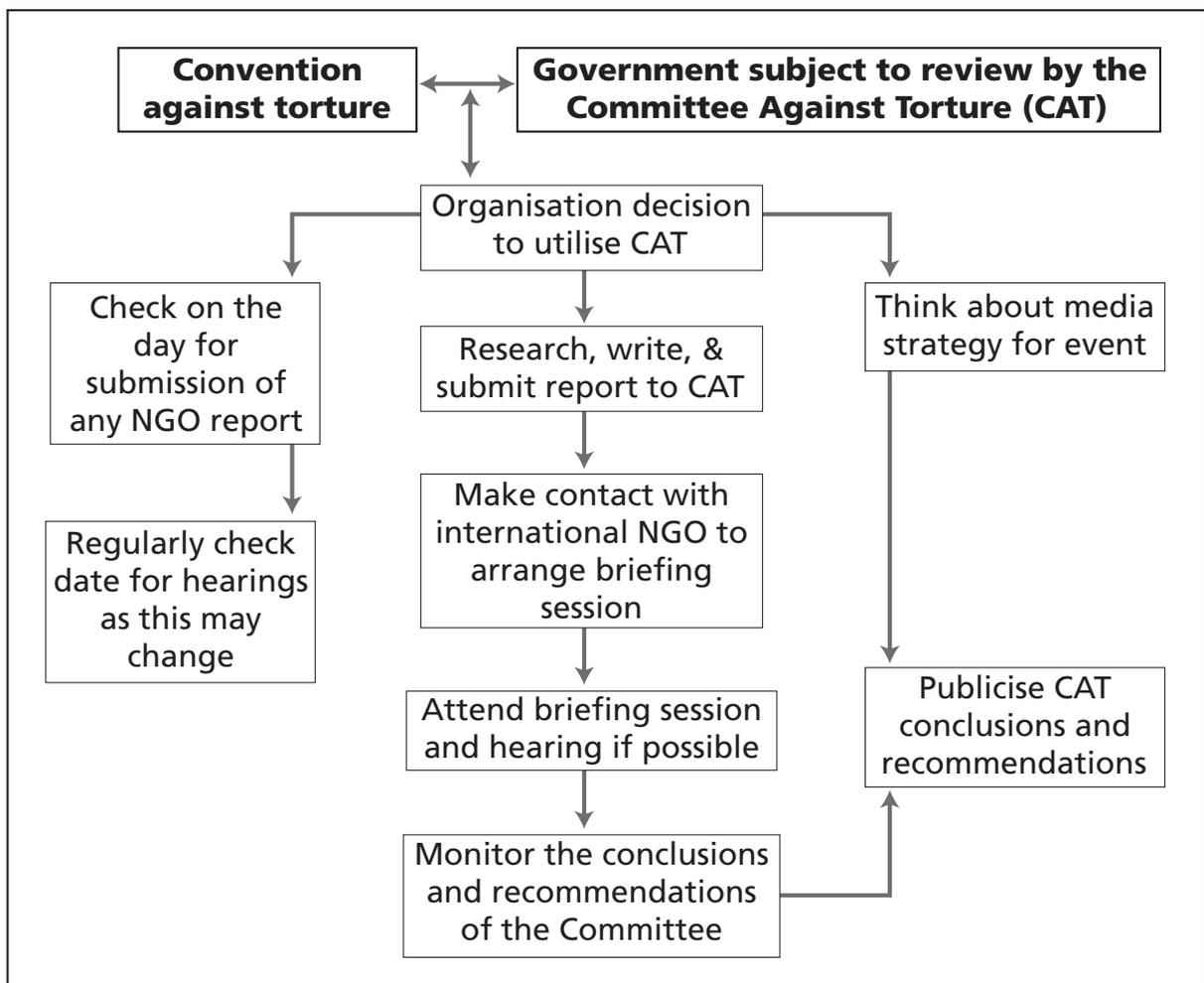
It is vital to send at least one representative to Geneva. This person can make personal contact with members of the Committee, hand out more copies of the report (or, preferably, one-page summaries), hold briefings for the Committee members highlighting key concerns and, if appropriate, meet with the government representatives. It is useful to establish relationships with Committee members who may serve a number of terms and are likely to be considering at least two reports from the relevant country over the course of their terms.

We had received only limited funding to do international work. As we began to do more international work, we built that into funding applications to a particular funder interested in this type of work. They were impressed by the potential of the work and eventually by its impact and continued to fund it. This is not a particularly large part of our budget, but it allowed us to cover the expenses of actually getting people to Geneva and keeping them there for the duration of the UK country hearing. There are also one or two cheap places to stay very close to the UN building, and if one is prepared to be relatively abstemious, Geneva is not necessarily an expensive place to spend a few days.

GETTING ACCESS TO THE UN

We relied upon the advice of international NGOs such as Amnesty International and the International Federation for Human Rights (FIDH)—our international affiliate—to help us negotiate the UN system and to provide logistical support to our delegation when it was in Geneva.

They were also able to suggest information we should bring to the attention of the Committee. It is important to establish such a relationship with an international NGO with a presence in Geneva and with consultative status at the UN. Consultative status is normally the preserve of large NGOs that regularly work at the UN level. Certain UN human rights mechanisms, for instance the Commission on Human Rights, will only allow access to representatives of NGOs that have consultative status. The Committee Against Torture does not operate like this, but nevertheless affiliating with a large NGO with consultative status makes sense if you want to do any work at the UN level. This facilitates access to the UN building, booking rooms for briefings and access to office facilities in Geneva. This is important because it is useful to hold a briefing for members of the Committee, where they can listen to a presentation from your representative in Geneva and ask questions. If there are a num-



ber of groups lobbying the Committee but only your group holds a briefing, your agenda moves to the forefront.

We found that allying ourselves visibly with international NGOs helped our credibility in that if they were saying similar things, the Committee would be more prepared to accept their veracity. Amnesty International was particularly helpful in this regard, as was our international affiliate, FIDH. This is perhaps not surprising as members of the Committee will probably have almost daily contact with representatives of the large international NGOs when the Committee is in session. They will often look to the large NGOs to provide them with information about particularly difficult countries where local NGOs are unable to operate because of state suppression. The members of the Committee will also know that organisations such as Amnesty and others have carefully built up their international credibility over the years and will not visibly ally themselves with groups that might damage that credibility. If, therefore, Amnesty or FIDH or the International Commission of Jurists is prepared to share a briefing with you or host you at a briefing, it is a sign to the Committee members that they can trust what you are saying.

If you intend to utilise this UN mechanism, you will very likely be attending more than one of the Committee hearings. Then simply making contact with Committee members and reminding them of your previous involvement with them and with the Committee Against Torture can enhance the extent to which they are prepared to rely on your information.

Measuring success

Our general goal in using the tactic was to improve the situation of those detained by ending the ill-treatment. We believe that using the Committee Against Torture greatly assisted in that goal in that it achieved a number of objectives we thought had to be met before ill-treatment would end. I mentioned some of these issues in the introductory section, particularly in the context of it being difficult for us to attract media coverage of our concerns and also the relative ease with which the state could dismiss our allegations. However, the Committee Against Torture turned our complaints about ill-treatment from a minor domestic irritant into a major international headache for the UK. It massively raised the media profile of the issue, particularly in Britain itself (as opposed to Northern Ireland), and educated the British public and opinion formers about what was happening in the holding centres. It also established a certain baseline in terms of the credibility of what we were saying. Following the first intervention by the Committee in 1991, the UK could no longer simply dismiss our concerns as the delusions of a small NGO in Northern Ireland because they had been echoed by a significant UN Committee.

The situation for those arrested under the emergency laws in Northern Ireland, particularly in the context of our goals, has improved immeasurably since we began working with the Committee Against Torture. We have long had an internal debate as to how much of this improvement can be attributed to the work in Geneva. The political and security situation has also had a significant impact, as the peace process developed in the mid-1990s, leading to a decrease in the number of violent incidents and the number of arrests. However, it is clear the criticisms voiced by the Committee had a direct impact on the situation of detainees.

For instance, some of the early criticisms issued by the Committee related directly to issues we had highlighted, such as access to lawyers, video and audio recording of interviews, presence of lawyers in interview, process for extended detention and the physical conditions in the various holding centres designed for “terrorist” suspects. All of these issues have now been substantively addressed by the UK government. However, the most remarkable and immediate achievement of the international embarrassment caused by the Committee’s criticism of the UK was the speedy end to co-ordinated physical ill-treatment in the holding centres, which ceased between the first and second time the UK was examined before the Committee. Following the first report, while there were still allegations of physical ill-treatment, they were not as widespread as earlier. The ill-treatment also was not as bad as it had been, and courts began to be more interventionist in terms of excluding evidence. It was also the case that actual ill-treatment would occur at the time of arrest and immediately subsequent to that, as opposed to being part of the interrogation process.

The UK has appeared before the Committee Against Torture on three separate occasions: 1991, 1995 and 1998. We have made detailed submissions and attended the Committee meetings to brief members on each occasion. Almost all of the recommendations the Committee has made over the course of those years concerning Northern Ireland can be traced directly to the submissions we made. The key specific objectives and the overall goal have been achieved. It is our view that the use of the tactic had a considerable impact in changing the way the UK, and particularly the police in Northern Ireland, operated in relation to the detention of those suspected of being involved in paramilitary violence in Northern Ireland.²

² There have never been credible allegations of widespread or orchestrated ill-treatment in relation to those arrested under the ordinary criminal law in Northern Ireland – so called ODCs – “ordinary decent criminals.”



Transferability and lessons learned

This tactic could be used effectively by NGOs elsewhere. There are many other UN human rights mechanisms and others may find them more useful, but the basic approach is the same. We have also broadly used this approach with the Human Rights Committee, the Committee on the Elimination of Discrimination Against Women, the Committee on the Elimination of Racial Discrimination, and the Committee on Economic, Social and Cultural Rights. The tactic is eminently transferable between these various mechanisms, although there are technical differences among the Committees that need to be taken into account by those wishing to access them.

The content of our submissions, the impact on the government, the relatively easy access to Geneva we had may not always be replicated elsewhere, but the logistical approach may. Certain factors—documenting and writing the submission, submitting it, holding briefings, developing a media strategy, working with international NGOs—all appear to be common aspects of this tactic whether in Northern Ireland or elsewhere. Several key points should however be kept in mind.

PLAN ON A LONG-TERM INVESTMENT

This tactic will take time to work. It is unlikely that submitting to the Committee and attending it once will have the desired impact. To be successful, it is likely that it will take at least two hearings, so those considering using this tactic need to think in terms of years of commitment. It is also a good idea if the same staff person could undertake this work and build up personal relationships with Committee members and the secretary to the Committee.

There may be budgetary considerations connected to making submissions, but most particularly connected to actually sending someone to Geneva. This person need not be a lawyer, but certainly should be someone who will be at ease with any technical legal issues that arise, because Committee members will often ask for detailed legal information about the domestic system.

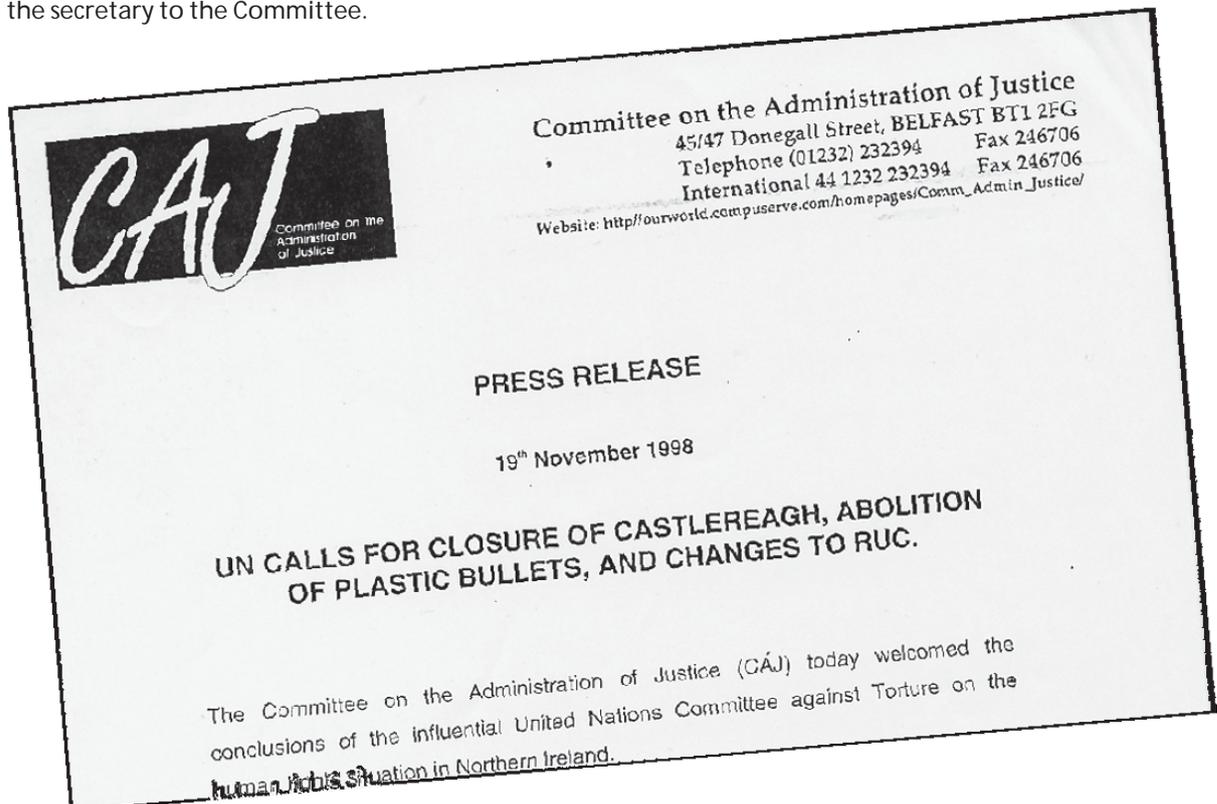
INCREASE DIALOGUE WITH GOVERNMENT

One thing we would do differently would be to try to increase the dialogue we had with government in the gaps between hearings of the Committee. We have done this in our work with other UN Committees since, and it has improved our standing when we appear in Geneva. We have, for instance, asked to meet with government officials to discuss their response to various Committee recommendations and also the extent to which they are going to disseminate them to the relevant government agencies. This helps to track the extent to which the government is complying with Committee recommendations.

The fact that the government knows we are going to interact with the Committee at the next hearing generally means that we are going to get a reasonable hearing from them.

USE THE MEDIA

In countries that are more immune to such criticism, the tactic may have less impact. However, the key is to realise that no state likes to face criticism at the UN. I have seen states go to extraordinary lengths to



avoid such criticism or to limit it. This has included states that might be considered serious human rights abusers and that might be thought to pay little attention to the UN, particularly its human rights arm. However, states are aware of their international image, and effective NGOs working the UN system can wield significant power.

It is likely that in other countries human rights activists will be placing themselves in considerable danger by even trying to engage with the Committee Against Torture. This is a serious concern when considering using this tactic.

ESTABLISH A GOOD WORKING RELATIONSHIP WITH AN INTERNATIONAL NGO

Establishing a good working relationship with an international NGO that has consultative status at the United Nations or knowledge and experience working with the body that has jurisdiction over your issue is essential. The relationship facilitates access to the buildings (including booking rooms for briefings and so on) the Committee and other types of hearings. Just as importantly, it will afford the local NGO access to the expertise of the international organisation in terms of the actual workings of the Committee or other international body and potential increased credibility.

Conclusion

At the beginning of the notebook I mentioned the “boomerang” theory. This is essentially the notion that if you bring the issue you are concerned about to the attention of an external audience, pressure from that external source often results in more change domestically than campaigning at home. Without initially being fully aware of it, this is what we did with the

Committee Against Torture. The tactic worked so effectively that it has become, over the years, the cornerstone of our work.

Following the success of our experiences with the Committee Against Torture, we began to look to other UN mechanisms to raise other human rights concerns within Northern Ireland. For instance, we raised the absence of a prohibition on racial discrimination with the Committee on the Elimination of Racial Discrimination. We raised serious concerns about state killings and collusion with paramilitaries with the Human Rights Committee. We also began to access the Commission on Human Rights and make submissions to the Special Rapporteurs working with the Commission. While this is a very different mechanism, many of the lessons we initially learned with the Committee Against Torture were still applicable.

We also began to engage with human rights mechanisms at the European level such as the European Court of Human Rights, with which we successfully lodged cases, and the European Committee for the Prevention of Torture. We also lobbied extensively in the United States at a more overtly political level for improvements in the human rights situation in Northern Ireland.

The expansion and extension of our international work was very much based on the initial success and lessons learned from the Committee Against Torture. While the detail of various mechanisms differs, many of the basic techniques are the same, particularly when one is dealing with the UN system. One key lesson remains at the heart of our work: internationalising a human rights problem, particularly in a society in conflict, helps to resolve it.

Resources

Jane Winter. *Human Wrongs, Human Rights: A Guide to the Human Rights Machinery of the United Nations*. British Irish Rights Watch, October 1999. ISBN 0 9528528 1 0.

The U.N. Commission on Human Rights, Its Subcommittee and Related Procedures: An Orientation Manual. Minnesota Advocates for Human Rights, 1993. ISBN 0-929293 14-2.

Provides a description of the principal human rights mechanisms available in the UN including the role of governments, nongovernmental organisations and the media.

Website of the UN High Commissioner for Human Rights

www.unhchr.ch

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go to www.newtactics.org.
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forums for discussion with other human rights practitioners.



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