

believed to be guilty of offending. In her opinion, more effective and acceptable policing would reduce the incidence of joy riding, which in turn would reduce the pressure from the community for paramilitary punishment beatings. A number of deaths and injuries have been caused to joy riders by the police and army firing into, or ramming, the cars they were driving. Human rights organisations have also received a number of reports about young people engaged in joy riding and other activities who have been offered immunity from prosecution and otherwise pressurised into becoming informers. Succumbing to the pressure to inform could have very serious consequences for young people, given that during the conflict, the 'penalty' extracted by non-state players for informing was, in some cases, death.

A further issue to which Ms. Kelly drew the attention of the Tribunal was the right of children to maintain contact with their parents. During the conflict, a number of prisoners were held in jails in England. This meant that it was difficult, and in some cases impossible for the children to visit their parents. There have been reports that those travelling from Northern Ireland to visit prisoners in England, including children, were detained at points of entry under the Prevention of Terrorism Act and, on occasion, arrived after long journeys only to discover their parent had been moved without notice to another prison. In addition, concerns were raised that children whose first language was Irish were not allowed to communicate with their imprisoned parent in their own language.

An additional rights violation mentioned by Ms. Kelly was that, during the 1970s and 1980s, a significant number of juveniles arrested for conflict related offences were given indeterminate sentences and were held at the Secretary of State's pleasure. This use of indeterminate sentences for children caused concern to a number of human rights organisations. Under emergency legislation, which still applies despite the cease-fires and peace process, children as young as 10 year old can be held for up to seven days. Although children are entitled to legal representation there is no absolute right to this in the first 48 hours of detention. In addition there is no entitlement to have a legal representative present during interviews.

In addition to the impact of state violence on children and young people, Ms. Kelly drew the Tribunal's attention to the estimated 268 children killed by non-state players in bombings and shootings. Some of those children were killed in England, the best known being a bomb in the town of Warrington that killed two young boys. The statistics from investigations leading to convictions for the deaths of children as the result of the actions of non-state players, and by implication the state's action in protecting children's right to life during the conflict, are not accessible. Consequently the adequacy of state protection for children and young people's rights to life from violation by non-state players

during the conflict is difficult to determine. Many young people have been injured by non-state players over the last 30 years. In addition to sustaining injuries as a result of being caught in military actions perpetrated by non-state players, many children have sustained serious injuries as a result of 'punishment' attacks for what is deemed to be anti-social behaviour. These attacks involved the use of baseball bats, hammers and guns. Children who sustain injuries from these attacks may be left with serious long-term damage. It has been argued by those living in the communities where these attacks take place, that such attacks are a response to the young people's anti-social behaviour because communities (both Catholic and Protestant) have no confidence in the police force.

Ms. Kelly pointed out that, despite the peace process, emergency legislation still applies, plastic bullets are still being used, children are still being subjected to horrific punishment beatings, there is ongoing harassment of children by the security forces and there has still been no closure on the subject of those children who have been killed by the state. There is little understanding of how to protect children's rights in a divided society where the spectre of violent conflict is ever present. Ensuring that the protection of human rights reaches internationally recognised human rights standards is crucial to guaranteeing children's rights. She stated that it is therefore encouraging that in October 2000, the European Convention on Human Rights would be incorporated into the domestic legislation of Great Britain and Northern Ireland. The incorporation will force courts to take cognisance of rights protected under the Convention together with the associated body of case law. This should have a significant effect on the range of children's rights issues including some arising directly as a result of the conflict.

In addition, the Northern Ireland Act, which is the legislative embodiment of the Belfast Agreement,²³ includes a number of provisions that could have a significant impact on children's rights, including dealing with the legacies of the conflict and ensuring the protection of children in either a post-conflict situation or in the event of renewed conflict. In addition, under this same Act, the first Human Rights Commission in Western Europe was established. The Commission has the power to undertake investigations, to advise and assist individuals and to take cases involving law and practice. Ms. Kelly told the Tribunal that, in practical terms, this means that if the Human Rights Commission decided that there was a denial of children's rights in respect of a particular area of children's lives, then the Commission could undertake an investigation or work to bring about a change in the law. The Commission also has the power to assist a child in individual cases relating to human rights.

A unique and potentially far-reaching provision of the Northern Ireland Act, which will have a significant impact on the protection of children's rights in a divided

23. *Supra* note 22.