

Children and Young People in the Belfast Agreement²²

It is recognised that victims have a right to remember as well as to contribute to a changed society. The achievement of a peaceful and just society would be the true memorial to the victims of violence. The participants particularly recognize that young people from areas affected by the Troubles face particular difficulties and will support the development of special community-based initiatives based on inter-national best practice.

Ms. Kelly expressed the view that it is highly regrettable that, until recently, there has been relatively little focus on the impact of the conflict on children from a legal and human rights perspective. Children have really only begun to come into focus through the combination of the peace process, the development of a children's rights culture and the monitoring of the implementation of the CRC.

Prior to 1968, a large percentage of children growing up in nationalist communities were subjected to discrimination on religious grounds. Society was segregated between Protestants, living mainly in unionist/loyalist communities, and Catholics, living generally in nationalist/republican communities. Discrimination directly and indirectly impacted on children's lives, with respect to housing, jobs, where facilities such as leisure facilities, roads, hospitals, universities were located, and the resources allocated by government to the development of different areas. In effect those who ran the state, both in government and the civil service, were almost entirely drawn from one community with the inevitable consequences that brings and the impact on children. In addition, even before the start of this current phase of conflict, the police in Northern Ireland were drawn almost entirely from one community, as were those in the prosecution service and the judiciary. This had obvious implications for the administration of criminal justice including the juvenile justice system. The net result of this was that 'a very sizeable minority of the population' in the North of Ireland were not stakeholders in the state and indeed, were actively alienated from it. This was as true for children as for adults.

Ms. Kelly told the Tribunal that during the conflict, both state and non-state players violated the rights of children in Northern Ireland. The range of direct violations spanned the full spectrum of rights from the denial of the right to life, through physical integrity to harassment, and the operation of the criminal justice system (including the conditions of imprisonment and the right to a fair trial), the operation of emergency legislation, the use of plastic bullets, and socio-economic rights. She noted that, in addition to children themselves being killed, the murder of a parent or significant person in the child's life by both state and non-state players, impacted significantly on possibly thousands of children in Northern Ireland denying them the right to family life.

With respect to the 123 child deaths arising from the action of the state, Ms. Kelly drew the Tribunal's attention to the fact that there have been only prosecutions in respect of two incidents, one involving two young people aged 17 and 18 years, and the other involving an 18 year-old. Both cases involved the British Army and the soldiers involved were released after serving a very short period of time and readmitted into the army. No member of the police force has ever been convicted in respect of the death of a child. She stated that the use of rubber and plastic bullets has been of particular concern to human rights organisations. These have been used against members of both the Catholic and Protestant communities. Of the 17 people murdered by these weapons, eight were children aged between 10 and 15 years. No police or soldiers have been charged with respect to these children's deaths despite the fact that in the majority of cases, they were killed in non-riot situations.

Ms. Kelly informed the Tribunal that four cases were currently before the European Court in Strasbourg, involving a total of 13 murders by state forces during the conflict. The issue before the Court is the state's failure to protect the right to life, inadequacies of remedies and failure to investigate properly.

According to research cited by Ms. Kelly, carried out by the Committee on the Administration of Justice, a human rights organisation, over one quarter of all young people aged 17 to 19 in Northern Ireland feel they have been harassed in some way by the security forces. Nearly half of those who perceive themselves as Catholics believe they have been harassed but there are also indications of growing levels of harassment of Protestant young people. Very few young people register an official complaint and there is a lack of confidence in the system for investigating complaints against the police and army. Ms. Kelly stated that, in her opinion, this reflects on the unacceptability of the current police force to the vast majority of the Catholic community in Northern Ireland, which now constitutes approximately 43 percent of the population.

Ms. Kelly then drew the attention of the Tribunal to the incidence of 'joy riding', which is very prevalent in the main urban areas of Northern Ireland. Joyriding is the stealing and dangerous driving of cars for thrills, generally by young people. The reaction of non-state players to joy riders has been to engage in punishment attacks on those

22. The Northern Ireland Assembly was established as part of the Belfast Agreement reached at the multi-party negotiations on Friday 10 April, now commonly referred to as the 'Good Friday Agreement'. This quotation is from page 18 Paragraph 2.