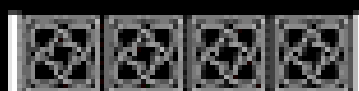


# PATRICK FINUCANE

HIS LIFE AND HIS LEGACY

Trinity College Dublin 2009



British Irish  
RIGHTS WATCH



## **PATRICK FINUCANE**

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# CONTENTS

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## **THE DINNER - 13TH FEBRUARY 2009** **5**

### **Speakers**

Frank Caldwell	7
Jonathon Moore	8
Seamus Finucane	10
Dermot Finucane	12

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## **THE CONFERENCE - 14TH FEBRUARY 2009** **14**

### **Programme** **16**

### **Speakers**

Opening Remarks by Chair Inez McCormack	17
Video message by Thomas Hammarburg	18
Geraldine Finucane	19
Clara Reilly	23
Michael Culbert	28
Mike Ritchie	32
Peter Madden	36
Fiona Doherty	42
Michael Mansfield QC	47
The Honourable Mr Justice Treacy	52
Dato' Param Cumaraswamy	57
The Honourable Peter Cory	61
John Ware	65
Jane Winter	69
Michael Posner	71
Closing remarks by Inez McCormack	73

---

## **THE FOOTBALL MATCH - 15TH FEBRUARY 2009** **72**

Terry McAuley	76
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**THE DINNER**

10TH FEBRUARY 2009

*" Pat Finucane was a wonderful friend."*

FRANK CALDWELL

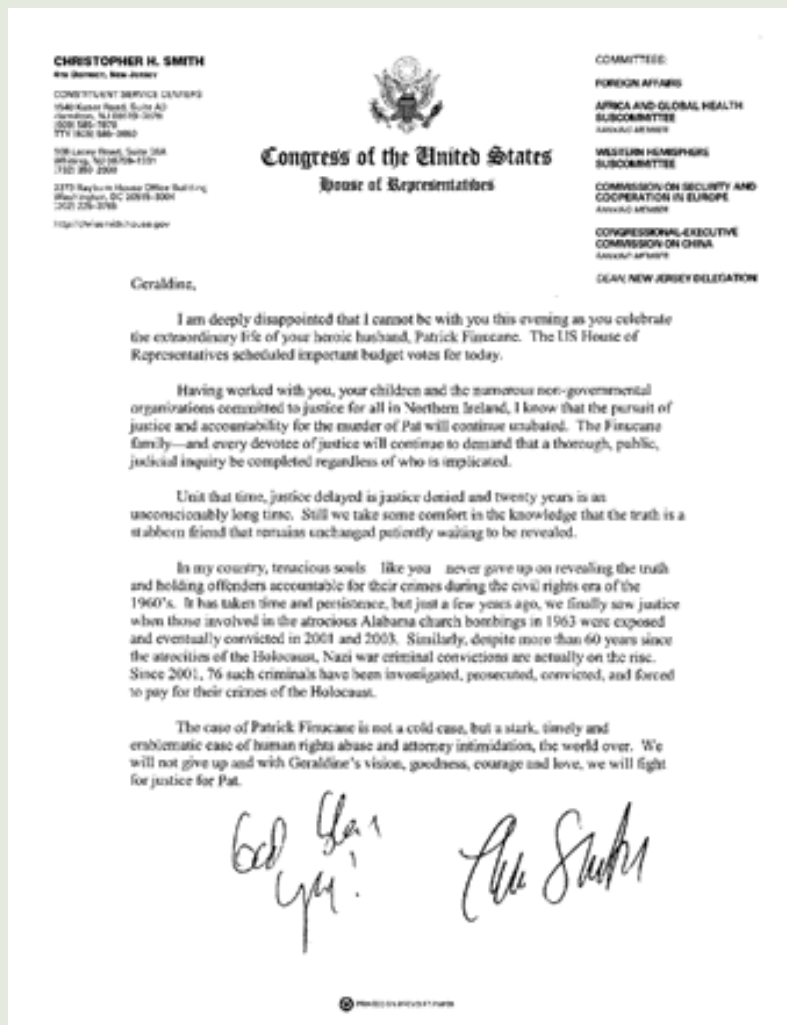
# PATRICK FINUCANE HIS LIFE AND HIS LEGACY

Geraldine Finucane welcomed everyone to the dinner and said that, rather than try to remember everyone's correct title, she would prefer to welcome everyone under the same name, that of "Friends". She then asked Brother Liam Finucane, who comes from Birmingham, to say grace before the meal

On Friday 13th February some 250 guests joined the extended Finucane family for a dinner to celebrate Pat Finucane's life. The dinner was held in the elegant Dining Hall at Trinity College Dublin, and was made possible by the generosity of many of those credited elsewhere in this report, and by some who preferred to remain anonymous. The majority of photographs are courtesy of Oistin McBride.

John Finucane, Pat's youngest son, acted as master of ceremonies, and began the after-dinner speeches by reading out a letter from Representative Chris Smith, and long-time supporter of the Finucane family, who was prevented by appalling weather from attending the weekend's events.

The audience then heard from Frank Caldwell, close friend and neighbour to all the Finucane family for many years; Jonathan Moore, an American attorney and friend of Pat's; and two of Pat's brothers, Seamus and Dermot, who brought the house down with their irreverent, affectionate and admiring recollections of their oldest brother. All of their speeches are reproduced below.





1949 - 1989



## FRANK CALDWELL

I would like to thank Geraldine, Michael, Katherine, John and the wider Finucane family for inviting me to speak at tonight's celebration of Pat's life. It is indeed a great honour to say a few words in honour of a true friend.

I first met Pat when I was eighteen. Being a budding young footballer I had no doubt Manchester United were going to knock on my door. Unfortunately that didn't happen, but fortunately for me Pat Finucane did!

Pat and I played together for a very successful Malachians team with whom he was an outstanding talent and goal scorer, and boy did he know it! In one season he scored 56 goals. That feat alone speaks for itself. (He rarely talked about that.)

Playing football though was the easy part. Travelling to and from games with Pat at the wheel was usually a white knuckle ride, and as John alluded to earlier his driving skills did not match his football ability. I recall being on our way to a game one day (late as usual). Pat was waving to everyone on the road. He said to me "There's Peter Bur...." He did not get the surname out before we ended up in the back seat of the car in front of us. We both got out of the car safely, dusted ourselves down, Pat exchanged details with the other party and we proceeded to the game, which had already started. Missing a match was like not getting a fix. It was our reason to live.

I was not best pleased with Pat that day. One other disappointment was that I could have had an injury claim, but my friend the lawyer didn't take the brief. (Made me wonder about his Insurance Policy!)

Outside of football Pat and I forged a lasting friendship which began when celebrating one evening after winning a competition. We went to their flat in Glenties and it was there I was introduced to fine Cognac. Their heating bill was expensive that night (so I'm reminded constantly).

That cognac evening reminds me of a story. My wife Pat and Geraldine share a birthday and the four of us went to a restaurant in Hillsborough for dinner. We arrived and were seated. Pat ordered an aperitif (his word, I called it a pint). We perused the menu and ordered our meal. We had fish for starters with some fine white wine, and with our main course some fine red wine (I was very impressed at this stage). When dessert was served, Pat of course ordered desert wine (this man from West Belfast knows his stuff I thought), but things were by no means over yet. After coffee Pat called the waitress and ordered two cognacs and two cointreaus. The waitress apologising said that it was five minutes after midnight and the bar was closed. Pat insisted the drinks were part of the meal (digestifs was the word I believe). The waitress left the table with Pat following. He spoke privately to her and the owner. Minutes later two globes with the digestifs swirling and two cointreaus followed. "How did you manage that?" I enquired. "It just needed a few words," was the reply. Our taxi arrived in due time and my wife Pat, Geraldine and I were thanked and bid goodnight. Helping Pat on with his coat the waitress thanked him and said "Goodnight INSPECTOR!" His smile said it all.

For the record, Seamus and Dermot, it was the only time I have ever had diner with an R.U.C. Inspector!

Thank you Geraldine for being a friend. It's wonderful to be here tonight with my wife Pat and our children. Pat Finucane was a wonderful friend.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

8

### JONATHAN MOORE

It is a great honor and privilege to have been asked by Geraldine to say a few words about Pat. In the 20 years since his death I have thought quite a bit about him and the impact he had on our lives and of course imagine what he would be doing now. I suspect that were he still with us he would be doing much of what he always did, dealing with the people on the ground, trying to solve their problems, never for personal glory but because he felt it was his responsibility as a lawyer to do so.

I first met Pat in 1981 when I travelled to the North with a group of lawyers from the US to “study” the legal system in Northern Ireland. Nothing could have prepared us for that visit. Indeed, nothing could have prepared our hosts for our visit. We were certainly pests at a time when Pat and his colleagues had many more important matters to deal with than us. That is because our visit came in the middle of the hunger strike campaign. Pat, as we all know, was representing Bobby Sands and many of the other hunger strikes who eventually gave up their lives for the cause of freedom. Notwithstanding the demands on his time, Pat and his colleagues were very gracious and accommodating to us. They had planned many full days of meetings with representatives from all sides of the conflict, Sinn Féin, UDA, the courts, the police and the army. These times, in a funny way, caused people to speak more openly about how they felt.

Pat did this because he understood something very important: that the truth about what was happening in Northern Ireland in the early '80s, the truth about how the rule of law was being subverted by draconian measures under various terrorism laws being enacted in Westminster, was something that was not being honestly conveyed to the outside world. He understood the value in bringing this message to the US. We were well armed with information when we left and Pat continued to make numerous trips to the US to tell whoever would listen about the subversion of the rule of law that was taking place in Northern Ireland, all in the name of combating terrorism.

In that regard, Pat was a prophet of sorts, although I am sure he would cringe at being described in those terms. The set of laws developed to deal with the events in Northern Ireland, all under the guise of combating terrorism, were the precursor to our own laws in the US, including the so-called Patriot Act, which have done such grave damage to our democracy and to the rule of law, and to our standing in the world community. I am happy to report that after eight years we have made a fresh start with a President and a government that, whilst not perfect, has more respect for the rule of law.

What followed that visit was eight years of contacts with Pat and his family both here in Ireland and in the US. In the next eight years he made several visits to the US. He brought to us news about Ireland, which the mainstream media refused to cover, and he never failed to open people's eyes to what was really happening in Northern Ireland. He testified in extradition hearings in the US and was accepted as an expert of Northern Ireland law by the courts. I recall many subway and train rides with Pat throughout the New York region, going to meetings and visiting various dignitaries. At night, of course, there was always time to relax and I cherish the many conversations we had about politics, law and many other things as well.

But Pat did more than talk about what he was doing. He also wanted to listen and learn from us about how we approached our legal work. Particularly, since I was and have always been a civil rights lawyer, he was quite interested in our tradition of suing the police for some form of misconduct. I believe those talks, not just with me but with other civil rights lawyers in the US, was the precursor to his pioneering efforts in bringing successful civil claims for assault and false imprisonment against the police, which quickly became part of the legal landscape in Northern Ireland.

I learned a great deal from Pat. He had not only great courage in the face of grave danger, but also a sense of humour that carried him through some frightening times. It is that combination of courage and humour that I will always remember about Pat.

1949 - 1989



I would be remiss if I failed to mention the most important inspiration in Pat's life. That was his family: his wife Geraldine, and his three children Michael, John and Katherine. I can't sit down without acknowledging the great courage and perseverance that they also have shown in the 20 years since Pat's untimely death, not only in dealing with his death, but in fighting for an inquiry that will get at the truth of whether there was government collusion, or more, in his death. Pat's death was intended to silence those who would speak out about injustice and inequality. It would have been easy to imagine that his death would have had that same effect on his young family at the time. The courage they have shown in carrying on the fight for truth and accountability, surely at great personal risk to themselves as well, is what Pat would have been most proud of.

For it is really about truth and accountability that we meet here 20 years on from Pat's death. As times have changed in both the north and the south of Ireland, one could not fault those who would say, "Why do you hold on to trying to find out what happened 20 years ago? Look forward and not behind." However, without truth there can never be accountability; without accountability there can never be reconciliation; and without reconciliation we cannot not go forward with any confidence that such collusion and unlawful behaviour will not be repeated.

In the final analysis, this campaign seeks to uphold the most fundamental principle that underlies our systems of government, both in this country and in the US. That is the rule of law; that no man or woman is above the law. We have gone through some horrible times in the past eight years in my country where the rule of law was subverted to the end of dealing with the threat of terrorism, real or imagined, where we witness indefinite detention in prison camps like Guantanamo and the sanctioning at the highest levels of government of the use of torture, in derogation of our Constitution, the UN Charter and every other important international treaty on human rights.

As we gather to discuss the impact of Pat's work and the legacy he left, let us not forget that unless we have truth the rule of law will suffer. Unless we have accountability there can truly be no reconciliation or justice. That is why we must all carry on this fight for the truth about what happened on that 12th day of February, 1989. Only by fully understanding what happened and who was responsible can we have some assurance that it will not happen again.





## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### SEAMUS FINUCANE

On behalf of my mother, brothers, sister, Geraldine and Pat's children, I welcome you all to Pat's 20th anniversary celebratory dinner.

I feel its incumbent upon me to issue you all a health warning! It is in the "Public Interest" that you know that the next speaker is an "Imposter"! He is going to tell you that he is my younger brother and he tells more lies than the British Government, if that could be possible?

At this juncture I think it is important to remind you all that had Pat been still alive today, he would be celebrating his 60th Birthday next month.

I would also like to convey to you that I and my younger brothers were tormented and abused as kids by our older siblings. Pat was very much like the cartoon character Peter Perfect and a suave disciplinarian, a street version of the famous regimental sergeant majors.

Many a battle did he fight with John and Rosaleen, after losing out to the latter.

One of my earliest memories of Pat and John was both of them sailing down the Dam in a tin-bath out the back of our house in Sevastopol Street. They were a mix between "Captain Pugwash" and "Pirates of the Caribbean".

As a young child Pat and I often would have played football in the street. He would teach me the finesse of one touch football between the spouts. There would be hell to pay should I hit the ball out on to the road. I'm sure you're all familiar with the term in football "the hair-dryer treatment" famously associated with Sir Alex Ferguson. Well, let me assure you that that it was Pat and not Sir Alex Ferguson who first used it and it did wonders for our ball skills.

On other occasions he would indulge me in refining my football education in the Falls Park. As a treat he would allow me the privilege of cleaning his football boots and his shoes in order to stay up late on Saturday night to watch Match of the Day.

Whilst living in Percy Street I had the unfortunate opportunity to share a room with Pat. He ruled our bedroom with an iron fist. Both of us being faithful Manchester United fans it became somewhat of a shrine to the stars of the late '60s, Charlton, Best and Law.

One memory in particular was when he arrived home from University in the early hours to switch on his beloved radio on to listen to Man Utd playing Estudiantes de la Plata.

To demonstrate his tyranny, he invited me to share a piece of chocolate by placing it on top of the wardrobe at the top of the stairs and stated that I would have to fight him to reach it. Needless to say I would never get to eat much chocolate as a child.

The RUC often visited our house when we were young. This was often as a result of complaints about Pat annoying neighbours by playing football outside their doors. I suppose this was an omen as they became regular visitors to our home over the next 25 years, the only difference being they were heavily armed and accompanied by the British Army.

Politics invaded our home in the aftermath of the Pogroms of '69. Until then we were like any Catholic working-class family living in the Lower Falls/Divis Street area. It was then that Pat witnessed at first hand the sectarian nature of the Orange State. As a result of the Pogroms we were forced to leave our home. It was a case of move out or be burnt out.

It was around this time that Pat had availed of the opportunity to go to Trinity College Dublin. Terry McAuley and he were among the first of their generation to go to university. As usual he had his priorities right by first signing on the football team before he found out anything else. It was football, girls and education, all in that order. It was then that Geraldine arrived on the scene, stole his heart and the rest is history.

1949 - 1989



At Trinity Pat didn't really know what career path to follow. He slowly gravitated towards the law, gaining his professional qualifications as a solicitor at Queen's University Belfast. He now had found his vocation in life. He revelled in this new challenge. He was part of a new generation of human rights lawyers out to change the world. It was around this time that he became the first solicitor to sport a 'perm' – big mistake!!!

On the home front, Pat was very devoted to and protective of my Mum and Dad. He was always there for them. He was eager to repay them for their support and faith in him as he was growing up. After our Dad died, he took on the responsibility for visiting our brother Gerard in hospital. I remember on one occasion Pat rendering out the Billy Ocean song 'When The Going Gets Tough The Tough Get Going', and Gerard laughing his head off.

It was long before this that we all recognised that Pat's singing was not "eco friendly", nor would he ever sing at the Ulster Hall! He regularly destroyed "The Four Green Fields". His musical influences were Tom Jones, Dean Martin, Cat Stevens, The Dubliners and The Beatles. Needless to say he should've "Let it Be".

Socially speaking, Pat could often be hard work. He was the worst time-keeper in the world. Once he invited Martin and me to a dinner at his favourite Chinese restaurant, The Manor House, opposite Donegal Pass Police Station. We arrived dressed like two paupers and not a penny to our names. It was embarrassing; he arrived two hours later citing work as his excuse. This was to be a recurring theme, as Geraldine can testify too. Revenge was sweet though. As he later attempted to enter our family home, Martin and I soaked him with large pots of cold water. We sent him home to Geraldine with a cold.

He was also the worst driver in the world, having previously lost his licence for speeding. He was never going to make a Formula One driver and he couldn't sing, so it was fortunate that he had the law to fall back on.

At Christmas time Pat was always very generous, lavishing wonderful gifts on the ones he loved. In return we would always show our appreciation by stealing new clothes from his wardrobe and giving them back to him as presents. Please forgive us, Pat!

My brother could never suffer fools gladly, though when you became his friend, he was very loyal and often became friends for life. This was to be the case with Peter and Kathleen Madden, Terry and Geraldine McAuley, Seamus and Viviane Treacy, and Frankie and Pat Caldwell to name but a few.

In 1979 Pat and Peter were to set up a new legal practice together, a move that was to change their lives forever. The firm of Madden & Finucane pioneered cases that others ignored, never accepting inequality or injustice. They set new standards applied their own criteria based firmly in their working class roots and challenging what they believed to be in the public interest!

This was to lead to Pat being viewed as a hate-figure not only with the RUC, but the British army, Prison Service and judiciary/legal profession (in particular, the Prosecution Service). In a manner of speaking Pat was flattered by this, as it meant that he was being successful in defending his community.

I am not ashamed to say that Pat was my role model in life. He was my mentor. I've lived and walked in his shadow all my life. Some would say that the Finucane family was very fortunate in being represented in the legal profession, the Church and politics. All we would need is a banker/ economist and we could set up our own mini government!

In closing I would like to thank everyone for their attendance and support throughout the anniversary week and over the last 20 years. I would appeal to all families and supporters to keep up the good fight. It's honest and truthful. This is what they fear the most!

Thank you all so very, very much.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### DERMOT FINUCANE

Geraldine asked me to say a few words about Pat. Something nice and funny. I think she forgot that we Belfast People do that with sarcasm and insults!

My earliest memories of Pat were ones of dread. He was always away at Trinity and when he came home he would bring his disciplinarian streak with him. He would force us to do our homework, make us go to bed early and smack us when he felt we needed it. I thought this would ease up when he married Geraldine. But she was as bad. She was a school teacher; she also made me do my homework and smacked me when she thought I needed it. I think she thought I needed it a lot!

We nicknamed Pat "The Baron" better known as the man with the suitcase, from a TV series. When he arrived all we wanted to know was when he was going back.

We were a large family, one girl and seven boys. A bit like the von Trapp family, only without the singing. Instead we would wind each other up and tease each other mercilessly. Pat was no exception to this. I recall once him and his brother John putting boxing gloves on Martin and me. I was about four years old and Martin six. They rang an imaginary bell and watched as we battered each other. When one of us was about to cry, the bell would go and they would convince each of us that we were winning. The bell would go and round two would begin! We were more their toys than little brothers but we were very close.

When the Troubles erupted in 1969, it tore our family apart. My parents lost everything and had to start home-building all over again. Even when my dad was alive Pat was seen also as a father figure. He was the cornerstone of our family. We all looked up to him.

He was involved in the Civil Rights movement and was learning his trade as a solicitor. It was when he was back home and married to Geraldine that I began to get close to him. I was dating Ailish and became the baby sitter, the painter and general handyman, all unpaid of course! Pat would reward me by dragging me to watch him play football with Malachians. Buying me my first pint – illegally as I was only 17 but I loved his company, as little brothers do. I loved going to his house, Geraldine was a great cook and we would spend hours bonding over bottles of wine, brandies and smoking cigars, which always made me sick but each visit would be the same. I loved his company and wisdom but this would not stop us from winding him up. We use to raid his wardrobe and steal his unopened shirts and bottles of aftershave and give them back as birthday gifts and Christmas presents. As Pat would have expensive tastes he would be touched at our efforts. I even bought his son John, then aged two, a set of drums for Xmas just so the noise would wind him up and drive him crazy. I think the drums lasted two days!!

At other times his two "baby" brothers jumped him, held him down and drew false moustache and glasses on him. Revenge for the boxing match!! Poor Michael got punished for being disloyal as he gave us the coloured pens. As brothers we would always try to get the better of each other. We are very competitive. A trait he has passed on to his sons. There was always lots of arguments as to who was the better footballer, arguments on politics but Pat usually won out. He was special. People treated him differently. I once asked one of his team mates why Pat always got the best seat on the bus, car or even in the pub. They said it was easier than to listen to him complain. When he became a lawyer he turned complaining into an art form. When I got married in 1980 Pat was my best man.

1949 - 1989



I asked him to write my speech as I was so nervous. He gave it to me seconds before I needed it. The speech mocked me in its entirety! When my daughter Gráinne was born Pat was the chosen god-father but that would not protect her from his wit. When she was five or six she was a tall gangly child, always dropping things and bumping into doors etc. Pat named her Olga Korbut!! So Michael, Katherine and John, I hope that explains why I tortured you three.

I, like the rest of my family, am immensely proud of Pat. He was always there for us in our times of trouble. He was there for the community he grew up with. He found his vocation in life as a lawyer. He had a passion for it. He now had lots to complain about, false arrests, harassment, beatings, shoot to kill, civil and human right abuses. People turned to Pat because he wouldn't give up or be intimidated. He was stubborn, he was born tenacious and he was damn good.

Jane Winter asked us recently what made Pat special, so we spoke to her about the "dark days" of beatings and forced confessions which were the norm. I was a victim of it myself. Families had no-one to turn to and knew not what to do. Well Pat gave them hope. Hope that

someone was fighting for their sons' or daughters' rights. As he became more experienced he started to get victories. His confidence grew. Everyone sought his advice. Pat represented anyone who asked for his help. Including his baby brother! I chose a different path from Pat. I didn't believe that he could make a difference through the courts. Oscar Wilde says, 'Youth is wasted on the young.' Pat with a pen and words did more damage than I could ever do. But my youth would not let me see that. I was in Portlaoise prison writing to his son when it came on the news that he was killed. To this day our family is devastated at our loss. People wrote to us with kind words. They told me the greater the pain the greater the love. Well, I am still heart broken. Pat never gave up on the search for truth and justice. I hope he is happy that people in different parts of the world haven't given up either. I thank each and every one of you here tonight and even those who could not make it. We could not have got this far without you and hope you continue to stand with us. For us, his family, he would have expected nothing less.

Thank you

#### GERALDINE FINUCANE


At the end of the speeches, Geraldine Finucane thanked everyone for coming, especially those who had travelled from far afield, and thanked all those who had supported the event both financially and in kind. Special thanks and a gift were given on behalf of the Finucane family to Jane Winter, Director of British Irish RIGHTS WATCH, without whom, Geraldine said, the weekend would not have been possible.



## **PATRICK FINUCANE**

HIS LIFE AND HIS LEGACY

Trinity College Dublin 2009



*" During the last decades we have all become familiar with the photograph of Pat with the enigmatic smile. His courage, integrity and persistence in the pursuit of justice for his clients is a matter of history and legend. Pat was a good lawyer who served his clients to the best of his ability; that is the beginning and end of it."*

**INEZ McCORMACK**

*" In his short life, Pat was not prepared to sit by and do nothing. He wanted to participate in the world he lived, to be in it, and not merely on it."*

**GERALDINE FINUCANE**

## THE CONFERENCE

14TH FEBRUARY 2018

**TIME**

**SESSION**

**SPEAKERS**

9:30 – 10:00	Registration and coffee	Inez McCormack
10:00 – 10:15	Chair's opening remarks	

**PATRICK FINUCANE REMEMBERED**

10:15 – 10:45	A memoir of Patrick Finucane's life and work	Geraldine Finucane
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**POLICING, POLICE POWERS, CONDITIONS IN DETENTION AND PRISONER'S RIGHTS**

10:45 – 11:00	The bad old days: what lawyers like Patrick Finucane and detainees had to contend with	Clara Reilly
11:00 – 11:15	A prisoner's viewpoint	Michael Culbert
11:15 – 11:35	What Patrick Finucane did about it, the reforms achieved, and the challenges that remain to be met	Mike Ritchie
11:35 – 11:55	Discussion	

**PATRICK FINUCANE'S CASE**

11:55 – 12:15	Discussion of what is happening in Patrick Finucane's case	Peter Madden
12:15 – 12:30	Discussion	
12:30 – 1:30	Lunch	

**INQUESTS**

1:30 – 1:50	Problems with the inquest system, past and present, and the reforms achieved	Fiona Doherty BL
1:50 – 2:10	How Patrick Finucane paved the way and the challenges that remain to be met	Michael Mansfield QC
2:10 – 2:25	Discussion	

**USING THE COURTS**

2:25 – 3:10	Developments in judicial review and European law, including challenges for the future	Mr Justice Treacy
3:10 – 3:30	Discussion	
3:00 – 3:20	Coffee	

**INTIMIDATION OF LAWYERS AND COLLUSION**

3:20 – 3:45	Intimidation of defence lawyers	Dato' Param Kumaraswamy
3:45 – 4:10	Collusion	Judge Peter Cory
4:10 – 4:30	Exposing collusion	John Ware
4:30 – 4:50	Collusion: the NGO perspective	Jane Winter and Michael Posner
4:50 – 5:10	Discussion	
5:10 – 5:30	Chair's concluding remarks	



This conference was organised by British Irish RIGHTS WATCH with the financial support of The Joseph Rowntree Charitable Trust, The Atlantic Philanthropies, The John D and Catherine T MacArthur Foundation, the Irish government, and many other donors who names are listed in this report. What follows is a full transcript of what was said at the conference. Where time prevented the full delivery of a speech, that speech has been reproduced in full. The majority of photographs are courtesy of Oistin McBride.





1949 - 1989



## OPENING REMARKS BY CHAIR INEZ McCORMACK

Inez McCormack is one of the most influential civil rights leaders in Northern Ireland today. She played a critical role in the 1998 Good Friday Peace Accord, continues to advocate for equal rights and fair labour practices for women and minorities and she was a signatory of the McBride Principles. She formerly directed the Northern Ireland section of the trade union UNISON. Having served as the first female President of the Irish Congress of Trade Unions, Inez McCormack is currently Chair of the North/South Health Service Partnership, Chair of the Participation and Rights Programme and Senior Advisor to the Global Coalition for Women's Rights/Worker's Rights. She is also a founding member and Deputy Chair of the Northern Ireland Equal Opportunities Commission and a founding member of both the Northern Ireland Fair Employment Commission and the Northern Ireland Human Rights Commission, and is a well-known writer and broadcaster. She is a founder member of the Participation and the Practice of Rights (PPR) Project which works in the north and south of Ireland supporting communities to use a human rights-based approach to address the issues of social and economic deprivation and inequality.

My name is Inez McCormack. It was a privilege to be asked to chair this conference.

During the last decades we have all become familiar with the photograph of Pat with the enigmatic smile. His courage, integrity and persistence in the pursuit of justice for his clients is a matter of history and legend. Pat was a good lawyer who served his clients to the best of his ability; that is the beginning and end of it.

The extraordinary persistence and courage that characterised his life, has characterised the determination by his family in the last decades.

They have honoured him by demanding the truth and accountability for him that he would have demanded for his clients

It is important also to remember that behind the image and the tough lawyer there was a man of many parts who deeply loved as a husband, father, friend and colleague and who was deeply loved in return.

Before I call on Geraldine Finucane to speak, I would like us to watch a video message sent specially by Thomas Hammarburg, the Council of Europe's Commissioner for Human Rights, who has met members of the Finucane family.





## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### THOMAS HAMMARBURG

#### *TEXT OF OPENING VIDEO MESSAGE BY THOMAS HAMMARBURG, COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS*

As an active lawyer, Patrick Finucane defended human rights and the rule of law in very difficult circumstances. He worked for everyone's right to a fair trial and he advocated changes in the criminal justice system.

The despicable murder of him by masked men, at home in front of his family on 12 February 1989, marked the beginning of a sad trail of events which demonstrates the fragility of human rights protection specially in conflict situations.

The search for justice in this case also led to Strasbourg. In 2003, the European Court of Human Rights delivered a judgment concerning the effectiveness of the investigation into the killing of Patrick Finucane. It concluded unanimously that the authorities had failed to provide a prompt and effective investigation into the allegations of collusion by security personnel. Therefore, there had been a failure to comply with the procedural obligations imposed by Article 2 of the Convention (the article on the Right to Life). In the judgement, the European Court of Human Rights also outlined the requirements for effective official investigations when an unlawful killing by state agents is alleged.

Independence, effectiveness, promptness and public scrutiny – these principles derived from the European Convention on Human Rights must be adhered to as the necessary standards in such investigations. The establishment of the independent Police Ombudsman in Northern Ireland and similar institutions in an increasing number of countries in Europe, including Ireland, is a strong signal for the recognition of these principles. The requirement of public scrutiny and accountability may also go beyond normal investigative work. Independent and public inquiries may be necessary to restore public trust in the rule of law in some cases. When collusion by security forces is alleged, public scrutiny becomes particularly important.

Some lawyers have the courage and resilience to fight against injustice - even at the risk of their lives. The commemoration of the tragic murders of two Northern Ireland lawyers, Patrick Finucane and, next month, of Rosemary Nelson, reminds us about the crucial role that lawyers play in guaranteeing respect for human rights and fighting against injustice. Only two weeks ago Stanislav Markelov, a prominent lawyer was killed in Moscow, in the day light.

The UN Basic Principles on the Role of Lawyers, adopted in 1990, provide detailed guidance to governments on the protection of lawyers against threats, intimidation and harassment. Yet, lawyers in Europe are still the target of attacks for carrying out their professional duties, badly violating the rights of the defence: lack of access to clients, restricted settings where confidentiality is not guaranteed; difficulties with disclosure of documentation; and inequality of arms throughout the case.

In worse cases, they have been victims of attempts to search and seize documents; illegal raids to their offices, attempts of disbarment, taken to interrogation on issues related to their cases, arrests, and criminal accusations. Such threats usually affect lawyers when they become identified with the cases and issues they take on and when their endeavors are considered as political interference by Governments. Prominent defenders of human rights become targets, especially when they represent victims of enforced disappearance or extrajudicial executions, or when they take on themes such as terrorism, organized crime and minority rights.

A terrible consequence of such cases is the feeling of impunity and fear amongst lawyers, which may lead to the situation where those in need of legal counsel will have difficulties in finding a lawyer to take on their case. Lawyers must be able to carry out their profession without fearing for their lives or the well-being of their relatives. Governments must ensure that they can carry out their professional obligations without fear, intimidation or threats to their lives.



1949 - 1989



## GERALDINE FINUCANE

**Geraldine Finucane, widow of Pat Finucane, has been a tireless campaigner for justice for her husband for the last 20 years. She has also supported many other families in their search for truth and justice.**

Chairperson, Fellow Speakers, Distinguished Guests, Ladies and Gentlemen, I would like to welcome all of you to our conference, the second event in this weekend's series of events to mark the twentieth anniversary of the murder of my husband, Pat Finucane. I am very pleased that so many of Pat's friends and colleagues have been able to come to Dublin to remember not only how Pat died but also how he lived.

Since Pat's murder twenty years ago, I have been involved in an international campaign seeking the establishment of a public inquiry into the circumstances of Pat's murder. The fact that I have had to travel far and wide is clearly evident from the wide spectrum of speakers and guests here with us today. There are many people here who had never heard of Pat Finucane twenty years ago but they have travelled from places at opposite ends of the globe to show their support and, in many cases, tell of their involvement in our case.

We have a former Supreme Court justice from Canada and a current High Court justice from Belfast. We have a Dato from Malaysia and a Congressman from the United States. We have barristers and Queen's Counsel from England, journalists, campaigners and friends from all across the globe. There are even one or two Irish people here!

Why have so many come to remember Pat, who was just one of over 3500 deaths, in a conflict that spanned the decades? Not all here knew him, personally or professionally. Not all had heard of him, either during his life or following his death. And those who had heard of Pat Finucane, the solicitor from Belfast, murdered on 12th February 1989, not all had been involved in the work to secure an inquiry into his death. And yet, twenty years since the event, hundreds have made the journey to Dublin, to Trinity College, to participate in our commemoration.

We come to remember a man whose life and death remain important. The reason for coming may be different for each person but a common thread binds all here. The purpose of our remembering is not just of a life lost but of a life lived. Pat may have been taken from us far too soon but what he achieved in his short life, professionally and personally, cannot be measured through a mere sum of years.

Pat's journey began in West Belfast in 1949, the eldest boy in a working-class family of eight. He lived and grew up near the Falls Road, a community that was close-knit but hugely deprived. Without access to education or other opportunities, it is not surprising that the area Pat grew up in was not able to count many from the professional classes among them! However, things were set to change. Pat was not a man ever to concede that his reach exceeded his grasp and he succeeded in winning a place at grammar school and from there went on to university in 1968. In that, he and his friend Terry McAuley, became two of the first from the area to achieve third-level education.

The university they chose was this one, Trinity College, an ambitious choice that was not uncontroversial. Being a Protestant university and with the official policy of the Catholic Church being nothing less than excommunication for any who dared attend without special dispensation, a trip to see the bishop was in order before anyone could make their way to Dublin!! But, dispensation having been safely procured, off Pat went to Trinity, achieving his degree in 1973, as well as captaining the university soccer team First XI along the way.

This was also the place where Pat and I met and married in 1972. This relationship, like many things in Pat's life, was unique. We would certainly never have met or married if we had both stayed in Belfast. I was born into a middle-class Presbyterian family in East Belfast. My family were Protestant. I had no connection with the Catholic community in West Belfast. Pat was a working-class Catholic from the other side of the city, with no connection to the more affluent, Protestant community from which I came. As Belfast and gradually the rest of Northern Ireland disintegrated into chaos in the late 60s and early 70s, the idea that two people from such polar-opposite backgrounds could meet, let alone marry, was preposterous! And yet, we did.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

Our perspectives had been shaped by very different experiences, even at that early stage of our lives. When I finished my first year in Trinity, I went travelling in Europe with friends. Pat went home to Belfast, to help family, friends and neighbours pack whatever they could carry into whatever they could push, pull or wheel away from the hordes of people burning houses and attacking the occupants, as violence exploded all over Belfast and especially so on the Falls Road.

As I came to know Pat, I began to share in a more extreme experience, of Belfast in particular, and Northern Ireland in general. I saw a side of the place I called home that I had never known to exist before. As my outlook on life broadened as a result of meeting Pat, so too did his, as a result of meeting me. The people I introduced him to at Trinity, friends of mine from school and home, were all from a background alien to him, in tradition as well as affluence. Pat had stepped away from his comfort zone in West Belfast and come to a new city, virtually alone, meeting new people, experiencing new things, struggling to find a frame of reference that would help him understand the world outside that which he knew. If Belfast was difficult to fathom as a result of political turmoil, the vastness of the world around the young man from Belfast must have been nothing short of terrifying.

But Pat was not terrified or even afraid. It was evident to me from our early days in Dublin that Pat was possessed of a great combination of faculties that drove him to advance. He was curious, he was intelligent, and he was unafraid. These combined to push him, to drive him on, to seek out new experiences and to try new things.

Pat and I returned to live in Belfast and in time, had three children of our own. Those children are now grown to adulthood. Pat and I worked hard to ensure that they would share our commitment to broadening horizons, learning to think for yourself and living without fear or suspicion of the unknown. In this, I believe they have been helped by the combination of our two backgrounds.

Our children are the product of a relationship between a working class Catholic from West Belfast and a middle class Protestant from East Belfast. Their experiences are taken from both traditions, from the extremes of sectarianism and bigotry on the one hand, to involvement in political, civil, and paramilitary resistance on the other, with everything in between. Their relatives include IRA volunteers and members of Sinn Féin. They also include policemen, members of the Orange Lodge, British Army soldiers and British Navy sailors.

My children make me very proud but more than that, I think they are people I would be happy to know and count as friends. I think they are who they are in spite of their background and not merely because of it. They are not encumbered by tradition but are free to choose their own beliefs and allegiances. In many ways, I think they represent members of the society to which we now aspire, post conflict. If they can achieve this after everything they have gone through in their life experiences – which are very similar to so many others – then I believe we have cause for hope.

There was little hope to be found, however, by the time Pat established his legal practice in 1979 with his friend, Peter Madden. The landscape of society was conflict-riven. If hatred and bitterness were the visible symptoms, the underlying causes were undoubtedly fear and ignorance. It was into this landscape that stepped two young solicitors, who were not ignorant and who were not afraid of the challenges that lay ahead.

However, success did not quite come overnight, as every small businessman must discover when starting a new venture. I am quite sure that Pat and Peter were pretty terrified of the landlord's visits before any of their clients realised just what amazing lawyers they were passing by on their way to court. I am equally sure that they were pretty terrified of their wives finding out just how long lunchtime could stretch when the business was new and fresh and utterly bereft of clients. Or of having to admit to the clients that did drift through the door that the

1949 - 1989



secretary was rented, like the office, and that they could have any appointment they wanted because despite everyone's best efforts to look busy, the schedule was a fairly blank slate! I am sure the calls and letters from the bank manager were pretty terrifying too as he wondered, if, perhaps, just maybe, there might be the slimmest possibility of getting a fee, anytime soon?!

The lean days did not last long. It became clear to people that here were two young men who were not only unafraid of hard work but also unafraid of a challenge. It also became clear to Pat and Peter that there was an enormous challenge to be met and before long, their diaries were very full indeed.

Pat's first brush with prominence was probably his representation of the IRA hunger strikers in Long Kesh Prison in 1981 and in particular, his representation of Bobby Sands. I can recall watching him on the six o'clock news with the children, all staring at the box which, for the first time, had someone we actually knew appearing on it! It seems strange now but appearing on television was not a normal event for the family and I can recall thinking how calm Pat looked, how easily he seemed to handle it. It did indeed appear that he had found his calling and with such a prominent client, Pat soon found himself in much demand.

Some of the speakers that will follow will address the many cases Pat worked on and the new and innovative ways Madden & Finucane found to solve the legal difficulties faced by people in their daily lives. Some of these difficulties were the ordinary, bread-and-butter work faced by lawyers everywhere, like buying a house, filing a claim following a car accident or perhaps making a will. And yet even these mundane matters could be transported into a different realm by the ongoing conflict.

Car accidents can be the mainstay of a lawyer's practice anywhere but how many have to deal with an accident that involves a client's car and a British Army Saracen troop carrier? House purchases are so commonplace that we do not even think about them but what if you have to agree to British Army Intelligence surveillance aerials on your rooftop in order to complete the purchase?

And as for making a will, this is something that everyone is entitled to do, but could become complex in the heat of the conflict. Following the death of Bobby Sands and the massive publicity that surrounded it, prison authorities decided to refuse visits to any of the other men, excluding even their legal advisers. A way had to be found to make them change their minds and Pat hit upon the idea of a will. Had the men, who were now unquestionably at risk of death, made wills? It was the simplest of questions about the most ordinary of matters and yet the simple right of all persons to record a last will and testament forced the authorities to reverse their policy of incommunicado detention.

The work of a solicitor in Northern Ireland often involved such challenging problems. Pat had an appetite for that challenge, often applying simple, well-established legal techniques to address seemingly unsolvable problems. He used the making of wills to allow him to see persons in custody. He brought civil claims for compensation on behalf of people subject to arbitrary arrest and detention. He challenged norms of practice in areas such as policing and inquests by way of judicial review and developed the application of the mechanism beyond anything that had been tried before. For years, others had insisted doing things in this way was not possible. Pat simply refused to accept that, believing, quite simply, "why not?"

The speakers that are with us today that will talk about these and many other aspects of Pat's work. They all have extensive experience of working with Pat in the law and of life during the conflict in general.

Our first speaker, Clara Reilly will be known to many of you as a vociferous campaigner for the banning of the use of plastic bullets, the supposedly 'non-lethal' alternative to live rounds that have not only claimed over twenty lives but remain in use by the PSNI. Some of Pat's work involved representing families who had suffered injury or bereavement through the use of plastic bullets, work that Clara continues today. Michael Culbert is a former prisoner, having spent sixteen years in Long Kesh, and knew Pat from the many visits he made to speak with the men about their legal affairs. Michael will give his perspective on what prison conditions were like and how solicitors like Pat tried to use international human rights standards to improve conditions for men serving long sentences. As Michael will tell you, Pat, or "the signer", as he was affectionately known, was one of the few solicitors prepared to do this work, which brought no thanks from the authorities.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

Mike Ritchie, the director of CAJ, will provide a non-governmental organisation perspective, as well as later contributions from Jane Winter (British Irish Rights Watch, London) and Mike Posner (Human Rights First, New York). All have monitored the human rights landscape in Northern Ireland for many years and have been particularly active in Pat's case. We would not have achieved as much as we have without the assistance of the human rights organisations that have monitored and reported on Pat's case for so many years. CAJ have been tireless in their work to keep Pat's case at the forefront of the political agenda. Human Rights First became involved in Pat's case in 1992, under their former name, the Lawyers Committee for Human Rights, and have investigated and reported tirelessly on Pat's case and the harassment of other solicitors in Northern Ireland. Their reports to the British and Irish Government, the United States government and the United Nations have raised the international profile of our case and made sure it was taken seriously at international level.

I would like to take the opportunity at this point to pay special tribute to Jane Winter, the director of British Irish Rights Watch. Jane's work has been tireless, comprehensive and unrelenting in helping me and my family achieve a public inquiry into Pat's murder. It was the report written by Jane Winter in 1999, *Deadly Intelligence*, that codified the process of collusion engaged in by the British Army with Loyalist paramilitaries and forced the British Government to carry out a further investigation under John Stevens. His third report, delivered in 2003, confirmed that everything alleged about the circumstances surrounding Pat's murder was true.

Jane's report could not have been prepared so comprehensively nor would it have been as compelling had it not been for the assistance and input of BBC journalist John Ware, whose press articles and BBC documentary work exposed the systemic nature of British State collusion. I am very pleased that John can be with us today because his work in following the trail of collusion back to its source is as important as it is compelling.

No commemoration of Pat Finucane would be complete without two of our speakers, who will be talking to you later about their work with Pat over many years. I refer, of course, to Peter Madden, Pat's friend and business

partner for many years and Seamus Treacy, his friend and right hand man in the bar library. It would take much too long to even try to explain the nature of the bond and friendship that existed between Pat, Peter and Seamus. They were practically brothers. I am quite sure the government probably thought of them as three demons sent to plague the State, a form of unholy legal trinity! And yet, they brought about some of the most important legal challenges that had been seen up until that time. Pat & Peter were innovative in the way they approached their work on the ground and fed with such innovation, Seamus translated it to devastating effect in the courtroom. Words cannot express how pleased I am to have them with us today.

I suppose you could say we have always been well represented as a family. This continues with our other two speakers, barristers from London and Belfast, who are also involved in working on our campaign. Michael Mansfield QC will be known to all of you, I am sure, from his involvement in the Birmingham and Guildford cases, the Stephen Lawrence case, the Bloody Sunday Tribunal, and representing the family of Jean Charles de Menezes.

Fiona Doherty is a barrister practising in Belfast, and is a former pupil of Seamus Treacy. Fiona started working with us on our case from the early stages of her career and she played a key role in our victory before the European Court of Human Rights in Strasbourg. I am very pleased that she remains on board to help us reach our goal.

Dato Param Cumaraswamy, former UN Rapporteur on the Independence of Judges and Lawyers, came to Ireland in October 1997 on a mission to investigate the persistent claims of harassment of defence lawyers in Northern Ireland and allegations of State involvement in the murder of a solicitor. His visit to the UK was unprecedented. The mechanism employed for the visit of a UN Rapporteur is that the Government involved invites the Rapporteur to visit and conduct a mission. Not wanting to appear rude, I suppose, the British Government went with protocol and fulfilled Param's request for an invitation. How much they must have regretted it!! In a devastating report, Param systematically analysed and criticised the many human rights violations at work within the system. About Pat's murder, he said this:

1949 - 1989



"On the Patrick Finucane murder, I am convinced that there are compelling reasons for an independent judicial inquiry.... The doubt that needs to be cleared is whether there was security forces collusion in the murder. That seems to be the outstanding issue and only a judicial inquiry could resolve this."

Param delivered this statement to the 54th Session of the United Nations Commission on Human Rights in Geneva. The British Government response was to say:

"A Tribunal ... can only be established if there is a need to look at a matter of urgent public importance... This is not the case with the murder of Mr. Finucane. There was a police inquiry that led to three people being charged with possession of the weapon that was used in the killing.... Unless new evidence is brought to light there can be no justification for another inquiry....."

This remained the British Government position for several years after Param's report. We met Tony Blair in London in 2000, following submission to the British Government of the 1999 report *Deadly Intelligence* by Jane Winter. We urged on him that the new evidence sought by his Government had indeed been found and that he case for an inquiry had been made out. This was rejected.

In 2003, John Stevens completed his third investigation and submitted a confidential report to the British Government and to the PSNI Chief Constable. He did, however, publish a summary, in which he said: "My enquiries have highlighted collusion, the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, and the extreme of agents being involved in murder. These serious acts and omissions have meant that people have been killed or seriously injured."

Lord Stevens went on to say that Pat's murder "could have been prevented" and that "there was collusion" in the murder and the circumstances surrounding it. He also found that "the RUC investigation of Patrick Finucane's murder should have resulted in the early arrest and detection of his killers."

Even this did not result in the immediate establishment of an inquiry because a further inquiry was underway, conducted by the last speaker I want to mention. Judge Peter Cory, former justice of the Supreme Court of Canada, had been asked by the British Government to conduct inquiries into six cases involving allegations of collusion. His appointment came about as a result of negotiations during the peace process at Weston Park, in 2001. He has a unique place in our commemoration today, not just because of the work he completed, but because he enjoys the dubious distinction of being our only speaker to have been asked not to work on the case at all! We saw the appointment of an international judge in 2001 as another delaying tactic by the British Government and felt that the review would take much too long.

Judge Cory, for his part, took our scepticism with good humour and grace. He told us that he would probably feel the same way if he were in our shoes. But he had been appointed and he intended to get on with his investigations. We were soon to realise that Judge Cory was a man who meant what he said and it pleases me to think that the British got a lot more than they bargained for when they gave him the job.

He completed his reports in October 2003 and submitted them to the British Government. Due to the ongoing prosecution of Ken Barrett, it until 23rd September 2004 that the Secretary of State for Northern Ireland, Paul Murphy, made an announcement in the House of Commons:

"The Government has taken into account the exceptional concern about this case. Against that background, the Government has concluded that steps should now be taken to enable the establishment of an inquiry into the death of Patrick Finucane."

It had only taken fifteen years to get the British Government to concede that an inquiry was necessary. It was twelve years after the first report by the Lawyers Committee for Human Rights, seven years after the mission of the Special Rapporteur, five years after *Deadly Intelligence*, three years after the *Panorama* documentaries, and eighteen months after Stevens III.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

And yet, the inquiry still has not been established. The British Government informed us in 2004 that they had to pass new legislation to deal with the inquiry into Pat's murder, which ultimately became the Inquiries Act 2005. Under this law, ministers in government can control the information that an inquiry can consider in public session. We have refused to participate in an inquiry conducted in this way and we learned recently that the former Secretary of State for Northern Ireland, Peter Hain, ordered that work on the inquiry be halted while the impasse remains. We are working to try to find a way round the current impasse.

This year, 12th February, 2009, passed as an unremarkable, unnoticed date on the calendar for most people. For my family and me, however, it marks the twentieth anniversary of an event that resonates in our daily lives.

In this regard, we are no different from many people who lost relatives and friends during four decades of conflict. Anniversaries come and go through the years and as the event becomes ever more remote, the pain that family and friends feel so acutely is swallowed up in the congested traffic of daily life.

However, the twentieth anniversary of the murder of Pat Finucane reminds us all that the residue of our unresolved past continues to cast a shadow over our society, one that is desperately trying to extract itself permanently from conflict. The debate that rages over whether to look into the past or leave well-enough alone, consumes the airwaves. High-profile killings, like that of Pat Finucane, are debated as either special cases or preferential treatment.

Recent efforts to find mechanisms to address the past underline how important it is that we build our future on solid foundations. The society that forgets its past, or worse, tries to pretend it never existed, is doomed to repeat it. I believe that the inquiry we seek, which is the only mechanism capable of getting to the truth in this case, will help society understand its past, learn from it and eventually move beyond it with confidence and free from fear.

It is said that the past is a foreign country; they do things differently there. Oftentimes, this is very true and oftentimes, this is good. The society in which I live is unrecognisable from the place that existed twenty years ago, a place rent by hatred and conflict. This place, where Pat was born, where he grew up and lived, and where he ultimately met his death, was a place he cared about very deeply. It was his hope that solid foundations of tolerance, understanding and respect would replace the yawning chasm of contempt, ignorance and hatred.

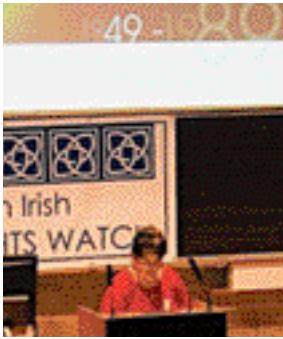
Others have worked for this too and paid the ultimate price. Pat's colleague, Rosemary Nelson, was murdered following threats to her life by the RUC. Following an all-too-familiar pattern, Rosemary was told about the threats by her clients, whom she was accused of sympathising with. Before she died, Rosemary spoke of her anger at the slurring of her name and reputation by police officers. In testimony before the United States House of Representatives Human Rights Committee, she said: "I believe that my role as a lawyer in defending the rights of my clients is vital. The test of a new society in Northern Ireland will be the extent to which it can recognise and respect that role, and enable me to discharge it without improper interference. I look forward to that day."

I am sure Pat would have agreed with these sentiments whole-heartedly. They express as well as could be the standard to which Pat and Rosemary aspired.

In the words of another former Trinity undergraduate, Edmund Burke, whose name adorns the theatre in which we sit today, "all that is required for evil to triumph, is that good men do nothing."

In his short life, Pat was not prepared to sit by and do nothing. He wanted to participate in the world he lived, to be in it, and not merely on it. He was curious and he was imaginative and he was brave. It is for these reasons that we come here today, twenty years on, to remember him and to celebrate his most remarkable life.

Thank you very much.



1949 - 1989



## CLARA REILLY

Clara Reilly is chairperson of Relatives for Justice and has devoted the past 35 years of her life to helping individuals and families seeking truth and justice around the loss of their loved ones and promoting respect for human rights and human dignity. She was a member of the Association for Legal Justice (ALJ), a human rights group which monitored the situation in the North of Ireland in the 1970s and 80s. ALJ collected statements which formed part of the Irish Government's case against the United Kingdom for torture of prisoners during internment at the European Court of Human Rights, in which Britain was found guilty of inhuman and degrading treatment in 1976. The ALJ held two major international tribunals on the use of plastic bullets and a lawyers' inquiry into shoot-to-kill deaths by security forces in Northern Ireland in 1984. Clara Reilly was a founder member of the United Campaign Against Plastic Bullets, which was formed in 1984. She has campaigned along with families against the use of plastic bullets, and has travelled locally, nationally and internationally raising awareness of the horrific injuries inflicted by these weapons.

I first met Pat Finucane in 1979, shortly after he had set up practice with his partner Peter Madden in downtown Belfast.

At that time I belonged to a human rights group – The Association for Legal Justice – which consisted of a few teachers, lawyers, clergy, notably Fr Denis Faul, Fr Raymond Murray and Fr Brian Brady, and lay people like myself, in London we had dear little Sr Sarah Clarke, a nun from Galway, who took care of people arrested at the different ports and a staunch supporter of prisoners rights in British Jails. She was such a thorn in the side of the authorities that they eventually banned her from visiting prisoners. She was well into her 70's at this time. From the early 70's the A - L - J had been documenting on a daily basis the arrest and ill treatment of prisoners from across the 6 counties. We supplied the Irish government with most of the material when we persuaded them to take a case to the European Court of Human Rights for the torture and ill treatment of detainees. Britain was found guilty around 1976 of inhuman and degrading treatment, especially of what became known as the 'Hooded Men', a group of men singled out who became guinea pigs for special torture techniques perfected by the RUC, Special Branch and British army personnel.

Terrible torture and many of those on the receiving end were never ever to lead normal lives again – some dying young, some needing psychiatric support for the rest of their lives.

We were inundated with calls for help and were trying to cope with arrests, harassment, death threats and bad beatings, not only in Police and army holding centres but on the streets throughout the North, where British army soldiers were stationed.

I was the mother of 6 young children with no knowledge of the law and like most people in the community where I lived was trying to the best of my ability to bring up my young family on a low income while living in a large housing estate in West Belfast. People of my generation and my parent's generation were painfully aware of very serious political and religious discrimination taking place all around us. It was only with the onset of the civil rights campaign did people find the courage and determination to try and change the corrupt system of government in place to one of equal rights and fair play. All of us involved at that time were very naïve as we believed we only had to highlight what was happening and it would stop. How wrong we were. Our homes became open advice centres with people calling at all hours to report the arrest of a loved one. We had a small list of lawyers whom we trusted and had faith in. People like P.J McGrory and others, Madden and Finucane were added to that list in 1979. It was obvious from the very beginning that Pat Finucane was a solicitor dedicated to the protection of human rights and human dignity. He proved time and time again he was prepared to go that extra mile when dealing with families of shoot to kill, plastic bullets, and prisoners issues, rights, and many more.

In 1981 I was arrested from my home at 6.00am in the morning by the British army and taken to the joint Police – army barracks at Springfield Road. It was the first time I had even been arrested and my first instinct before I left my home was to ring Pat Finucane which I did, despite a rifle being pushed into my back and threats being made that I was not allowed to ring anyone, especially my solicitor. I was held for 4 hours in a freezing cubicle, questioned by the army about my family, my friends, and what motivated me in doing the human rights work that I did. I refused to answer any of their questions and was released after 4 hours. The practice of 'screening', as it was known, was common place in those days and thousands of people had been through the procedure. On my release Pat came to see me and we discussed taking



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

a case against the British army for wrongful arrest and to challenge what we considered the illegality of arresting people for screening purposes. Pat went about his work in the quiet determined way that I had become used to. He put you at ease in the knowledge that this man would do his damnest to get you justice.

The following year we stood in the high court in Belfast to hear the judge declare that the practise of screening was illegal and to sweeten that decision I was paid compensation. We punched the air in delight Pat was as pleased as I was and this was another example of him taking on the might of the powers that be and winning. From that ruling the British army stopped arresting people for screening and even the RUC had to prove that they had reasonable grounds to arrest people.

Pat also sat with me and others on a people's tribunal concerning the shooting dead of 16 year old Michael McCartan in 1980 by the RUC. He also represented many families of those shot dead and maimed by plastic bullets. He participated in a lawyers' inquiry into shoot to kill practices and this inquiry was headed up by Kadar Asmal, now a member of the South African government and American and British Lawyers. He also made himself available when called upon for his expertise and knowledge of the law in dealing with concerned community groups and individuals.

In 1982 the ALJ had been to Lurgan to take witness statements concerning the shooting dead of 3 unarmed men in a car which the RUC maintained had crashed through a roadblock.

These were the first of several incidents in which 6 people were shot dead by this special unit of trained RUC personnel. These killings led to the appointment of the deputy chief constable of Greater Manchester police – John Stalker – to investigate.

John Stalker, who claimed his inquiries were constantly frustrated and interfered with, was later removed from the inquiry in controversial circumstances. This episode ended his distinguished career as a police officer and many of us believe it was because he was getting too near the truth surrounding these killings. For years after the families of the 3 men fought a continuous battle disputing the RUC version of events. Eleanor McKerr, widow of Gervais McKerr, one of the 3 men killed, was frustrated and angry at attempts to even hold an inquest. Five different coroners were appointed and national security and public interest immunity certificates were granted at the outset of the inquests. The ALJ spoke with Eleanor McKerr and advised her to speak with Pat Finucane, a young up and coming Belfast lawyer who was prepared to challenge and expose any attempts to pervert the course of justice. It was this case more than any other that propelled Pat into the limelight and set in motion his killer's determination to silence him once and for all.

Those of us working closely with Pat, while concerned about threats made on his life to clients being interrogated in holding centres like Castlereagh, never in our wildest dreams thought that these threats would materialise.

Certain events stay with you forever. I remember the day President Kennedy was assassinated; I remember the day Martin Luther King was murdered. I remember the day that Pat Finucane died.

It was a Sunday evening and I was with family and friends in one of their homes. It was around 9.00pm, my cousin came into the room and looking directly at me said it was just on the radio that someone had been shot in North Belfast and it was believed to be a solicitor. I remember vividly the impact of the shock – it was like being hit with a two ton truck. No one else came into my mind, only Pat Finucane. Inwardly I silently screamed – "Dear God don't

1949 - 1989



let it be Pat". Sadly it was soon confirmed that indeed it was Pat and that he had been hit many times and Geraldine, had been injured.

His murder had been carried out by UDA agents working for British Army Force Research Unit upon the British Governments direction. While outrage and anger followed Pat's killing, fear, real fear, was prominent in my emotions and rational. This was not Latin America we were talking about, but a premeditated murder of a human rights lawyer, in his home on the streets of Belfast. This murder was intended to strike fear, not only into the Nationalist Republican people but into the very heart of the legal profession. Indeed other lawyers working to protect and promote human rights and to ensure the effective administration of due process also received death threats before and after the killing of Pat.

The realisation that those tasked with upholding law and order and those in position of power, could, after many death threats actually carry it out, leaves one with a sense of hopelessness and despair.

In representing those victimised, those excluded and marginalised – in doing what was morally right, people like Pat Finucane choose a particular path. Many of us are deeply indebted to him for that choice, despite the awful consequences he and his family faced. He stood shoulder to shoulder with families in need. He was a pioneer in human rights advocacy and his legacy lives on through the new generation of human rights lawyers and especially those within his own family. The quest for truth and justice will create a momentum of its own and will eventually overtake those who refuse to yield and do what is morally right.

While we remember Pat this weekend we also remember another friend and human rights lawyer Rosemary Nelson who was also brutally murdered 10 years ago next month. It was Rosemary who after the murder of Pat said, "If we can't defend Human Rights Lawyers, who will defend human rights?" We remember Rosemary with much love and respect and like Pat, place her with the martyred dead of our country; Ireland is so much poorer with her passing.

An inquiry into the murder of Pat Finucane is much more than the killing of one man. It will expose government policies and the state's role in sanctioning violations including the murder of its own citizens.

We rededicate ourselves to highlight the burning demand for truth and the demand for a full independent international public inquiry. We will accept nothing less. While the British government tries its damnest to hide and cover up their involvement in the murder of Pat Finucane, the more decent people like all of you here present will stand up and say, "Evil can only flourish when all good people remain silent".

We will not remain silent on the murder of our friend, Pat Finucane. A man of principle, an extraordinary man who did extraordinary things for very ordinary people and paid for it with his life.

Thank You



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### MICHAEL CULBERT

Michael Culbert is the director of Coiste na n-Iarchimí, the network for republican ex-prisoners. He was a social worker until 1978 when he was sentenced to 16 years in Long Kesh. After his release Michael completed his masters degree and started working with Coiste, initially as a full-time counsellor and then as their regional development worker. He was appointed to the position of Director in 2008, and is working for the social, economic and emotional well-being of current and former republican prisoners and their families. Michael knew Patrick Finucane in a personal capacity for many years.

Thank you. I'm the director of Coiste na n-Iarchimí. We have twelve offices throughout the island where we represent the political ex-prisoners' community. There are approximately 17,000 political ex-prisoners who have been imprisoned either on the island, in Britain, the United States, or in various parts of Europe.

I'm a republican former activist from the 1970s and I just want to tell you a little bit about my journey. From the 1970s, I was a social worker, my wife's a schoolteacher, I have two sons, but I knew wrong from right and I decided that I had to do something about it.

I was first arrested in about 1976 and taken to a British army camp, and questioned and coincidentally I was questioned about a young fella, Seamus Finucane, and I don't really know why, because a few days earlier I had given him and a friend of his a lift in the car and we were stopped by a British army patrol and the fella who was with him, I'm pretty sure, was Kieran Doherty, a fella later to die on hunger strike in Long Kesh. So, we'd been stopped in the Lenadoon area and when I was being interrogated by the British army, some officer or other, as to my relationship with the two young men in the car with me and, well, I had quite a simple answer because, my answer was that I knew one of them because I knew the older brother of one of them through football world, and that brother was Pat Finucane.

So, there's a sort of circle in life that's coming round and round and I've been invited here today to talk about little bits and pieces about the legal system, about Pat Finucane, and little did I know at that time that I would be here talking about the man who was murdered by the British government. And then strangely enough there are other circles which go round and years later through my GAA connections I've met Pat's son, John, a very nice young fella. So, John's a fine goalkeeper and a very fine, personable young man and a great credit to his family. So I knew Pat, more or less, in a nodding way. I lived in the general Lenadoon area and I knew about him, probably more than I knew him, and in a male sort of way – and the men here would understand – you can admire fellas from a distance but you don't ever get around to telling them like, you don't tell them, you don't really say to them that they are good about people basically until they're dead unfortunately, so they never hear the nice things you have to say about them. One of the key things about Pat was that he was one of my generation, my age group. He's roughly the same age as me, and we were the generation which was coming through as a result of the changes in the education system, which opened up third level education to the coming through of the nationalist Catholic population which then resulted in the early days of people like Michael Farrell, Bernadette Devlin, people like that, and then the next wave coming through was people who included, little did we know at that time, people like Pat Finucane.

We all make history. I firmly believe we all make history, but we don't really know it at the time. We just are getting on with our lives and the history which we make affects our families and our close friends, and then some of us make more history than others and little did we know it that those ripples go beyond their family, in their community, to their professional colleagues, to society indebted to them and that's what happened with Pat. We're talking here about a fella who was just getting on with his life with his family; who was making history and we wouldn't know it until we looked back.

1949 - 1989



Pat was on his way to becoming a solicitor roughly when I heard about him. I was a political activist in the West Belfast area, and it probably doesn't mean a lot now but to the working class community which we came from, a man who's coming through university and who was going to be a solicitor, that was big stuff, To a degree, and I'm not saying I was a great thinker or anything, but it was at the back of my head, the unspoken stuff, as a fella from that background, from that family, is going to be a solicitor he might work and take cases for republicans because, in all honesty, there were very few doing it. Probably one of the reasons why we're able here to trot off the names of the few solicitors and the few organisations is that they were the few. I mean, the unspoken elephant in the room was how is it that certain lawyers and certain legal companies did all the work? How is it that they were the people we had to recourse to time and time again and who, unstintingly responded to the calls? You know? A lot avoided it. So we're telling people here, you weren't only legal people, you weren't only legal companies or organisations, but were good people, and you do the right thing. It's been quoted twice already here but I'm going to quote it again, because it is true. If you know a thing is right and you don't do it, there's something wrong.

I've worked out that a majority of people in the legal profession are good people. But I was speaking some years ago to a man who was a military activist within the ANC, who then became an elected representative in his region, after the war ended. He said one of the biggest hurdles that they had to overcome was the mindsets and the panoply of the courts, and the ermine, and the red cloaks, and the wigs. He said they found it very, very difficult to break down that veneer of respectability which the legal system had in South Africa because even when they were dragging people through the courts on trumped up charges, the judge sat and he looked right and the court looked right and the whole feeling of the court just

can't be wrong, so people couldn't really challenge it. And I think it's important to put that context in to what these few people who have been named already were prepared to do to challenge that monolith and they did it with very, very little thanks.

That's not to criticise the people who didn't do the work, but just, I say again, as a compliment to the people who probably didn't foresee what could happen but knew it was the wrong edge of the stick by taking on our cases.

To move on a little bit, we never know really who's watching us, or who's admiring us, or who's talking about us, in complimentary ways. I said it earlier, we make history and we affect people but we don't really know who does it. On a personal level I could bump into people and they will talk to me about Gaelic football matches and there's the manager of the team I played on years ago, and you wouldn't even know that they were paying attention but people do watch people and they pay attention; not in a nosy way but in a nice way and it's a bit like that with my relationship with and things that I've heard about Pat. I mean, I know a lot of people who live in the Lenadoon area and a very good friend, Sally Brennan, she used to live on the corner of Glenveagh in the Lenadoon area and years ago, she used to talk about seeing Pat, you know, you didn't know where he's going, you know, university, or to work or whatever. And she always called him as he was dandering past and he'd have always had a hello or whatever, carrying books or a briefcase or whatever. I know Sally Brennan then was quite proud, although Pat Finucane wasn't a friend of hers, per se, and he wasn't a relative, but people look, you know, people look, and they admired him. So, there's a fella going to university or in his apprenticeship to law, but others knew about it, no one even mentioned it. So it's nice to know and it's funny how people do remember people.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

I met with Pat basically because he was a bit of a demon on the football ground. I also did play the soccer. I wasn't bad at it [laughter]. So, I mean, it depends the way you're looking at people. I don't really know Pat as a solicitor face to face, I don't, and I mainly knew him at football.

But to go back a wee bit here to me and my imprisonment. In the late 1970s when I was in Castlereagh, and in other places, being interrogated by the British, I can't really tell you the number of times that my solicitor Oliver Kelly was referred to as – and I've written it down to be specific – 'that provie murdering bastard'. You know, anytime I asked for a solicitor, they didn't refer to him by name, it was just standard; his name was 'that provie murdering bastard'. And that was because that man was prepared to come into the barracks and I imagine it wasn't easy thing to do either late at night or early morning when you think of who you're representing, knowing that that's how they regarded him. The reason that I was able to know to ask for my solicitor is quite simply because people like him and Pat, they took the onus on themselves to give us the information about what our rights were. That's all they did. They didn't do anything else; they just told us what we were entitled to. So, I was asking for 'that provie murdering bastard' quite simply because he had told me I was entitled to do it, although it was rare that we were able to get hold of him. So, there's the regard that these people had for the legal profession and I know for definite that's the same for Pat later on because during the past week when I was talking to a friend about coming here, he told me almost the identical stuff about Pat, who had represented him on several occasions, and he actually gave to me details about what was said to him in detail during the interrogation; about what the RUC were going to do to Pat. They told him specifically that they were going to have Pat shot. And he told Pat, but Pat shrugged it off.

So, as to me, I eventually arrived on the blanket in Long Kesh in 1979 – by the way, I did say earlier, I'm not neutral. I've a particular perspective, a republican perspective. I don't ask people to agree with me, what I

did or where I was, but just to accept the story about how things were and should have been.

So I entered willingly onto the Blanket protest because I was a political prisoner. I was a political activist only in the only way that I thought was possible in that era. The only avenue of hope we had in those days was the legal profession to fight our cases and those few people who did respond to our calls; they fought them to the ultimate. They pursued our legal struggles until they could take them no further and they then fought our appeals until they could take them no further. From my own point of view, my case, I think, was taken to the British House of Lords where it was tossed out by people in ermine and stuff like that [laughter]. It simply parallels with what the man from the ANC said, we can only know our own but when we look round us, we see that the same system tends to work internationally.

So, these people who came into the jails to visit us, these legal people, these solicitors, they were treated liked dirt by the prison staff; absolutely like dirt. The language they used in their company, the body language they used and the escort with them, the treatment and the delays they gave them, the conditions of the room that they brought them to - they were treated like dirt. Not that they were entitled to any high faluting treatment, but they were professionals coming in to deal with clients and that's the way they were treated, and the thing is, the only reason that was done to those people coming in to see us was to deter them from coming in.

I just wanted to add a little bit about the people who were prepared to do the hard stuff back in that era. It wasn't only the legal profession because I actually want to say here and now, there are two people at the table here: there's Clara Reilly, who belonged to Association for Legal Justice, and there's Inez McCormack. They put it on the line when it was hard, before it became respectable. When the IRA were doing pretty heavy duty activities, they still were prepared to stand up for people who were not getting charged and who were being treated to absolutely horrendous conditions, had been



1949 - 1989



interrogated, had been tortured - they stood up then and said, 'This is not right. These people may be suspects but don't be doing it to them.' So people like this should not be forgotten. For standing up and putting their heads over the parapet when so many didn't because I'd like to say thanks to Inez and to Clara for highlighting what was going on in those interrogation centres back in the 1970s. People can stand up here now to say, 'That's awful.' They didn't say it then but these people said it then and thank you for saying it. [Applause]

I was thinking this morning there and I was thinking, Patrick Pearse wrote a poem and I can't remember the words, although I used to know it years ago, but he's talking about the British. He's saying, 'You're fools. You thought you could intimidate half of us and buy the others.' Wrong, okay? And they're examples of it.

Some people were not afraid to take on the people in power, then take on those people who refused to acknowledge their profession, their professionalism. The legal road was probably the strongest road that we the prisoners had in order to counter the British push to defeat our political struggle. We were the captured activists and they thought that if they had broken the activists in the jail, they could break the political struggle on the outside, and they tried very hard to break it. They tried to break the legal profession from not coming in to see us in order to assist us but the honourable few were never deterred.

The last time I saw Pat Finucane visually, physically, was when I went down to see my solicitor, early in 1981. I was out on a legal visit. I was out with Kieran Doherty, out to see our solicitor and I'm pretty sure Seamus Finucane was out, out along with Bobby Sands to see Pat. But as years went on, after that, after the blanket protest, after the hunger strike, we got very, very tight in jail. It was very, very oppressive.

Now a prison's supposed to be a place where you're taken out of society and, roughly speaking, treated neutrally. Not so. We were seen as political opposition by the warders, by the prison administration and by the British government. So, we developed a policy and the policy was to challenge these people legally, through their courts, with their system, about how they were treating us and we began to take judicial reviews against all decisions of the prison administration. Once again, we went back to these people, who probably thought that once we were sentenced we were finished with them, but respond they did.

Pat, and other solicitors, they came up to take our judicial appeals and we were able to counter very well the administration's attempts to curtail us, and you might say, 'And what's the big deal about that?' but I would suggest to you that, regardless of your political views, the people who have actually come to be quite prominent in the political leadership from the republican perspective, the vast majority of them were political prisoners during this era. What we were looking to do by improving our prison conditions, was to improve our ability to communicate, to skill ourselves up and educate ourselves in order to be able to go back out and be political activists. So in actual fact the work that was done by these legal people improving our conditions, personally speaking, led to the Good Friday Agreement and subsequent involvement in the solely political struggle by the republican movement.

I've overstayed my time here but I just want to say that I've a last wee thing here I just need to get out of my way. Just to finish, it is an honour to me to be here to say a few words - maybe too many words [laughter] - and thank you to the Finucane family. Pat was one of the few, a light in the darkness for us in the prison, and he was a man whose diligence, perseverance and unswerving courage, because he must have known that they were after him, brought about so many changes for so many.

Ní fheichfear a leitheid arís



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### MIKE RITCHIE

Mike Ritchie is the director of the Committee on the Administration of Justice, Northern Ireland's foremost human rights group, which was awarded the prestigious Council of Europe's Human Rights Prize in 1998. Born in the Middle East of Presbyterian missionary parents, he spent some time in Kenya before returning to Scotland where he attended school and university. After a period living in Egypt working for the VSO, he moved to Northern Ireland in 1980 and has lived there ever since. He worked with the Committee on the Administration of Justice (CAJ) as Research Officer from 1989 to 1995 carrying out advocacy on behalf of victims of human rights abuses on all sides of the community. He then worked for three years with the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) as their information and research manager. From 1998 - 2008 he was director of Coiste na n-Irchimí, which he developed into an important vehicle for contact and dialogue with participants of all political backgrounds. He returned to CAJ as their Director in 2008. On his appointment the CAJ Chairperson Kieran McEvoy commended Mike Ritchie's "long standing commitment to the human rights of all, irrespective of background."

Thank you very much Inez and thanks also to Geraldine for the invitation to come and speak. It is, of course, an honour for us, all of us in CAJ, to be here and for our work to have been recognised.

I want to say very quickly – a point that Michael Culbert didn't say was that he was also very badly ill-treated during detention in Castlereagh and of course, Amnesty International was one of the organisations that took on his case at that time and I want to also pay tribute to all the other organisations who, over the years, have helped in this struggle to advance human rights in the context of great state repression during the conflict in Northern Ireland. Those were very important networks that were built up and I think in some senses, the work of human rights NGOs was really to broaden the battlefield of human rights, if you like, defending human rights lawyers and trying to involve more people. I think the effectiveness of the Committee on the Administration of

Justice was that we managed to build a coalition of activists, of academics, of lawyers, community workers; and the more effective we became, the more proactive a network we were able to become, drawing in new people, and that's a testament to the work of all the staff over the years. It was also very important that we had the expertise of people like Halya Gowan in Amnesty International and all her colleagues who were able to advise us on, on ways to go.

I was reminding myself the other day of being in Geneva in 1995 with Martin Finucane, Pat's brother, and Mark Thompson, a great activist with Relatives for Justice. We happened to think that, it would be a useful idea to call in to see the Special Rapporteur for the Independence of Judges and Lawyers. We took the opportunity, went to the office and spoke to Param Cumaraswamy's assistant at that time, and made contact. Very quickly – and it's a testament to Param Cumaraswamy that he came to Ireland so quickly – he visited Belfast, not in an official capacity but on an exploratory visit. Then came in an official capacity. He responded quickly and that, in some ways, is the uniqueness of the human rights world that it can happen spontaneously, on the basis of contacts that are gradually built up, on the basis of the credibility of your work, and the integrity of your cause and knowing the networks and how it fits together. That really was quite an inspiration. It came on the back of many other interactions with the UN, at the Human Rights Committee, at the Committee against Torture. We were able to influence these bodies because of the coalition that we had built up, of victims of abuse, of lawyers who represented them, and of academics who were able to deconstruct the legal system as it operated; we were able to build up a very, very strong case against the authorities and present it at the UN and say, 'what is happening in Northern Ireland is unconscionable and against natural justice and international norms,' Gradually, piece by piece – and it took so long when you look back at it – and against so much resistance by the British authorities, by the RUC, by the various elements in the jigsaw. But eventually, I think, we have a situation where it would be very hard to imagine ill treatment of detainees during police interrogation happening now; but we'll come back to that.

1949 - 1989



It was not until 1988, when we had the breakthrough of the case *In re Gillen* where Pat Finucane and Seamus Treacy challenged illegal detention on the grounds of ill-treatment in police detention. The conflict had been going on for twenty years, and we'd finally got to the situation where it was possible to challenge a detention by the police and manage get a decision in the court to say that the detention was unlawful if the suspect was being ill-treated.

Here was somebody, Brian Gillen, who was arrested on the Wednesday morning; this meant that he'd do two days in custody before he could see a lawyer – before he could see anybody. This period of time is crucial; where you have people at the mercy of the state in incommunicado detention. It is the most dangerous time for people's rights and what human rights activists seek is to reduce the amount of time that people can be under the total control of the state with no outside involvement; whether that be in police detention or in prison. We have to be consistently vigilant at all times to ensure that the state does not have untrammelled access to citizens. So it was really important in 1988 that we finally had a court deciding that when there's evidence of ill-treatment a detention becomes unlawful. A really important decision.

Another case I wanted to mention was the Pettigrew case. This was after the the escape in 1983 when many IRA prisoners managed to escape from the Maze prison. After that the prison was locked down and again you have untrammelled access to individuals by state forces. The story that then came out was that prisoners were subjected to very serious ill-treatment. They had to run a gauntlet of police batons and dogs and there were many physical injuries including bites by the dogs. There was no access for a number of days to the lawyers. They were unable to get in and it was quite clear that part of the reason for that was so that the physical evidence of ill treatment would reduce and there'd be less of a case. Pat Finucane and his firm eventually represented eighty prisoners and eventually one of the significant findings of the court was of inhumane, degrading treatment by the prison authorities; and Madden and Finucane sued for damages on behalf of those eighty prisoners.

Again, a significant victory and I'm quite certain it played its part in the on the way in which conditions in the jail improved for the prisoners. There was less confrontation between the prison guards and the prisoners and we eventually got to a situation by the 1990s where there was reasonable co-existence between the prisoners and the prison officers and as a result, it ceased being a site of conflict in the way that it had been in the earlier part of the troubles. Again a very important case.

It's been mentioned already that Pat had represented the hunger strikers. A good colleague of mine and Michael Culbert's in *Coiste na n-Iarchimí* was Dr Lawrence McKeown, a former prisoner and one of the hunger strikers. I was talking to him about his experiences of Pat. I think it draws out how hard it must have been to be a lawyer in those situations. You're working for people who have made significant decisions about their future; wanting to carry on a hunger strike to the death. As Geraldine has already said, Pat got into the prison to talk to prisoners about their wills. But they also, Lawrence told me, explored the question of power of attorney. This was towards the end of the hunger strike at the stage where family members were going to intervene when the prisoners lapsed into a coma and some family members, some mothers, were wanting to intervene and have. The legal question, then, was could power of attorney be taken away from relatives and given to somebody else so that the protest could be completed? There is a hard ambiguous area of morality and law. It's a testament to Pat that that he was the person that was trusted in those most contentious times to provide advice on such difficult issues

Going back to Gillen, that case came to the courts at seven o'clock on a Friday evening. Talking to Peter Madden a few days ago, he was saying that, so often, you had to do this work on a Friday evening; a simple way in which the authorities tried to make things difficult for solicitors and detainees. The office was closed up, everybody was away and all of a sudden, you get the call from Castlereagh, you go and speak to the detainee in and you hear about the ill-treatment and you have to take the case of habeas corpus to the courts. So you have to open up the office, get the typist down – they didn't have computers in those days – and you get it all typed up in the correct format and lodge it at the court. A testament to the persistence of the lawyers involved and their commitment to the human rights of their clients.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

Of course now all that's changed utterly we do have a new environment. The government has responded to the scrutiny of the UN Committee Against Torture, and the European Committee for the Prevention of Torture. We have a legal regime where lawyers sit in during the whole of the police interrogation. Also of course there is audio and video-recording of police interrogations which was one of the demands which we made for many years; a good way of preventing ill-treatment and a good way of preventing threats against lawyers. We also have had, of course, significant police reform. We also now have a Police Ombudsman. All these protections were fought for very hard and I think it's a testament to the work of all of us here; lawyers, domestic NGOs, international NGOs, UN monitors and all the rest of it that such strong protections were included in the Good Friday Agreement.

However, it's important to be vigilant. It's been clear in the last year that there have been political trials based on very flimsy evidence; a number of which collapsed in quite spectacular circumstances. There have been allegations about intimidation of lawyers as a result of these and those are things we have to watch very closely. There is continuing resistance to disclosure. I heard this week that the Jordan inquest has now been to court two hundred times – two hundred times! – largely because the police are resisting handing over information to the families so that they can legitimately find out what happened and ensure that the inquest is conducted fairly. Furthermore, an end to resistance to a public inquiry into Pat's death is demanded by the family and by all the rest of us.

I think it's important to support Diane and Paul Hudson who are attending the Robert Hamill inquiry and also to Colm Owens and Barra McGrory who are here representing Rosemary Nelson's family in the Rosemary Nelson Inquiry. I am sorry that David Wright, who is involved in the Billy Wright Inquiry, was prevented from being here today by ill health. We're monitoring those inquiries and it's important that we do.

What is disappointing is the lack of public interest in those inquiries. Very few members of the public go in and as a result we now have a situation where at the drop of a hat, the Rosemary Nelson and Billy Wright

Inquiries, in particular, are going into closed session. Lawyers can't be present, the public can't be present and there are a number of days when transcripts will not even be put on the website so we can't even see what took place behind closed doors. This is something that didn't happen at the Bloody Sunday Inquiry. It didn't happen under the preceding legislation. We will have to come to a judgment whether the Finucane family would be wise to allow an inquiry under the current legislation or whether it still should be resisted. But the practices that are going on in some of the current public inquiries are worth keeping under scrutiny.

Then finally the Eames/Bradley report came out a couple of weeks ago. We will have to wait and see if the government welcomes the report. We did so because we have worked with many families and many victims' organisations. They haven't had the same profile as the Finucanes' campaign, but I think we have to uphold the rights of all those families to receive information, many of whom were killed by the state, many of whom were killed by other combatant groups during the course of the conflict. They also have the right to find out as much truth as possible. We believe there is merit in some kind of truth commission. Having been involved in a variety of meetings and campaigns over the years, all looking and calling for some kind of independent truth commission, I think many of us were very surprised that the Consultative Group on the Past, set up by the British government, looked at the issue in some great detail and came up with a formula which was not so very far from what was being called for by many organisations. It seemed designed to meet the particular circumstances of Northern Ireland, where it's not just about the state but about other combatant groups having to provide information to families of victims; we need to bear all those victims in mind.

We were disappointed, in the CAJ that the Consultative Group prevaricated over the need for an Inquiry into Pat's case, and I'll say why in a minute. But I think, broadly, it's disappointing that there have been such negative comments reading the Eames/Bradley proposals. I think the proposals bear some scrutiny. Clearly, the danger will be in implementation. How will the British government produce the legislation? How will they appoint the

1949 - 1989



independent people to oversee it? Those are all questions that have to be looked at. Geraldine has already said that it wouldn't have been the family's choice to have Judge Cory investigate the case, but he did so with promptness, with impartiality and with integrity. If we had a Legacy Commission set up, under the tutelage of someone like that, it may well provide more than we could ever hope for from other inquiries, but I still think it's important that we look at this in a lot of detail and have a clear discussion about the merits and demerits of the things in the Eames/Bradley process.

Nonetheless, CAJ said there should be no prevarication about the Pat Finucane inquiry. This is an emblematic family as we have already seen over these last few days and it's an emblematic campaign. Human rights defenders deserve the utmost protection because they're at the coalface of human rights abuses, and I think that's why this case and the Rosemary Nelson case are, not more important, but particularly emblematic as we go forward.

However, there are hundreds of other cases and those families also need to be supported to find as much truth as is possible about what happened to their loved ones, no matter who's involved in committing the offence that led to their death.

I never met Pat Finucane but his name has been with me over the last 20 years of work in human rights and with prisoners and ex-prisoners. It has been a privilege to work with members of his family and to get to know many of the other people acting on this case. I think the biggest disgrace of this society is the imputation of guilt by association: because you're killed by loyalists, your activities must be pro-republican. Pat Finucane's activities benefited everyone. He challenged the state and its agencies without fear or favour; he won cases against ill-treatment by police; he defended relatives of those killed by the state; he used the law to defend people's rights; he didn't care what their background was. He understood

that the law tended to support the status quo; but he sought to use the law to challenge it. He understood that, for there to be hope for this society, we had to find ways of resolving our conflicts through peaceful means and this means the law has to be able to vindicate people's rights against an overweening state. He persuaded those most targeted by the state to use the law and fight cases at trial, or through judicial review. And for all this he was targeted himself. This is the proof of his effectiveness. It is for this reason that the UN and the human rights community have such concern for lawyers. It's for this reason that there has to be accountability. Resistance by the state to the holding of a public inquiry in this case only makes this inquiry more necessary. It is not true that an inquiry will promote division or dredge up the past. Without a proper accounting, the secrets will fester and pollute the future. We should re-dedicate ourselves to the demand for this inquiry; this is the proper tribute to Pat's legacy and his search for human rights.

I want to finish by saying that last night I was talking to Halya Gowan of Amnesty International. We reminded ourselves that we were in the Crumlin Road Courthouse in 1992 at the trial of Brian Nelson and we saw a shadowy figure called Colonel J stand up and speak in mitigation after Brian Nelson had been found guilty. He spoke of how Brian Nelson had saved all these lives and prevented those lives from being taken by his bravery because of his work as an agent in the UFF. Colonel J of course was Gordon Kerr; the individual at the head of FRU that oversaw activities like Pat's death. In closing, I look forward to the day when Colonel J, like Ronnie Flannigan at the Rosemary Nelson Inquiry, will have to sit in a public inquiry and give evidence of his activities. I think that will be the true tribute to Pat Finucane. Thanks.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### PETER MADDEN

Peter Madden founded law firm Madden & Finucane with Patrick Finucane in 1979. In the ten years that they practiced law together the firm developed a reputation for pursuing human rights cases at home and abroad. He has supported Patrick Finucane's family in their campaign for a fair and independent public inquiry into his murder since February 1989. Madden & Finucane was established to secure the protection of clients' civil liberties and human rights and the two partners pioneered the use of the European Court of Human Rights and judicial review cases to secure vindication for clients in the 1980s. Peter Madden has advised on human rights issues and lectured around the world including North and South America, Europe, Asia and the Middle East. He has established Madden & Finucane as one of the leading criminal defence firms in Ireland with what analysts describe as a "stellar reputation". Peter Madden was one of the leading solicitors in the Bloody Sunday Inquiry. He is a member of the Law Society's Access to Justice Committee and the Solicitors' Criminal Bar Association which recently appointed him as one of the coordinators in the Association's Legal Aid Coordinating Group. He is also a qualified trial advocate.

I thought there was actually going to be a fifteen minute discussion there which would have given me another fifteen minutes [laughter]. I've been asked to talk about what's actually happening at the moment on Pat's case and what has to be done to have a proper public judicial inquiry into Pat's murder.

So there's a recent letter, which we're going to get circulated here from the British government that just arrived on Thursday, on Pat's anniversary. I think it sums things up because previous correspondence relates to the British government's refusal to hold any inquiry other than one under the Inquiries Act 2005. So the letter actually speaks for itself, you don't have to have the previous correspondence to see what's going on there.

But before we get into that, I just want to go back.

Twenty years have passed since Pat's murder and in the last few days, the whole family in particular of course but for everybody who knew Pat it's been pretty traumatic which I think is probably the word. It's quite difficult for anyone who knew Pat to talk about this and it is the same as far as I'm concerned. It's obviously been very difficult for Geraldine. This is so personal and what happened to Pat was so vicious.

But I just want to say that on the night that Pat was murdered, on the Sunday night there was an immediate call for a public inquiry, an immediate call, twenty years ago on that night and I think one solicitor who was a neighbour of Pat's, Paschal O'Hare at that time publicly called for a public inquiry and many other people followed suit. The reason for that I think was probably the statement by Douglas Hogg three weeks prior to that which Hogg said that there were solicitors who were sympathisers to the cause of the IRA. That statement was made three weeks before.

When Pat was murdered, people attached that statement to Pat's murder and quite rightly so but what people didn't generally know and Geraldine did not know, and the

1949 - 1989



family didn't know, the community knew of course, about the threats that Michael has mentioned, the threats to Pat that actually probably started with the arrest of Brian Gillen that Mike has mentioned in January 1988.

At that time there was a very clear threat to Brian who was in custody that, apart from the fact that Brian himself was being seriously ill-treated, his ear was perforated.

We had arranged a medical examination in the Europa Hotel in Belfast after Brian was released, in which Amnesty International arranged a Dutch doctor to medically examine Brian, examined his injuries and another member of Amnesty took a full statement about what happened to him during his detention.

The one thing that he had made public at that time was the fact, made public in the sense that it was recorded by somebody and could therefore be referred back after Pat was murdered, was the fact that this specific threat, death threat was made to Brian Gillen and also that his solicitor would be murdered, should be murdered.

Since then, January 1988, right throughout that year, Pat was attending Castlereagh fairly regularly. There was a regular pattern of death threats that Pat recorded and I remember we talked about having some some sort of strategy. What are we going to do about this? This is something that was happening and how would we deal with it?

What we used to do was in relation to anybody who was arrested and taken to Castlereagh for interrogation, we'd record the detail of what was going on because most people were never charged and there had to be some record of what was happening and notes were made of injuries and that sort of thing on the notes.

But in relation to these death threats to the solicitor, this was something different, something that we'd have to deal with in a different way and what we decided to do was because we really didn't know what else to do about it. We decided that every time there was one of these death threats recorded, we'd keep it separately in a file, separate file, so that's what we did. And I recall, still remember in my own office, Pat coming back from Castlereagh and I was on the phone or something talking away, he just put his head in and waved the instruction sheet with the threats on, more or less saying, there's another one to stick in the filing cabinet and this went on many times.

Now as far as I was concerned the call for a public inquiry didn't just refer to Douglas Hogg and his statement. There was a plan, there was a plan that Pat would be murdered and people said at the time 'Oh Douglas Hogg gave the green light to Pat's murder'.

Now for the last twenty years, obviously I've gone back over things, looked at the material that I have, gathered up over twenty years, there's so much of it and I've been looking at it again, looking at different documents, trying to get different angles on it, different views, changing my mind about things.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

In fact that was one of the things that Pat would constantly criticise me about was the way I changed my mind all the time [laughter]. My answer to Pat always was 'look who's talking!' [laughter] so when you're reviewing this material and you wonder what's it all about, trying to put things together in the absence of an actual examination of the facts, then the conclusions, your own conclusion which can change

But one thing I think in relation to the Douglas Hogg statement is that it wasn't a green light, it was in fact preparing the public for a solicitor getting murdered, and being assassinated because firstly and I'll change my mind again [laughter] and this is a matter for a public inquiry, because at that time, the murder of a solicitor was something that was just unheard of, it was something that didn't happen.

Republican prisoners had their solicitors, Loyalist prisoners had their solicitors and there was never any pact with solicitors. Solicitors were seen as neutral ground in a way representing both communities and most solicitors represented both communities and that's the way it was seen.

So when Douglas Hogg said there are solicitors who are sympathetic to the IRA, three weeks later Pat was assassinated and then people said well that must be that IRA solicitor that Douglas Hogg was talking about, so it makes the public then say, not all the public of course, but there are a sizeable number of public in the North who take the view 'well that's just that IRA solicitor, he deserved it, he deserved it'.

So that's my own take on the Douglas Hogg statement and I have to say that later on John Stevens had his investigation, his police investigation, he had three investigations as we all know and he published his summary report in 2003 in which he said in a seventeen page summary of what he described when we met him as a roomful documents that he has gathered up during his investigations and he said that Douglas Hogg had

been compromised when it came to the statement that he made. Now he didn't elaborate on that, we don't know what that means; does that mean he was setup? Does that mean somebody prompted him to make that statement knowing that Pat was going to be murdered in three weeks time? We don't know, we don't know because it was only a seventeen page summary and that's all he said about that. There's no inquiry to date, there's no way we can examine that and there's just one small instance I think, or example of something that we would want to look at and examine to find out what happened and what were the circumstances surrounding Pat's murder.

As far as the twenty year battle the family have fought to get a public inquiry, throughout that period again there had been so much that has happened over that twenty years – Jane Winter prepared a chronology of things that happened, very, very impressive when you look at it, when you go through it all, it brings back memories, it's just unbelievable that the family has had to wait twenty years and now the British government are shaping up to implement a recommendation, recommendations of the Eames-Bradley group.

Now, I'll get to that in a minute but I just want to say that it was mentioned earlier the question of delay is very important for the British government because throughout that twenty year period, it's very obvious that they have had many legal discussions with their top legal advisors about how to delay the inquiry into Pat Finucane's murder. It's so obvious that all these, you can take the various Stevens investigations, the three of them; each one of them delayed a proper public inquiry for years. Each one of them was a long police investigation. I don't challenge the integrity of John Stevens, he was Britain's top policeman and he did a very thorough investigation and we know that because of material published by John Ware and others about that investigation and how detailed that was and the information that he obtained and the fact that he tracked down and questioned Brian Nelson and prosecuted him and obtained other material, I



1949 - 1989



don't challenge the integrity at all of John Stevens. Geraldine mentioned it earlier when Judge Cory was appointed again, we took the view that it was a delay, a delay tactic and it was.

But again it wasn't a challenge on the integrity of Judge Cory but throughout the period, the twenty year period, the milestones that you can look at that actually led to the delay for a public inquiry are all there to be seen, it's very clear. The Inquiries Act which was brought in 2005 after the British government had no choice but to establish an inquiry into Pat's murder and they've already, said that there will be one. They've made that clear that there will be an inquiry into Pat's murder but that it will be under the auspices of the Inquiries Act – in other words they had to change the legislation before they could actually announce the establishment of an inquiry into Pat's murder. But, what has happened now is they have drawn back from that and you can see the letter that's come in there, it's very clear from that letter that they will reconsider the whole question of a public inquiry, even under the Inquiries Act, because they say that if it's not in the public interest, I paraphrase them if it's not in the public interest they won't have an inquiry at all so if I could just get to, I suppose, what I've been asked to do which is just to give an idea of what's happening.

We have written to the British government in relation to the proposal to have this inquiry set up under the Act, under the new Act. The big problem about the Inquiries Act is section 19 of the Act – section 19 is a complete change in the law, complete change in the law relating to inquiries in which previously an inquiry panel, a judicial panel would be able to listen to various legal applications, make a judicial assessment of those legal applications and decide whether or not for example there should be secret sessions or in camera hearings. The tribunal would make that decision, tribunals make those decisions all the time. Many inquiries, for example, the Bloody Sunday Inquiry held secret sessions. Even in various court cases there are secret sessions. There was a recent trial in London and I think the whole trial was secret. Secret hearings erodes the effectiveness of public investigation and public accountability.

So what is happening now is that the whole question of a public inquiry is now left up in the air, it's as simple as that. We don't know what is going to happen. We don't know whether or not the British government are going to renege. They've agreed to meet us to discuss the terms of a draft Restriction Notice, a notice which is set up under section 19 which actually restricts public hearings and the publication of documentary or other material which a government minister can rule that that material should not be made public or there should be secret hearings or secret panels.

In a situation which the inquiry panel say this has to be made public, we think it's in the public interest that this material should be made public, the minister can issue a Restriction Notice which overrules a decision of the Tribunal and that's the essence of that section 19. That is the reason why the family have objected totally to holding the inquiry under the Inquiries Act, because of that one section. That issue should be left to the Tribunal. Judge Cory was the first to object to the Inquiries Act. Lord Saville and his colleagues and many other judges objected to this because it took the power and control away from the judicial Tribunal, away from judges who are have many years experience of dealing with these complex legal issues. It's being taken away from them by a government minister for political reasons.

So what's happening now is at some stage – we're told before Easter - there will be some update on the drafting of a Restriction Notice and how they intend to apply Section 19 in Pat's case. So that's what's happening at the moment in relation to the ongoing correspondence with the British government.

But what's worrying, is that it's pretty clear that after a lot of meetings with the British government and their lawyers that there will always be some obstacle put in place to try to thwart a public inquiry into Pat's murder and the latest one is some of the proposals in the Eames-Bradley Report and I don't want to totally criticise the people in that group or the report itself, but some of the recommendations within that report particularly those relating to Pat's case.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

What I'm concerned about is the reference to Pat's case in which many people are not very well aware. What they're saying is that they will leave the question of a public inquiry into Pat Finucane's murder to the British government and Pat's family. But then they say but that they think that Pat's case can come within their new proposal for a Legacy Commission which they say can cover it.

Now to me that means, that the British Government will say well, if you can cover it then go and do it, that is the way I look at it and the way I think things are shaping up when it comes to considering the Eames-Bradley Report and when it comes to deciding whether or not the British government will actually implement its recommendations and introduce legislation in relation to it.

So some of the things that concern me about that are really, first thing I think is the proposal the Legacy Commission and I might be wrong about this because I have read it over. There is a lot of detail, and a lot of questions need to be asked, but from what I've read, I'm pretty concerned about what they propose. The Legacy Commission is going to be non-judicial. It's going to be non-judicial and non-adversarial so this is a quote from the report and we have to get to page 56 in which it says 'the group is therefore in favour of a mechanism which would be private, non-judicial and non-adversarial, in preference to public judicial, or quasi judicial commissions of other countries and it starts off by saying, that they've set up this new way of gathering the truth that they call "Information recovery".'

Getting at the truth, getting the facts is now going to be called "Information Recovery" and they propose a new Commissioner to deal with this. The recommendation is that there should be a non-judicial commission, non-adversarial, - in other words you can't really challenge version of events. This is in preference to the requirement of public inquiries that occur "in other countries".

It starts off with the heading "Information and Truth" and goes on, 'the emergence of truth should be encouraged through all forms of remembrance detailed further in this report and also through the legal process of information recovery'. So there is a concession that there is a legal process, yet it's going to be non-judicial. Now I don't know what that really means but it sounds to me like the proposal is that there will be no judges, that they will appoint people with no legal or judicial training, who have no judicial experience. This is going to be a recommendation just what the British government needs to prevent a proper public inquiry into Pat's murder.

Now another concern that I have about the proposals relates to how they intend to actually conduct this information recovery process and in this very detailed report at page 128, 'the group proposes that the Commission would have the power to compel the production of documents and the power to compel witnesses and then these witnesses could be questioned by the Commission and there would be no examination or cross-examination by others'.

There is something that is of serious cause for concern within the Rosemary Nelson Inquiry at the moment, the fact that the family lawyers and other lawyers cannot actually carry out the questioning themselves. They have to email the Inquiry counsel. They have to email within the chamber to suggest questions that should be asked and sometimes the Inquiry Counsel does not ask many questions because they probably get a barrage of emails from all the other representatives. So that's going on at the moment. It's not followed in all inquiries or other cases, nor was this device used in the Bloody Sunday Inquiry or the Robert Hamill Inquiry. This is something that would concern us if there was a proposal like that in Pat's case. We just couldn't go along with it because it's nonsense and if you can't ask your own questions and put them in your own way at a witness, then it's just not possible to properly represent the client. That's the situation. Now there are situations in which it can work, for example where it's not contentious or where the families' representatives agree that that's the way to do it or others agree that that's the way to do it for various reasons. But it's certainly not the way we would want to tackle Douglas Hogg for example or Margaret Thatcher.

1949 - 1989



Another proposal is that the Commission would avoid wide circulation of documents, although witnesses would be entitled to see documents relevant to them, this would avoid the lengthy process of the redaction of documents which imposes a heavy burden on public inquiries and those who service them. It would help the Commission to protect the lives of those who are mentioned in documents and it would also make the new process more resource efficient.

Now there is provision already within inquiries processes and within many court processes, not just in this country but throughout the world, to protect witnesses, to protect lives and to deal with sensitive information and the public interest. Public interest immunity applications are made all the time in courts all over the world, so this idea that the Commission would avoid wide circulation of documents to save lives is not necessary. The effect of this proposal is to prevent the truth from coming out, if the documents are not made public and circulated widely. If this process is not necessary to save lives then why propose it? It is all part and parcel of a public investigation to receive and examine relevant documents and prepare to challenge any of the content.

Getting back to the British Government's letter of the 10th February which has been circulated. We got the letter on Thursday. It states, 'you will also be aware that the Consultative Group on the Past published their report on the 28th January in which they made a number of recommendations to the government about dealing with the legacy of the past in Northern Ireland. I would like to assure you that no decision has yet been taken by the government in relation to any of the group's recommendations including their recommendations in relation to the Pat Finucane inquiry. We will be reflecting carefully on the group's findings over the coming months

and talking to a wide range of people. We would of course welcome any views the Finucane family wishes to offer on these recommendations or any of the other proposals in this report. In all these matters, like the outcome of discussions with the Finucane family or their legal representatives about the form of any inquiry will of course be relevant factors for ministers in deciding whether it remains in the public interest to proceed with an inquiry'.

Some of the other recommendations in the report I think are admirable enough recommendations about tackling sectarianism and proposals for reconciliation, which are very important and very necessary.

So I just want to finish by saying and as I said earlier, this is very difficult for me but you go back twenty years and I go back thirty years when me and Pat started the firm, I want to say that there will be an inquiry. There are important facts about what happened to Pat that will be made public one way or the other. We've got quite a bit of material; a lot of it has already been made public as I've said. John Ware and his Panorama program, his reports, Ed Maloney other journalists and whistleblowers, there's a wealth of material already out there in the public but we will find out what happened to Pat. We will find out who ordered it. We already probably know who carried it out on the ground but there is a pipeline and there has always been a pipeline in a military structure that goes from the ground up to the top to the ministerial level, to the politicians and there is a pipeline and we will find out eventually, one way or the other, what happened and what were the circumstances about Pat's murder, who ordered it, who's responsible and who's accountable.

Thank you.





## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### FIONA DOHERTY BL

After studying law at Trinity College, Dublin Fiona Doherty was awarded a masters degree in human rights law with distinction from Queen's University Belfast. She was called to the Northern Ireland Bar in 1997 and to the Bar of Ireland in 2001. She specialises in public law, coronial law and human rights law. She acted as counsel for the families of three deceased and two wounded before the Bloody Sunday Inquiry and for the applicants in the European Court of Human Rights cases of *Kelly & ors v UK*, *Shanaghan v UK*, *McShane v UK* and *Finucane v UK*. Fiona is a member of the General Council of the Bar of Northern Ireland and a member of the Bar Council's Human Rights Advisory Committee. She was formerly chairperson of the Committee on the Administration of Justice (CAJ) and served on CAJ's executive committee for 12 years. Fiona is joint author of the NI Human Rights Commission paper *Investigating Lethal Force Deaths in Northern Ireland: The Application of Article 2 of the European Convention on Human Rights (2006)*.

I have been asked to speak about inquests – problems past and present and the reforms achieved. To do that I am going to concentrate on the type of inquest Pat Finucane specialised in and the firm he set up with Peter Madden continues to lead the way in – where the death is a result of the direct or indirect action of a member or members of the state's security forces. In fact, in Northern Ireland it has been those inquests that have led to the majority of the legal challenges taken. Those challenges, in turn, have led to significant changes in the law and practice. Having said that, many of my remarks about problems with the inquest system and the reform that has taken place apply to all kinds of inquest, no matter what the cause of death.

The office of Coroner and the inquest are governed in Northern Ireland by the 1959 Coroners Act and the 1963 Coroners Practice and Procedure Rules.

The purpose of an inquest is set out in the rules as to ascertain who the deceased was and when where and how s/he came to their death. The process is inquisitorial and is led by the Coroner who decides on the scope of the inquiry and which witnesses should be called. The Coroner leads the questioning of witnesses.

Since 1974, appointment to the post of Coroner has been a judicial appointment. Coroners in NI (unlike England and Wales and, I understand, here) have to be legally qualified and until recently were appointed by the Lord Chancellor. They are now appointed by the NI Judicial Appointments Commission.

During the times when deaths caused by members of the security forces were a tragically common occurrence inquests often provided the only forum where the state and a bereaved family interacted. In circumstances where, much more often than not, prosecutions did not result and it was otherwise difficult to obtain information about a death the inquest was sometimes the only forum in which a family was able to seek details about the circumstances of the death, ask questions of soldiers/police officers and attempt to find an answer as to why their family member had been killed. An inquest couldn't, like other types of case be "settled". It had to run and its purpose was fact finding.

From that brief summary it should be clear that the inquest system in Northern Ireland had the potential to be a mechanism for truth recovery. However, because of the title of this segment I'm sure it won't be a surprise to you to hear that it did not fulfil that role and, in fact, was a great disappointment to many of those who hoped that an inquest would provide them with answers to questions to allow them to grieve properly and attain some element of closure or to right a wrong impression that was being given about their loved one.

1949 - 1989



An examination of the many past problems with the inquest system can begin with its structure. Until recent years there were seven separate coronial districts in Northern Ireland. The only full time coroner was the Coroner for Greater Belfast, the others were part time, often trying to juggle a legal practice or even retirement with their coronial work. They did not have much or any dedicated administrative support or separate premises. When they had to deal with inquests arising from deaths in controversial circumstances they were dealing with them against this background and often in the area in which they themselves lived or practised.

Initial investigation of a death notified to the Coroner was carried out by the police. The Coroner did not and does not have any independent investigation power and although the possibility of Coroners' officers being available to investigate deaths has been suggested at various stages this has never happened. In fact until recently there was no agency independent of the police that could take over to fully investigate cases where the police had been involved in the death.

Deaths caused by the military brought a similar problem. Often the military had been on joint patrol with police officers at the time of the incident which again meant that investigation by the police could not be independent. But in addition to that, in cases of deaths caused by the military between 1970 and the imposition of direct rule in 1972 an agreement had been reached by the General Officer Commanding the army and the Chief Constable that the Royal Military Police (the branch of the army whose responsibility it is to investigate the army) would interview the soldiers involved. That agreement was highlighted during the Bloody Sunday Inquiry and was recorded in an army document which said

"... the RMP would tend to military witnesses and the RUC to civilian witnesses in the investigation of offences and incidents. With both the RMP and RUC sympathetic to the soldier, who after all was doing an incredibly difficult job, he was highly unlikely to make a statement incriminating himself, for the RMP investigator was out for information for managerial, not criminal purposes, and using their powers of discretion, it was equally unlikely that the RUC would prefer charges against soldiers except in the most extreme of circumstances."

Of course the reason why the mode of investigation of a death is relevant to the inquest system is because it is the material that emanates from the investigation that forms the basis for the inquest. In order to begin his task and decide whether an inquest is necessary and, if so, what evidence should be called, the Coroner has to have access to the material relating to the death such as witness statements and other evidence. That material was supplied by the police from the investigation conducted by them. So, if, for example, for some reason, a relevant witness hasn't been located or spoken to during the investigation his/her existence will not be apparent to the Coroner from the investigation papers.

Another related difficulty was that, generally, coroners were not proactive in asking for material - this led to two problems: delay in the hearing of inquests (which was endemic); and the fact that the police could dictate what material the coroner had at his disposal to conduct the inquest. Despite a provision in the Coroners Act which said that police had to give all the material they had obtained concerning a death to the Coroner generally just statements were provided to him with the post mortem report and perhaps photographs.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

Those documents were generally not given to families or their representatives in advance of the inquest hearing. The usual course of events was that a copy of the deposition was handed down to the representative as the witness stepped in to the witness box so the legal representative's first sight of it was as it was read out in public. What this meant was that the legal representative had no time to prepare, no time to cross-reference the evidence of the witnesses, no time to consider the manner of questioning and little time to take the client's instructions on the content. The rationale for the lack of pre-inquest disclosure was said to be, in relation to the statements: they were police property so no-one else had authority to hand them over. Of course the police invariably refused to do so. Where the statement had been converted into a deposition it was said to be no more than a proof of evidence that may be given and should not normally be made available to properly interested persons until the witness came forward to give evidence. The NI High Court and Court of Appeal felt that any unfairness that resulted to the next-of-kin from the lack of disclosure of documents was not as much of a concern in an inquest as it would have been in other proceedings as an inquest is inquisitorial and not adversarial<sup>1</sup>. In other words, the inquest should be able to find the same facts with or without the input of the family. That was not the case. The next-of-kin generally had a unique knowledge of the circumstances of the death and a clear view of how it came about that was not advanced by the Coroner or any other party.

As to how the family took part in the inquest in practice: a serious difficulty was that there was no provision for legal aid funding for inquests. That meant that in order to have representation a family had to find a solicitor and/or counsel who were prepared to take the case on pro bono (unpaid). Bearing in mind that these were controversial cases, often very complex, and that the police and/or army were always represented by experienced counsel this was a fairly small pool. For a while, certainly in Belfast, M&F was one of the only firms which consistently took on these cases.

When the inquest actually started the two biggest issues that stood in the way of families searching for answers about a death were the limited scope of the inquiry conducted by the coroner and the fact that a person suspected of causing the death was not a compellable witness.

As for the scope of the inquest: as I've already said – the purpose of the inquest was to determine who the deceased was and where, when and how he/she came by their death. As you can imagine it was the "how" part of that task that caused controversy because, understandably, a family wanted to know as much as possible and therefore pushed for a broad meaning of the word "how" while those who had an interest in confining the matters examined by the inquest wanted a narrow meaning.

The courts interpreted how as meaning "by what means" rather than "in what broad circumstances". You may ask: what's the difference, and you'd be right, but in practice it meant that issues such as the planning of operations involving firearms, suspicions of a shoot-to-kill policy on the part of the police in Northern Ireland and of collusion could not be examined at an inquest.

Under the Rules a person suspected of causing the death could not be compelled to attend the inquest as a witness and, in these cases, routinely did not attend. That meant that all that was available to the inquest from that person was whatever statement had been made to police during the investigation of the death. Given that there was no opportunity to question the witness about that statement it was of limited weight. Despite this it was often admitted in evidence by the use of Rule 17 of the Coroners Rules which allows for the admission in evidence of a document if the attendance of the maker of the document is unnecessary and the document is produced from a source that the coroner considered reliable.

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1 Re Jordan NICA 28 June 1986; Re Arthurs NIQB 24 May 2006

1949 - 1989



Applications for anonymity, screening of witnesses from the public and for public interest immunity to prevent the disclosure of documents to the family and the public were also common features of these inquests.

Having looked at all those problems I should say that there were still circumstances, even with these restrictions, where inquests were a very valuable tool for the gathering of information for a family. The evidence of the witnesses who did not appear could be undermined by the evidence given by other witnesses and the fact that some witnesses did give evidence could be useful in leading to the settlement of actions for damages taken against the state. In addition, I have to say that some coroners did attempt to push the boundaries of the inquest:- the subpoena issued by a coroner for the production of the Stalker report is a good example of this.

However the manner in which the higher courts defined the scope of the inquest meant that it was woefully inadequate for the discovery of the truth about the detailed circumstances of the death which, as many of you who have heard the stories of bereaved families know, is generally a priority.

Inquests were particularly inadequate in circumstances where collusion between security forces and others was suspected, as evidence leading to suspicions of collusion did not even get on to the radar so far as coming within the scope of the inquest was concerned. The case of Patrick Shanaghan in which the European Court of Human Rights found a violation of Article 2 of the European Convention on Human Rights is a prime example of this. At the inquest the Coroner ruled that he would admit evidence of threats made by police officers against Mr Shanaghan but this was challenged by the police in the High Court. Overturning the Coroner's decision the court pointed out that there was no dispute that Mr Shanaghan was killed by loyalist paramilitaries. That being the case, evidence of prior threats made by police officers was not relevant for the purposes of the inquest because it was beyond its scope.

Inquests held in Northern Ireland are very different today. They are far from perfect but are certainly a lot better than previously and families can generally explore most if not all of the matters that are causing them concern. There were a couple of events that provided the catalyst for change:- the first was the report of Lord MacPherson's inquiry into the death of Stephen Lawrence in 1999 and the second was the judgements handed down by the European Court of Human Rights in 4 cases from Northern Ireland in 2001.

As a result of his examination of what took place at the inquest into Stephen Lawrence's death Lord MacPherson recommended there should be advance disclosure of evidence and documents as of right to parties who have leave from a Coroner to appear at an Inquest. A Home Office circular adopted in England in response to the MacPherson report said that the fullest possible pre-inquest disclosure should be given to next-of-kin in all cases where an individual dies in police custody or where a death results from the actions of a police officer acting in the course of duty. The RUC accepted the application of that circular to inquests in Northern Ireland.

In 2001 judgment was handed down by the European Court of Human Rights in the cases of McKerr; Jordan; Shanaghan; Kelly & ors. The court had previously made it clear in the Gibraltar case that the right to life protected by international law would be ineffective if it didn't also include a requirement that deaths caused by agents of the state should be properly investigated. What they said in these cases was that the investigatory mechanisms in place in Northern Ireland (including inquests) did not satisfy that requirement on a number of grounds: lack of independence of the police investigation, which applies to police killings, army killings, and cases of alleged collusion; refusal of the Director of Public Prosecutions to give reasons for failing to prosecute; lack of compellability of witnesses suspected of causing death; absence of legal aid and non-disclosure of witness statements at the inquest; lack of promptness in the inquest proceedings; limited scope of the inquest, and lack of prompt or effective investigation of allegations of collusion.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

It appeared to those of us involved in those cases that the UK government had accepted the inevitability of those judgments some time before they were handed down as a mechanism for pre-inquest disclosure was already in place and the Office of the Police Ombudsman for Northern Ireland had been established. However more were to follow:-

Independent investigation of deaths in custody or deaths caused directly or indirectly by the police are now wholly investigated by the Office of the Police Ombudsman or the Prisoner Ombudsman;

Section 8 of the Coroners Act has now been clearly interpreted in that police are obliged to hand all material from an investigation over to the coroner (House of Lords case of McCaughey) - section 8 in all cases material must be given to the coroner.

Pre-inquest disclosure is no longer an issue – routinely provided.

Funding for representation is not routine but is provided for in cases where the state is involved.

Rules have been changed so that a person suspected of causing the death is now a compellable witnesses.

Coroners Service was established in June 2006. There is now one coronial district – the whole of NI and initially 3, now 4, full time coroners presided over by a High Court judge Mr Justice Weir who will, we understand hear cases from time to time.

The scope of the inquest has been the result of litigation since the incorporation of Article 2 of the Convention into domestic law via the Human Rights Act 1998 and the courts have said that, where article 2 applies, the inquest must be capable of investigating all those issues that the European Court says it should investigate i.e. allegations of collusion; the planning and conduct of any operation and whether the force used by the state was justified. The difficulty is that the courts have also held that, because of the way that UK law interacts with international law, article 2 can only be relied on in respect of deaths which occurred after 2 October 2000, when the Human Rights Act came into force. That clearly excludes all of the historic or legacy cases as they have been called and I believe there are around 20 such inquests still to be heard (some dating from the early 1990s).

However, and again because of litigation taken by Madden & Finucane, it now seems that perhaps the scope of the inquest wasn't ever as limited as we were told it was and, in fact, findings delivered by inquests that had previously been overturned as outside the scope of the inquest should have been permissible. So, the initial fear that there would be two types of inquest: a broader one for those cases where article 2 applies and a narrower one for those cases pre-dating October 2000 may not be borne out. I'm also happy to say that since these changes, coroners in NI have tended to take a broad view of what should be investigated at an inquest, rather than a narrow one.

Although there are still many problems the reforms that have taken place are considerable and make for a very different and better inquest today when compared to those held a number of years ago. There is a good illustration of this:- I mentioned earlier that a coroner had once issued a subpoena for the production of the Stalker report into six deaths caused by the police in 3 separate incidents in 1982. When it was challenged by the police that subpoena was set aside and the coroner abandoned the inquests. However the judgment setting aside the subpoena was criticised by the House of Lords in the recent Jordan case and the same coroner moved to reopen those inquests and has now had sight of the Stalker report - although it seems it will be some time before the inquests are held.

I will finish on this cautionary note: the reforms achieved and the much improved inquest system we have today is of no comfort to those who did have to engage with a flawed system and as a result have been left without answers. My hope is that they will be given an opportunity to find the answers that they seek. I also have that hope for the Finucane family.





1949 - 1989



## MICHAEL MANSFIELD QC

Michael Mansfield is a leading international human rights lawyer and currently a consultant to the Finucane family's legal team. He was called to the Bar in 1967 and established Tooks Chambers in 1984, during the miners' strikes, and became Queen's Counsel in 1989. Michael Mansfield has represented defendants in criminal trials, appeals and inquiries in some of the most controversial legal cases the country has seen, including those of Stephen Lawrence, the Birmingham Six, and the Bloody Sunday Inquiry. He also chaired an Inquiry in Cullyhanna into the death in an alleged shoot-to-kill incident in which Fergal Caraher died. Michael Mansfield has presented a number of television documentaries and series, including Presumed Guilty for BBC1. He is a regular contributor to current affairs programmes and was a panel member of The Moral Maze for many years. He has also published numerous articles for all the major broadsheets and law journals and most recently The Home Lawyer - a legal handbook. He is a member of Interights, President of Amicus, President of the National Civil Rights Movement and President of the Haldane Society of Socialist Lawyers. He is also a Sponsor of British Irish RIGHTS WATCH.

It has been a real pleasure to come here today because so many of my ex-clients are in the audience [laughter] and it brings back lots of reminiscences – would they all please gather to the left hand side [laughter]. So there is pleasure on that front and the other great pleasure, approaching this building and seeing the banner over the door I thought 'Jane's done it again, you know, a brainwave, SHAG!' I thought, 'I've never actually addressed an audience under this title' but of course you got it right because Still Holding out for Accountable Government, so on the way out just change the banner slightly [laughter], well bits of it anyway. Accountability has been the theme last night and today and I thought, 'Twenty minutes, my goodness barristers take twenty minutes to cough!' so am not sure how I'm going to get through it in twenty minutes but I'll try.

It's been a theme of the things that I try to do in England and really what I wanted to do is build on what Fiona Doherty has just said about what's been happening here and in a way I hope it would be picking up on Geraldine's observations on behalf of Pat that what he would have wanted to know I, 'Why not?' in relation to a lot of actions for the future: why not?

And that's the question that's penetrated the thinking in a lot of things that we try to do in England. I just want to give a brief illustration because the one thing the British government can be sure about from today and, make no mistake, sending a letter which arrives on the anniversary is not a coincidence, sending a letter that arrives on the anniversary when they know what is happening this week is not a coincidence. Nothing that the British government does is a coincidence: collusion yes, coincidence no [laughter]. Therefore, there has to be a clear message sent back to the British government from today, a message not just from Pat and his family, but from the whole assembly. They have to understand and they know who they are. We know who they are, we're not living in such Orwellian circumstances whereby we don't know who they are. We do know who they are; we know exactly who they are. They have to recognise that it's not just that the Pat Finucane case won't go away, there will be no peace south or north of the border, particularly north of the border, there won't be lasting peace until there is justice [applause] and there will be no justice until there is truth and there will be truth about what happened to Pat and of course all the related cases.

It isn't just about Pat, or just about lawyers, certainly not, but he just represents the tip of an iceberg and the British government have to recognise that there will not be peace on this island until that truth is outed, not by all the ploys they are putting out at the moment but by what was asked for at the very beginning, as Peter Madden himself said – keep your eye on the ball, what was demanded at the beginning is still demanded – a public, full, independent, transparent, judicial inquiry.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

You would want that for yourself. Members of the British public would want that for themselves. There's only one body that understands what's in the public interest: it's the public, and the public recognise that the only way forward in these cases, is to have proper inquiries. Which is why governments successfully curtail the right to a public inquiry, whether it's through the Inquiries Act which you've heard about, but also there's a Bill going through at this moment in the British parliament, the Coroners Bill. Now the Coroners Bill is resurrecting provisions that they got defeated on last year in the House of Lords when they put it in another bill, because of course they are never very straightforward, its perfidious Albion out there and they are always saying one thing and doing another. What they did last year was, under the guise of anti-terrorist legislation, they were suggesting the time has come, as the letter from the NIO says really, it's not in the public interest for some of these inquests to be heard in public. Really these military ones are getting a bit close for comfort; as the very courageous coroner in Oxford has shown who's been up uncovering all the misdemeanours that have been happening to troops, never mind to other people in Iraq. But it isn't just those inquests, there are a lot of other inquests in which they think it will be necessary to put in a Restriction Order, the kind of thing in the Inquiries Act that they are going to do in terms of Pat. So they've resurrected it in the Coroners Bill, effectively to have the same kind of thing, namely, possibly, no inquest, or a controlled inquest in which the Coroner is specifically appointed, and certainly no jury, and certainly no publication of information, and possibly the whole hearing in camera. In other words, here we go again.

The reason they're doing this is because they are afraid of the essence of accountability which underlines all these processes. They are the most controversial proposals that will be fought tooth and nail, once again.

However, to follow on from what Geraldine was saying, there is another way. It's possible, they know it's possible, and I just want to illustrate that rather than, as it were, concentrate on the negatives. I think we all know what the negatives are, but there are avenues which can be pursued which produce the goods.

The first example I want to give is one where, in a sense, another family faced exactly what the Finucane family and other families faced because of course what would be examined in a public inquiry would not be just Pat's death but the systemic failure, the systemic collusion which they don't want unravelled particularly as some of the operatives are still operative. That's the problem.

In the Lawrence inquiry – I'm not going to go into detail because I am sure you are familiar with it – what has to be remembered is this was the struggle of a family just like the Finucane family and other families; I don't want to go excluding other families. The Lawrence family were a family whose son was murdered in atrocious circumstances with more senior police officers on the scene afterwards conducting the investigation than they ever had before, so it wasn't like they were short of resources. But that family not only had to suffer the murder in the first place, just like the Finucanes, they also suffered all kinds of racism which is insidious, it isn't necessarily outspoken, and it just operates below the surface. They faced all that. They faced the fact that the Public Prosecutor effectively didn't mount a prosecution so we had to try to do it ourselves and we didn't succeed. We got it past committal but we didn't get it to a jury at the end of the day. So they faced that disappointment. They got all sorts of rejections to begin with about having an inquiry. 'We've had an inquiry,' they said. 'We've had an internal inquiry - aren't you happy with that?' 'No,' Neville and Doreen would both say, 'No we're not satisfied. We want what you want - public transparency, we want an inquiry'. So there comes an inquest and the five suspects are called and they refuse to answer questions, even what their name is or what they had for breakfast, nothing was answered. Still the family persisted. Year after year they persisted in exactly the same way. 'Oh, you'll never get a public inquiry,' they were told, 'They won't allow it to happen because actually you're getting at the root of the whole institution' – but they did.

I was just saying to Seamus Treacy before standing up today, because he was asking the key question, 'Do you think there will be a public inquiry?' I think there will be because if you can't get it for Pat Finucane and what he stood for and all the others who died in similar

1949 - 1989



circumstances, where on earth does it get triggered? In what other circumstances can it happen if we can't have it in this case? It's the obvious request that has been made from the beginning and that obvious request was the focal point for the Lawrences, and they got their inquiry. The panel in that case, chaired by a High Court judge, like me, we were all educated by the process we were involved in. Senior officers were brought to book, who made denial after denial after denial until finally the Metropolitan Police Commissioner sent along his aide – he didn't actually come and do it himself – to actually accept at the eleventh hour, almost the last minute of the inquiry, that in fact, there had been a theme, a stream of institutional racism. Shock, horror, you can imagine – this is not so long ago that we're not talking about, well the previous century just about, but not so long ago that these admissions were being made when everybody knew about racism in the police, but no-one had ever admitted it before. And of course there were the reverberations of the seventy recommendations, one which Fiona Doherty has mentioned, have brought about change, and in fact next week lo and behold next week, at Central Hall Westminster, the politicians are going to have to stand up and say what they have implemented and what they haven't.

Now that seems to me about people's justice, people's accountability because one family of course supported by many others, said, 'We're not going to give up until we get it and we know we have to get it because we know we're right.' And the same principles apply, I think, to Pat's case.

The other example I want to give is the one there was an announcement about yesterday and one with which you are probably familiar with because it's been in the public eye, Jean Charles de Menezes. Now that again was truly horrific, they all were horrific. He was shot on an underground train, seven times in the head at point blank range with two gunmen either side, shooting into the head with special ammunition which at the point that it was fired had been authorised by senior police but had not been authorised by the government, because of the consideration that it might be in breach of the European Convention Why? Because it was hollow-tipped ammunition which wouldn't go beyond the head and would mushroom inside.

And there are other details you have to start bearing in mind in order to see how serious this was. This was a family who didn't speak English, who didn't live in England and who suffered a great deal at a distance and at close quarters because, although he was carrying identification documents with him, which they go on and on about the necessity to carry, and when you do, it takes them a day to work out who you are. So that the family in his case were not told for a day that it was him.

Meanwhile he is portrayed as an escaping terrorist leaping over barriers wearing a bulky jacket – all untrue. He is besmirched in the press further down the line. Of course we'd heard it all before, they tried to say some way or another that he's to blame. Again, the allegations being made in the press were untrue.

The Independent Police Complaints Commission was denied access for two days, a decision taken at the very highest level by Bill and Ben, well I mean Blair and Blair, the two Blairs. The IPCC have criticised the fact that they were excluded and have said that they never wish to be excluded again. Well let's hope they're not. They take time to consider, they produce a report. Guess what, no single officer is prosecuted for anything, which of course is tied up by yesterday's decision by the DPP that no single police officer will be prosecuted for any offence.

Although they had a prosecution, which again the family had to wait for, it was only about health and safety, which went on for a few weeks. The Commissioner didn't have to be there in court, in fact the jury were faced with this unusual situation of an empty dock because it was the Office of the Commissioner that was on trial, but the Office in its absence was convicted. It was fined. Well I've no doubt that came out of public funds so actually we paid for it. And then finally, we got an inquest, which had also been delayed.

Now the importance of this in a way was brought back to me with what Pat did in 1986, when he actually walked out of the McKerr inquest because of the rule that Fiona Doherty was talking about that you couldn't call the perpetrators as witnesses. In Jean Charles' inquest, as you may have read, I walked out at the end because the family were deeply distressed by the fact that having waited all this time, the verdict that they wanted at least put to the jury of unlawful killing was withdrawn. So as far as they were concerned, we must withdraw and we did.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

However, I'm going to leave that to one side because what I do want to address to you today, just to show Pat's family and everyone else what is possible. This was a remarkable inquest in my view because it demonstrates very clearly what the British government can allow to happen over there but when it comes to Ireland of course they are always the exception. We can't allow the same things to happen to the Irish. So what happened in this case is very, I think salutary and important for the argument with the British government over Pat's inquiry because initially there were all the same arguments about sensitive material, about the difficulty because officers were still operational, we can't have discussions about planning and the sorts of strategies we use, and maybe there wasn't going to be an inquest because we had the health and safety trial. and all that. So all the same kinds of things are lingering in the background but the family persisted through all of this. They didn't have as long as you've had to wait to get what effectively became a public inquiry. What was interesting, certainly for me acting for the family, was that we were the one interested person, as the parties are called, who really were asking the questions that the family wanted asked. Because the police were represented, all of them, by five different teams; ten other barristers were there dealing with their particular interests. The proposal which you heard this morning that is being practiced north of the border in the other inquiries channelling all the questions through those who represent 'The Inquiry' – nonsense! I've been through that, we've been through that, they tried to do that in this inquest and we resisted. We said sure, 'I've no secrets, I'll tell you what the questions are and we'll see whether you ask them.' And they were very co-operative but of course, it's very difficult for a barrister supposedly representing the inquiry or the coroner himself if he chooses to ask the questions to actually go all the way down the line that the family want pursued. The family are entitled to have their beliefs because they were not present so how do they know what happened, but they have a pretty good idea about their son, how their son would have reacted, what their son would have done etc. And the irony is that in his case Jean Charles had an undying support for the British police, he had been stopped before in the way that they get stopped in London, but for him it was no problem compared to the Brazilian police. He was somebody who

had great respect for law and order in that sense, so his mother said there is no way he would have behaved to have alerted suspicion or done any other of the things that were alleged against him. But the point was that only we were going to really be able to pursue this, it was a difficult task but we did it and I'm proud to have done it for the family and I hope the family are finally, and I'm sure they are, satisfied with one or two of the things that happened in this inquest. One thing we achieved was the accountability through getting the questions asked. We also got the people responsible for setting down if you like, the planning, the strategy, giving the orders, the thing that's missing in the Finucane case – who actually decided on the policy.

Now in Stockwell we did get the documents relating to Operation Kratos, Operation Clydesdale all these things that have never had public debate but are basically as close as you can get to the core of this case which is shoot-to-kill, in a sense. There was correspondence between the two Blairs about the fact that we may have reached vis à vis suicide bombings, a case in which we are going to have to shoot on sight. This was being discussed on the very day Jean Charles was shot. Now these things need to be in the public domain, they need to be discussed. It can't be more serious for anyone, particularly Londoners who are going to be, no doubt, threatened again. We need to know the basis upon which, in a so-called democracy, we empower our forces to carry weapons, to discharge weapons. We need to know what the rules of engagement are. Police officers need to know what the rules of engagement are.

Although this part of this inquest that really didn't get the publicity, it's all there on a website. It was in the end all broadcast. We got round the difficulties. So, if there was a difficulty over a particularly sensitive document, alright there'd be a hearing but in the end and I'm not afraid to say it, you accommodate, you give some space, because actually I don't need to know, let's take an example, I don't need to know the particular person who wrote the document, unless the particular person is a witness. Whenever there was a difficulty presented we found a mechanism for getting round it. Anonymity? I've no problems with that, I don't need to know who this person was. I don't need to know his name.

1949 - 1989



I want to know what he thought, how he acted, why he acted as he did; just give me the opportunity to do this. So we had forty anonymous witnesses, yes there were screens but the public could hear everything that was going on. They couldn't see the witness for a lot of the time but actually it didn't matter. If you were sitting the other side of the screen, you could hear the whole proceedings, no problem. In fact on one occasion because the anonymous witnesses had a little corridor to go through and they come through a door like that one over there, they called the witness and there was a sort of silence. I couldn't see anything moving, in fact, the anonymous witness whose name we didn't know had got locked inside the corridor and couldn't get out [laughter]. As for redactions, well we all know you just hold them up to the light if you want to know; you can see what's written underneath. We got round all of those problems because in the end we said we'll give you these undertakings not to disclose what we've seen, and we never have broken any of the undertakings. I want to see what's underneath here and then we'll make a judgement. If I need to put it in the public domain we'll have to have an argument about it, but we've got to see it.

Now, every single hurdle they put up we got around, and the remarkable thing – and I'll end on this – is that in the end, finally, leaving aside the withdrawal of the unlawful killing verdict, the jury was given a large number of

important questions. The important questions that they answered were, first of all, they couldn't even find the police officers had in fact been in pursuit of lawful defence on a balance of probabilities; it's a very low threshold. That was the meaning of the open verdict and they rejected vital elements of what the police officers had said they'd done, supposedly in self defence again. More important than who pulls the trigger is who ordered the pulling? And why did it happen in the way that it did? Now these were the questions which again had a little bit of public airing. They were the planning questions which the jury answered in favour of the family on every single issue we put before them and they are extremely important and we're going to ensure they are followed up in terms of the future.

So if this can be achieved in this way, I think the same is going to be achieved for Pat Finucane with the same questions and I and anybody else involved will take a delight in getting the right people in front of us in order to ask the same questions of what happened and we will not give up until we get the answers. So, no peace without justice.

Thank you.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### THE HONOURABLE MR JUSTICE TREACY

The Honourable Mr Justice Treacy was educated at St Malachy's College and Queen's University, Belfast. He was called to the Bar of Northern Ireland in 1979 and took silk in 1999. He was called to the Bar of Ireland in September 1990 and to the Inner Bar of Ireland in 2000. Séamus Treacy became a Judge of the High Court of Judicature in Northern Ireland in January 2007. Before his elevation to the bench he was an acclaimed expert in human rights, criminal, public and European law, acting for people from all sides of the community. He took many pioneering cases to the European Court of Human Rights and was responsible for many landmark judicial review cases in Northern Ireland, and also appeared in the Bloody Sunday Inquiry and, before he became a judge, the Billy Wright Inquiry. He was a close friend of Patrick Finucane, and they worked together on many important cases. He has delivered papers and spoken at conferences on human rights, criminal law and fair employment issues. He was an Arbitrator and Member of the Panel of Arbitrators of the Motor Insurers' Bureau.

Pat and I were colleagues and friends. We collaborated on many test cases which led to important developments both in the field of judicial review and European law.

Back then invoking the remedy of Judicial Review and deploying Convention arguments was a very infrequent occurrence.

Pat changed all that – and in a way that means any review of the development of judicial review and European law is almost biographical of his professional life.

He achieved, in these areas, so much in such a short compass of time that it is not possible to do complete justice to his outstanding contribution but by way of example I intend to look briefly at developments for which he was responsible in three different areas and then to focus more closely on an area of special jurisprudential significance. These will also demonstrate how, even at the height of the violence which blighted our society and before the Human Rights Act, the courts acted robustly to vindicate human rights.

#### RIGHTS OF SUSPECTS

*In Re Gillen's Application*<sup>2</sup> the applicant had applied for a writ of habeas corpus arguing that by reason of his alleged assault and ill-treatment by interviewing police officers that his detention had become unlawful. Counsel for the Chief Constable had contended that such ill-treatment, even if it had occurred, did not render the detention unlawful. In a ground-breaking decision the divisional court (Hutton J and Higgins J) held that if the police lawfully arrest a person for the purpose of questioning him but subsequently try to extract a confession from him by seriously assaulting him the detention becomes unlawful and that a writ of habeas corpus could issue. The court also held that where an applicant established a strong prima facie case that he had been seriously assaulted an interim injunction restraining the police from interrogating the detainee until the final determination of the application would be appropriate.



1949 - 1989



In the past detainees who alleged ill-treatment were effectively confined to claiming damages for assault and false imprisonment – usually years after the event. This judgment conferred the prospect of immediate legal protection even by way of an injunction restraining further interrogation. The recognition by the court of the existence of such remedies and the associated extensive media coverage which such proceedings would inevitably attract constituted a powerful safeguard against abuse.

#### PRISONERS' RIGHTS

The Court of Appeal in England had held in a number of cases and in particular *ex parte King*<sup>3</sup> that disciplinary decisions of prison governors were not subject to judicial review notwithstanding that they possessed significant powers of punishment including, for example, loss of remission and cellular confinement. The Northern Ireland Court of Appeal in *Re McKiernan's Application*<sup>4</sup> refused to follow that decision and held that such decisions were amenable to judicial review. The court trenchantly rejected the floodgates argument which had been raised, it having been contended that allowing judicial review would cause difficulty in maintaining discipline, initiate a flood of applications difficult to cope with and undermine the authority of the governor. The House of Lords in a subsequent decision had to consider these conflicting authorities and ultimately preferred the approach of NICA. The decision in McKiernan did in fact, as argued by the Respondent, initiate a flood of applications. Far from this being a retrograde step it had the effect of popularising the use of judicial review and led to major improvements in the fairness and conduct of disciplinary hearings.

#### FAIR TRIAL RIGHTS

*Murray v UK*<sup>5</sup> was a decision of the ECHR concerning the right to silence of a suspect and the drawing of adverse inferences from silence under police questioning. Following his arrest he was cautioned under the CE(NI)O

1988 and informed that adverse inferences could be drawn at his trial if he elected to remain silent and not answer police questions. He was also denied legal advice for 48 hours. On finding the applicant guilty the judge informed him that he had drawn adverse inferences from the fact that he had not answered police questions and had not given evidence at his trial. The ECHR held that there had been a violation of Art.6(1) in conjunction with 3(c) of the Convention as regards his lack of access to a lawyer during the first 48 hours of his detention. The scheme under the order placed the accused in a fundamental dilemma. If he chose to remain silent adverse inferences could be drawn under the legislation. On the other hand if he opted to break his silence he ran the risk of prejudicing his defence without necessarily removing the possibility of inferences being drawn against him. Under such conditions fairness required the assistance of a lawyer at the initial stages of interrogation. The applicant was directly affected by the denial of access and the ensuing interference with the rights of the defence. Therefore, the ECHR held, the denial of access to a lawyer for the first 48 hours of his detention amounted to the denial of a fair trial in that there was a breach of Article 6(1) in conjunction with 6(3)(c).

Following that landmark judgment the law was changed and it was no longer permissible to draw adverse inferences in respect of police questioning where the person hasn't had access to a lawyer. The question of access to a lawyer especially for those detained under the emergency legislation such as the PTA was an area which generated considerable interest and controversy. One major consequence of the ECHR's decision aside from the change in law that it effected was that henceforth the number of occasions on which detained persons were refused access to a solicitor was significantly reduced and where access increasingly became, as now, the norm.

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3 (1984) 1 QB 735  
4 (1985) NI 385  
5 (1996) 22 EHRR 29



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### THE MCKERR LITIGATION

There is one area of controversy that generated so many developments in domestic judicial reviews and European law that it is deserving of special mention for several reasons:

1. First, because it allows one to tip-toe through two decades of legal development;
2. Secondly, because the matter has not been finally resolved and may yet lead to further legal developments.
3. Thirdly, because it demonstrates how a single incident or area of controversy if professionally and imaginatively pursued by committed lawyers can yield so much in the field of human rights.
4. Fourthly, because it represents a fitting testimony to the work and life and continuing influence of Pat, the dedicated human rights lawyer.

Indeed this very case generated the two iconic images of Pat in both of which he is coming through the security turnstiles – one outside Craigavon Courthouse having walked out of the McKerr inquest and the other as he emerged through the turnstile outside the RCJ following proceedings he had initiated to challenge certain matters in connection with the same inquest.

Those images and that case provide a useful vehicle to reflect on Pat's stellar contributions to the development of judicial review and the jurisprudence of the ECHR.

The McKerr inquest arose out of the fatal shooting in controversial circumstances of three unarmed men by RUC officers in November 1982. It was one of three incidents which ultimately formed part of the Stalker/Sampson probe into allegations of an alleged "shoot to kill" policy.

One of the striking features of the Coroner's Rules in Northern Ireland at the time was that those suspected of causing death could not be compelled to give evidence. This was a long-standing rule which, although it did not apply in the rest of the UK, had never previously been challenged.

Proceedings were then commenced to challenge the rule. Ultimately on 20 December 1988 the Court of Appeal held that the rule was ultra vires and that the police officers involved in the McKerr case were compellable witnesses. On any showing this represented a major development with implications for not only that case but also all other inquests involving controversial deaths.

Pat was murdered less than two months later and therefore did not live to learn that the case was ultimately appealed to the House of Lords. The Court of Appeal in Northern Ireland had refused leave on the grounds that the point was so clear and that any appeal was wholly unmeritorious. However, the House of Lords granted leave to appeal in April 1989. The far-reaching judgment of the Court of Appeal was reversed by the House of Lords<sup>6</sup> which held that the rule was not ultra vires and that the officers concerned could not be compelled to attend the inquest.

Following a High Court Ruling upholding objections to the disclosure to the Coroner of the Stalker/Sampson Reports and a finding that the Coroner's Court was not the proper forum for dealing with fears and suspicions of a "shoot to kill policy" the Coroner aborted the inquest on 8 September 1994 stating:

"I am satisfied that my aim in deciding to hold inquests for the reasons I expressed to the jury when I opened the inquests into the deaths of Toman, Burns and McKerr is no longer achievable".<sup>7</sup>

Because of the unsatisfactory manner in which the domestic proceedings had concluded an application was then lodged with the European Court in which it was contended that there had been no effective investigation into the death of Mr McKerr nor any redress in respect of that death.

The judgment of the European Court in this and in three other cases heard at the same time, Jordan<sup>8</sup>, Kelly<sup>9</sup> and Shanaghan<sup>10</sup> proved to be landmark judgments with profound and, as we shall see, continuing implications. All of these cases were concerned breaches of the procedural aspect of the right to life enshrined in art 2 specifically the obligation on the state to put in place adequate and effective investigations to protect the right to life.

6 McKerr v Armagh Coroner (1990) 1 A II 865  
7 Para. 61 McKerr v UK (2002) 34 EHRR 20  
8 (2001) 37 EHRR 2  
9 App No 30054/96, 4 May 2001  
10 App No 37715/97, 4 May 2001

1949 - 1989



**In relation, for example, to the scope of the inquest, the court said as follows:**

"The Court considers that there may be circumstances where issues arise that have not, or cannot, be addressed in a criminal trial and that Article 2 may require wider examination. Serious concerns arose from these three incidents as to whether police counter-terrorism procedures involved an excessive use of force, whether deliberately or as an inevitable by-product of the tactics that were used. The deliberate concealment of evidence also cast doubts on the effectiveness of investigations in uncovering what had occurred. In other words, the aims of reassuring the public and the members of the family as to the lawfulness of the killings had not been met adequately by the criminal trial. In this case therefore, the Court finds that Article 2 required a procedure whereby these elements could be examined and doubts confirmed, or laid to rest. It considers below whether the authorities adequately addressed these concerns."

**In relation to the non-compellability of those suspected of causing the death the court said:**

"144. In inquests in Northern Ireland, a person suspected of causing death may not be compelled to give evidence (Rule 9(2) of the 1963 Coroners Rules – see paragraph 73 above). **In practice, in inquests involving the use of lethal force by members of the security forces in Northern Ireland, the police officers or soldiers concerned do not attend. Instead, written statements or transcripts of interviews are admitted in evidence. In the inquest in this case, the police officers involved in the shooting were not required to appear at the inquest and declined to do so. Sergeant M and officers B and R were therefore not subjected to examination concerning their account of events. Their statements were made available to the coroner instead. This did not enable any satisfactory assessment to be made of either their reliability or credibility on crucial factual issues. It detracted from the inquest's capacity to establish the facts relevant to the death, and thereby to achieve one of the purposes required by Article 2 of the Convention (see also paragraph 10 of the UN Principles on Extra-legal Executions, cited in paragraph 96 above).**" (Emphasis added)

At para.157<sup>11</sup> of its judgment the ECHR found that the proceedings for investigating the use of lethal force by the police officers had been shown to disclose a series of shortcomings which included the fact that the police officers who shot the deceased were not required to attend the inquest as witnesses.

**And at para.160 the Court said:**

"The Court would observe that the shortcomings in transparency and effectiveness identified above run counter to the purpose identified by the domestic courts of allaying suspicions and rumour. Proper procedures for ensuring the accountability of agents of the State are indispensable in maintaining public confidence and meeting the legitimate concerns that might arise from the use of lethal force. A lack of such procedures will only add fuel to fears of sinister motivations, as is illustrated, inter alia, by the submissions made by the applicant concerning the alleged shoot-to-kill policy."

Accordingly, the Court concluded that there had been a failure to comply with the procedural obligations imposed by Article 2 of the Convention.

As a result of the Ruling of the European Court the Coroners Rules were amended so henceforth those suspected of causing the death of the subject of the inquest were now, as in England and Wales, compellable witnesses. Furthermore, the scope of inquests has been widened, disclosure of documents in advance of the inquest is now required and a system of legal aid has been put in place. In short, the system of inquests has been radically and fundamentally transformed

So one can see that by a combination of domestic judicial review and ultimately recourse to the European Court this litigation succeeded in compelling the abrogation of a rule which, as the European Court found, detracted from the inquest's capacity to establish the facts relevant to the death thus, indirectly at least, reinstating the effect of the NICA decision many years earlier!

11 157. The Court finds that the proceedings for investigating the use of lethal force by the police officers have been shown in this case to disclose the following shortcomings:

- the police officers investigating the incident were not sufficiently independent of the officers implicated in the incident;
- there was a lack of public scrutiny and information to the victim's family concerning the independent police investigation into the incident, including inadequate justification for the DPP's decision not to prosecute any police officer at that stage for perverting or attempting to pervert the course of justice;
- the inquest procedure did not allow for any verdict or findings which might play an effective role in securing a prosecution in respect of any criminal offence which may have been disclosed;
- the non-disclosure of witness statements prior to their appearance at the inquest prejudiced the ability of the applicant's family to participate in the inquest and contributed to long adjournments in the proceedings;
- the PII Certificate had the effect of preventing the inquest from examining matters relevant to the outstanding issues in the case;
- the police officers who shot Gervaise McKerr were not required to attend the inquest as witnesses;
- the independent police investigation did not proceed with reasonable expedition;
- the inquest proceedings did not commence promptly and were not pursued with reasonable expedition." (Emphasis added)

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

Armed with the finding of the ECHR the McKerr family sought an Article 2 compliant investigation from the State. With no satisfactory response to this request the family again went to Court in order to secure the type of Art.2 investigation to which, as a matter of international law, the European Court had held they were entitled. This legal adventure was to prove another jurisprudential landmark. LCJ Carswell presiding in the Court of Appeal<sup>12</sup> overturned the High Court and gave a declaration that the family were entitled to an Article 2 compliant investigation. The Court held that the failure to provide an Article 2 compliant investigation amounted to a continuing breach of Article 2 and accordingly granted a declaration that the applicant was entitled to such an investigation.

That finding had enormous ramifications for other troubles related contentious deaths stretching back over decades including many inquests which, despite the lapse of time, have still not been heard. The decision of the Court of Appeal was reversed by the House of Lords<sup>13</sup> which held that there was no obligation to hold such an investigation into a killing which occurred before the Human Rights Act 1998 came into force since the Act did not have retrospective effect<sup>14</sup>.

The profound implications of the McKerr litigation have a deeply ironic twist. Having established the irreducible standards required for an Article 2 compliant investigation they were then invoked by Pat's family in respect of his own murder and in *Finucane v UK*<sup>15</sup> the European Court applying the self-same principles held unanimously that there had been a violation of Art.2. The Court concluded that the proceedings for investigating the death of Pat failed to provide a prompt and effective investigation into the allegations of collusion by security personnel and that there had consequently been a failure to comply with the procedural obligation imposed by Article 2.

Today I have spoken of the two iconic public images of Pat coming through the turnstiles. Each time he was taking part in a case that, as I have just explained, developed our human rights jurisprudence.

I am conscious that there may be young lawyers across the country who may aspire to generating a legacy like Pat's for themselves. As I consider that another iconic image of him comes to my mind but this time it is a private one.

It is the image of Pat Finucane calling to my home often on a wintry night always with a slim brief tucked under his arm; of Pat standing at our hearth with his back to the fire outlining the content of that brief and then going on to mention another client – another legal problem that he didn't see an easy answer for and I knew that would be next week's brief. This is the image of the workaday Pat – grappling with the common problems that happened to come through his office door – problems which didn't always have an easy or an appropriate or an established legal answer.

Pat stood at my hearth in that way many times over many years raising many questions. And sometimes he found answers to some of them; frequently he had to devise a fresh and innovative approach to find the answer. But one thing he never talked about or I believe never thought about was his legacy. Pat's concern was pragmatic – dealing with the problem – answering the question – imaginatively using the law to vindicate his clients' human rights.

So, if there are any new human rights lawyers out there anxious to build their own legacy I would urge them to follow Pat's lead. Just do your best for that client. If you do that – consciously and doggedly throughout your legal career then your legacy will look after itself.

12 (2003) NI 117

13 (2004) NI 212

14 "HELD - (1) There was no obligation to hold an investigation into a killing which occurred before the 1998 Act came into force since that obligation was triggered by the occurrence of a violent death and did not exist in the absence of such a death. Had Parliament intended that the Act should apply differently to the primary obligation, which was to protect life, and a consequential obligation, to investigate a death it would have so legislated. Nor could it be argued that a continuing breach of art 2 gave rise to such a duty. Before 2 October 2000 there could not have been any breach of a human rights provision in domestic law because the 1998 Act had not come into force. The distinction between the rights arising under the convention and the rights created by the 1998 Act by reference to the convention had to be borne in mind. The former existed before the enactment of the 1998 Act and they continued to exist, but they were not part of United Kingdom law because the convention did not form part of that law. That was still the position. It followed that, in the instant case, no duty arose to investigate and the judicial review proceedings were misconceived; R (on the application of Khan) v Secretary of State for Health [2003] All ER (D) 220 (Jun) approved; Wilson v First County Trust Ltd [2003] 4 All ER 97 and R (on the application of Amin) v Secretary of State for the Home Dept [2003] 4 All ER 1264 considered; R (on the application of Khan) v Secretary of State for Health [2003] 4 All ER 1239 disapproved ...

(2) There was no separate overriding common law right corresponding to the procedural right implicit in art 2. To hold otherwise would be to create an obligation on the state corresponding to art 2 of the convention, in an area of the law for which Parliament had long legislated. The courts had always been slow to develop the common law by entering, or re-entering, a field regulated by legislation. That was so because otherwise there would inevitably be the prospect of the common law shaping powers and duties and provisions inconsistent with those prescribed by Parliament. Accordingly, the appeal would be allowed; R v Lyons [2003] 37 EHRR 29





1949 - 1989



## DATO' PARAM CUMARASWAMY

Param Cumaraswamy is a distinguished Malaysian jurist who has devoted his life to the pursuit of the rule of law and who has consistently supported the call for a public inquiry into the murder of Patrick Finucane. He was admitted as a barrister by the Inner Temple in London in 1966 and has practiced in Kuala Lumpur since 1967. From 1986 to 1989, he was chairman of the Human Rights Committee of the International Bar Association. He was a commissioner of the International Commission of Jurists from 1990 to May 2000. In 1994 he was appointed the United Nations Special Rapporteur on the Independence of Judges and Lawyers by the UN Commission on Human Rights and served that mandate until 2003. As the UN Special Rapporteur, he intervened in more than 100 countries and conducted numerous fact-finding missions to investigate attacks on the independence of judges and lawyers and the rule of law. In 1985, Dato' Param Cumaraswamy was charged with sedition for publicly calling on the Pardons Board of Kuala Lumpur, Malaysia, not to discriminate against a poor labourer's petition for commutation of a death sentence. Following an international outcry, the charges were dropped and his vindication was hailed as a landmark victory for freedom of expression in Malaysia. In 1988, Dato' Param Cumaraswamy helped lead the defence of six Malaysian Supreme Court judges whose independence apparently threatened executive powers. His efforts earned him the title Dato' conferred by a Sultan in the Malaysian state of Kelantan. He received the 2002 "Justice in the World Award" from the International Association of Judges and in 1999 the International Peace and Justice Award from the Irish American Unity Conference. Dato' Param Cumaraswamy is an honorary member of the Law Society of England and Wales whose President, Peter Williamson, praised Mr. Cumaraswamy as "a courageous defender of human rights."

The Vienna Declaration 1993, reiterated the importance of an independent judiciary and the legal profession "in conformity with international human rights instruments" as essential to full and non-discriminatory realization of human rights.

The first paragraph of the UN Basic Principles on the Role of Lawyers expresses in no uncertain terms that all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings. Governments are obliged to ensure efficient procedures and responsive mechanisms for effective and equal access to lawyers for all those who require legal assistance.

Professional code of ethics for the legal profession generally provides that a lawyer cannot refuse a brief to act save for good reason.

The principle of presumption of innocence implies that even one with a past criminal record alleged to have committed another crime however despicable is entitled to be defended by a lawyer.

Governments are obliged to provide legal aid to those unable to pay for legal services particularly where the accused is charged with a serious crime.

Following their commitment to these standards and code of ethics lawyers who courageously undertake defenses of certain persons disliked by the government or its agencies or by groups of non-state actors are targeted for harassment, intimidation and even assassination.

Harassment and intimidation of defence lawyers have been a concern to the international NGO community for many years. So serious was the problem that the International Commission of Jurists decided in 1987 to form a Centre for the Independence of Judges & lawyers to mobilize support for the members of the legal profession who were threatened or persecuted for discharging their professional duties. Several more international and regional NGOs joined the international campaign for the protection of defence lawyers. Their voices were heard. That led to the inclusion in the UN Basic Principles an obligation on governments to ensure that lawyers could discharge their professional duties in an environment without intimidation, hindrance, harassment or improper interference. Governments were obliged to provide adequate security for lawyers reported to be threatened.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

The international campaign for the protection of lawyers and judges continued amidst reports of greater threats including several assassinations. In 1994 the UN Commission on Human Rights resolved to establish a mandate to monitor threats to independence of judges and lawyers by a Special Rapporteur. I was honoured to be appointed as that Rapporteur in the month of May that year.

I recall one of the first complaints I received was that from Ms. Jane Winter from the British Irish Rights Watch. Congratulating me on my appointment she alerted me for the first time to the plight of defence lawyers in Northern Ireland amidst the sectarian conflict there. The Patrick Finucane murder too was brought to my attention. My immediate reaction then was how could this happen in the United Kingdom which cradled and nurtured the independence of judges and lawyers as a prerequisite for the rule of law.

After a one day familiarity visit to Belfast in July 1995 where I received a briefing from many concerned and who were monitoring the situation I decided to seek a mission which I undertook in October 1997. By then I received several complaints of threats on lawyers and judges in several other countries. What I learnt on my mission to Northern Ireland was of considerable help in assessing similar situations in other countries.

I do not intend to recount the findings of my mission as they are all there in the report save to say this: I was convinced that defence lawyers were harassed and intimidated by the police systematically generally through their clients; that the then Chief Constable, Ronnie Flanagan's, (now Sir Ronnie) contention that he had not received complaints by these lawyers and as such he took no action was unsustainable. There was abundance of materials from NGOs and international NGOs brought to the attention of the Chief Constable. Lives and liberties of lawyers were at risk. He obviously remained indifferent.

The failure on the part of the Law Society of Northern Ireland to render assistance and protection for those defence lawyers was most disappointing. Harassment and intimidation of defence lawyers undermine the core of the concept of independence of the legal profession. The Law Society was duty bound to rush in aid of their members in such situations. There were only about 20-30 solicitors among the 1700 solicitors then practising in Northern Ireland who undertook defence of politically sensitive cases. What greater objective or interest can the organization of the legal profession have than the protection of the profession and its individual members when their independence is threatened?

Patrick Finucane was one of those committed and courageous defence attorneys of the time. His competence and successes of the defences he undertook in several politically sensitive cases remain legendary. While they portrayed him as a great advocate and a champion of the rule of law yet he was targeted, harassed and intimidated by the very enemies of the rule of law. They were within the governmental system or its agencies who knew or ought to have known of the threats.

I recall visiting his home when Geraldine guided me to the kitchen where he was shot point blank 14 times on that fateful Sunday Feb. 12. 1989. I gathered the facts and the materials leading to the murder and the notes of evidence of the subsequent trial of Brian Nelson for conspiracy to murder. After having read the notes of evidence one evening in my hotel room in Belfast it appeared to me that there could be irresistible evidence of police collusion into the murder. Those materials in addition to the series of threats he received just a few days before the murder and Douglas Hogg's remarks earlier in the House of Commons let me to conclude that there ought to be a public judicial inquiry into the murder. Douglas Hogg could only have got the information he disclosed in the House from the RUC.

1949 - 1989



It was brought to my notice that Patrick Finucane's murder was one of hundreds of unresolved murders during the sectarian conflict. Why should that be dealt with differently? I asserted that his murder had different implications. As a high profile lawyer who had considerable successes representing clients, both before the domestic courts and the European Court of Human Rights, his murder left a chilling effect on the profession and further undermined public confidence in the judicial system. Solicitors informed me that the murder led them either to give up criminal practice entirely or to alter the manner in which they handled terrorists' related cases. The rule of law in Northern Ireland was seen in jeopardy.

It is a matter of concern that to date there has not been an independent public judicial inquiry despite the assurance given to me by the then Prime Minister Tony Blair in a letter addressed to me in April 2001.

Geraldine herself was not spared. Sometime in July 2002 she too received threats of a planned attack on her at her home allegedly because of her campaign for an official inquiry into the alleged collusion in the murder of her husband. My intervention was promptly responded to by the government.

Threats, harassments, intimidation and assassination of defence lawyers continued and still continue. Just 10 years after Patrick Finucane's murder another courageous defence lawyer, Rosemary Nelson in Northern Ireland, was murdered after being threatened, intimidated and harassed at the hands of the police and/or its agents. The pattern and intensity of the threats prior to the murder were similar to that Patrick Finucane was subject to. My efforts and interventions under the UN umbrella could not save her. That was my disappointment.

Defence lawyers continued to be threatened all over the world. Despite international standards for their protection this threat to the rule of law continues.

Just five years ago another courageous human rights lawyer in Thailand, Somchai Neelapaijet, sent a letter to several government authorities detailing torture suffered by five of his clients. The day after that letter was sent eyewitnesses saw him being forced into a car in Central Bangkok – he was never seen again. His wife, Angkhana, is leading a campaign for justice in the matter. Somchai was defending clients involved in the ongoing conflict in Southern Thailand where in a couple of provinces Muslims feel marginalized. The fifth anniversary of his disappearance will be commemorated in Bangkok next month where I am invited. In fact a few months ago I met the then Minister for Justice in Bangkok on this matter and drew his attention to the Patrick Finucane and Rosemary Nelson murders and the calls for public inquiry. I impressed on him that such incidents must be viewed as impinging on the rule of law in Thailand.

In another country where there is an ongoing ethnic conflict, Sri Lanka, several lawyers were targeted and some even assassinated all because they took on the defences of those in sensitive cases. Human Rights defenders are similarly threatened. In October last year a Senior Counsel, J.C. Weliamuna and his family were subjected to a grenade attack. A human rights lawyer, he was then appearing as counsel in a number of sensitive cases. Just two weeks ago a lawyer who assisted a widow whose husband was suspected of having been assassinated by police officers received death threats. Many lawyers now hesitate taking on the defence in such cases.

International standards in cold print for the security of lawyers threatened do not seem to have reduced the incidents of such threats. This is compounded by the absence of effective measures to investigate and bring to justice the perpetrators for justice. Why, because the perpetrators are often within the system or supported by the system. This leaves the victims, their families and the caring public frustrated. Public confidence in the administration of justice is eroded. The biggest casualty is the rule of law.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

However, international, regional and national concerned groups must continue to remain vigilant and monitor attacks on lawyers and judges and draw international attention. An attack on a defence lawyer in the discharge of his professional duty to his client particularly the politically sensitive cases anywhere must be seen as an attack on the independence of lawyers everywhere.

On this note let me conclude by paying tribute to some committed and valiant NGOs who monitored courageously and thoroughly and drew attention to the plight of defence lawyers in Northern Ireland during those difficult and critical years.

First tribute goes to British Irish Rights Watch spearheaded by the indomitable Jane Winter. The documentation I received from them was immeasurable. There was the Committee on Administration of Justice based in Belfast whose work at the grassroots level was immense. The New York based Lawyers Committee for Human Rights now Human Rights First contributed considerably in the campaign for the protection of these lawyers across the Atlantic. I am pleased to see Mike Posner here. The Law Society of England and Wales' support through Mel James was considerable. I am also

pleased to see her presence here. Then there were the other giants like the International Commission of Jurists and Amnesty International, Human Rights Watch, just to name a few.

We should not forget the media in particular the BBC Panorama programme which produced excellent investigative materials unearthed by John Ware.

Finally, to Geraldine Finucane and the Finucane children I admire your courage and determination in the pursuit for truth and justice. Patrick Finucane remains an icon in the legal fraternity. His triumphs and tribulations, his life and legacy will remain in the annals for many young lawyers to emulate. My regret is that I did not have the honour and privilege to meet him. However, I feel honoured in being here to share his memory after 20 years of that brutal murder.



1949 - 1989



## THE HONOURABLE PETER CORY

The Honourable Peter deCarteret Cory is a former member of the Supreme Court of Canada. He was called to the Queen's Counsel in 1963. He practiced law with Holden, Murdoch and was elected a Bencher of the Law Society of Upper Canada in 1971. He is past chairman of the Ontario Civil Liberties Section of the Canadian Bar Association, former President of the County of York Law Association, past National Director of the Canadian Bar Association, and former President of the Advocates' Society. He was appointed to the Supreme Court of Ontario in 1974, the Ontario Court of Appeal in 1981, and was appointed to the Supreme Court of Canada on February 1, 1989. He retired from the Supreme Court on June 1, 1999. He served as the 11th Chancellor of York University from 2004 to 2008. In 2002 he was made a Companion of the Order of Canada. Judge Cory was appointed by both the British and Irish Governments in 2001 to preside over the Collusion Inquiry into the murders of Patrick Finucane and others. The Cory Collusion Inquiry Report on the Patrick Finucane case was published by the British Government on 1 April 2004. It recommended that the UK Government hold a public enquiry into the murder under the format provided for in the 1921 Tribunal of Inquiries Act which has not been implemented.

It's a pleasure to be here. Geraldine has been such an international symbol of courage and of dedication, dedication to the cause of her husband and for justice and fairness. It's wonderful to see the family going forward in the same way and to be part of this.

I should warn you that you may be disappointed in me and the presentation. I was reminded of this at Christmas time. All nine grand-children were over and there was that usual chaotic, happy noise. The oldest is seventeen and very full of himself, he has just been accepted for pre-meds and he asked a very complex, complicated question. Earlier the youngest, whose name is Sean, he likes to play hide and go seek. He disappears at the drop of a hat but to get a marvellous response you say 'Sean, where are you?' and he cheerfully says 'here I are' and you know that all is well with the world. So Sean listened carefully to Steven's question and then he said, 'Shorter question Steven and simple. Granddad is simple you know!' [laughter] and with that warning I can get on with this and talk.

We'll start off with democracy. Democracy recognises the importance of the individual and something more: democracies recognise the innate dignity that resides in all of us and is entitled to be recognised throughout by governments and courts.

Courts are often the only institution where certain issues can be resolved. They include disputes between citizen and citizen, and I include in citizens the corporate citizens. They resolve more important issues with regards to pollution, fairness in connection with employment and human rights. They are all fundamentally important issues, all questions that turn our life into something worthwhile. Courts also resolve the issues that arise between the individual and the state.

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

Courts, then, are of fundamental importance to a democracy. Thus the effect of the loss of Patrick Finucane and his work before for the courts in Northern Ireland must have been very significant.

Courts function best when there are two able counsel who can argue both sides of the case before the court. It is only then that you can resolve the questions of fact and determine what the facts are in the case and then hear submissions in order to apply legal principles to those facts.

Courts should be thought of as an equilateral triangle – one side being for each counsel and the third being the judge – all with equal importance – as fundamentally important issues are discussed, debated, considered and resolved.

Patrick Finucane, as you've heard, was an outstanding lawyer – very able, dedicated and fearless – those are the highest attributes for counsel and for judges. And some of us are, like me, obviously simple minded; we need clarity of presentation, and the refinement of issues, so that counsel can stand up before you and say, 'These are the findings of the fact that should be made based on the evidence of these witnesses and these documents. This is the law that is applicable. This is what you should find.' With such submissions from both sides the court can make fair and just decisions.

The dream of everybody is that there should be justice for all. Justice is fairness. It is a determination of an issue by someone as impartial as this world permits.

That should be considered an important right to every individual and to every citizen. Thus, the tremendous importance of Patrick Finucane and his work to Northern Ireland. His commitment to the cause of justice was to ensure that everyone had a fair trial and everyone was treated equally before the law and under the law. This requires courage, dedication and learning; he had all that.

Alright what about my work and what had to be done? The two governments of England and Ireland, through their representatives of Canada, came to me and spoke to me about a Commission. I didn't know much about it, what would be required, but I can tell you they were two consummate fraud artists [laughter]. They started out – really they should have been ashamed of themselves – with flattery galore and they said, you know, when these two governments agree on anything nobody should interfere with it. So then I said yes because I had sinned quite a bit and I thought this might be a way of atoning for some of those sins [laughter], not all of them but three or four perhaps, and I said 'alrighty' and there it began.

Their terms were these. One, we'll cooperate with you. Two, we'll produce the documents that you require. Three, we'll be bound by the result; we'll not appeal the result.

As I got into it there were literally thousands of documents to be read. The first case I reviewed was that of Patrick Finucane. There were perhaps more documents in that case than in any of the other six cases that I reviewed. It was a matter of going through those documents and determining what they disclosed.

1949 - 1989



It took twenty-three months from the time I started to the time I delivered the report to the two governments. At the outset, I had spoken to the families and asked them, 'Do you want individual reports as they're finished or the just one when they are all done?' and I thought very fairly and very nicely said, 'No wait until you have finished all of them and submit the report.'

What did the report disclose? In my view, the documents disclosed sufficient evidence of collusion that there ought to be and should be a public inquiry in five of the six murders. There were issues that arose from documents from the Northern Ireland Office, MI5, and the security services that indicated that this was a worrisome situation that required a public inquiry.

Earlier, we talked a bit about democracy and judges and courts and now what is a public inquiry? What did it mean to me? I had done one before I took this on, I have done several since for provinces in Canada and the Federal government.

Public inquiries arise out of public concern with regard to a matter of public interest, usually in relation to a public institution, whether it is prisons, hospitals, or government ministries. These are institutions that have been reviewed in Canada. Some aspects of the military, military governance, military justice; those matters also have to be reviewed. How are they reviewed? They are reviewed on the basis of your mandate which is set out in the terms of reference for the inquiry. Those would be akin to the pleadings in a civil case, or the indictment if it was a criminal case, and it shows you what you are supposed to do.

What did I think constituted a public inquiry at the time? I believed that there would be an inquiry pursuant to the 1921 Act that was in force in the United Kingdom at the time I came over. The Act was familiar because Canada and its provinces had adopted similar legislation with regard to public inquiries.

Generally public inquiries had these powers and provisions. One, that it would be conducted by someone independent who was looking into the situation and could question the institution. Two, the commission or commissioner had powers of investigation usually supplied by police forces that hadn't been involved in the original issue: wide powers of subpoena both of documents and of witnesses, and usually as well the power to retain commission counsel to help with the work.

There are always concerns, proper concerns, with regard to public inquiries. There are two issues which raise major problems for commissioners and for governments and for all concerned with public inquiries: One is the time involved, two, the costs involved. I mentioned those in the report, but they can be controlled. You say to counsel at the very beginning, 'We're dealing with a public issue and public funds we are all going to work together, we're going to start everyday at 9 o'clock and work until 5 o'clock and if someone from out of the country is here to give evidence we'll sit on Saturday and if you don't like that perhaps someone else can take over your position as counsel in connection with this matter, so that we can get it done.' It has to be done quickly and efficiently, but everyone has to have the right to appear before it. You expect parties to be given counsel for

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

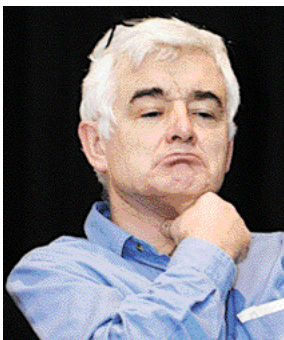
examination in chief and cross examination of witnesses. In Canada at the conclusion of everything, if we are going to find fault with any parties or individuals, we send them a further notice that in effect says, 'You may be found at fault. We're not allowed to make findings of negligence of a criminal act but just that there has been an error here. We don't say that it constitutes civil liability or criminal liability. However, if you have anything else to say, get it in now. You are targeted. Do something.' And when those reports are in and we've heard from everybody and heard all the submissions, the commission report is done.

What's the point of it all? The point is to say to the public this is what happened. We heard evidence in public unless there were issues with regard to the safety of individuals or with regard to national security, when that portion was heard in camera. Then, when that is done, the recommendations were made to ensure that it would not happen again. That's the whole point of it. I can only talk about Canada. Its function is one, to see what went wrong and two, to make recommendations so that it doesn't happen again in the future. That is the type of public inquiry I thought would be undertaken here.

In my report, I tried to indicate some ways of controlling costs which are always a factor and how you might control time by placing time limits on the inquiry. In this way, things might get done quickly, fairly and efficiently.

I cannot get into detail and won't bore you with what was found in my reports to the two governments other than to say there were sufficient issues and questions raised from my review of the, I'm afraid, thousands of documents that led me to the conclusion that there was sufficient evidence here to warrant the holding of a public inquiry. That was where I left things when I made the report on the six cases and that as far as I was concerned was the conclusion of my work and what I was required to do.

Sometimes, you know, conferences like this are the most interesting and most effective if they're interactive so that you can ask me and anyone else here questions that concern you about it and sometimes that's a way of further exploration and clarification except, as I say, I cannot tout my recommendations, they have to speak for themselves. No doubt, if our Master of Ceremonies thinks that it's worthwhile there might be time for questions and then if my simple mind hasn't gone to sleep, I will be just delighted to try and respond to them.



1949 - 1989



## JOHN WARE

John Ware is a distinguished BBC journalist and one of his specialities has been the conflict in Northern Ireland which he has covered regularly since 1974. He began working with Panorama in 1986 and in June 2002 he uncovered the role of Military Intelligence and RUC Special Branch Officers in the murder of Pat Finucane. He exposed the lengths to which both services have gone in their attempts to disguise such criminal activities. This Panorama Special was the result of 13 years of research. John Ware also presented *Rough Justice*, *Taking Liberties* and *Inside Story* between 1992 and 1997. Several of the cases he covered were referred back to the Court of Appeal where some of the convictions were quashed. He was named Broadcast Journalist of the Year in 2001 for *Who Bombed Omagh?* which also received the Current Affairs Home Award.

I must say I wish I had known Peter Cory - I don't know him very well now but you can see what a wonderful person he is. I wish I'd known him, or felt I'd known him well enough to telephone him before he actually signed the piece of paper with the British government because hindsight is a wonderful thing but I really would have referred him to an Australian judge back in the 1980s, whose name now escapes me. This was a case I was involved in with the film maker Paul Greengrass and this related to the *Spy Catcher* book. This was when the British government thought the world was going to come to an end, so to speak, if Peter Wright who was then an Assistant Director General of the Secret Service published a book about "Mole hunting" and various other escapades and in the witness box was the then cabinet secretary - Sir Robert Armstrong and Mr Justice whoever he was - now I can't remember - had endured an hour or

two or three of Sir Robert's master class really in verbal finessing and slithering around this boulder or that boulder saying things which weren't quite intended to mean what they said but were always what he claimed could be defended and the judge became exasperated and metaphorically threw aside his pen and said 'I'm getting tired of the serpentine weavings of this British government' [laughter] And I think that just about captures it actually - it's a pretty good phrase isn't it, serpentine weavings? Think about it and I think Justice Cory became, quite evidently, tired of the serpentine weavings of the British government some fifteen (or whatever it was) years later.

What I want to talk to you about today really is what I think is the period of four to five months after this whole thing erupted when I think there was weaving going on, when you could see, looking back, the rising panic of the different branches of the intelligence services as the structure that has been put in place began to unravel and that happened as most of you probably recall with the shooting of Loughlin McGinn in late August of 1989. And Loughlin McGinn was shot eating a Chinese meal I think with his wife and a familiar pattern unfolded, heartbreaking, and it happened to his daughter Jenny McGinn and it happened to the daughter of Terry McDaid, Tracy, and it happened to Gerard Slane's son Sean and of course it happened to Michael, John and Catherine which is that they saw, all of them, their father shot in front of them. All of them young children, all of them seeing their father dying before their eyes, little Jenny McGinn running to a neighbour and saying 'please help my daddy he is bleeding everywhere'. These were all crimes which could have been prevented. These were all crimes - they were all acts of omission.



## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

This was a definition of collusion which clearly caused some difficulty for the British government. The definition of collusion which Justice Cory, if I recall correctly, included in his definition of collusion. The British government found 'omission' was too flexible. Clearly they winced, you could tell that Paul Murphy, the Northern Ireland Secretary as he responded to Peter Cory's report, he was wincing, he did not like it, 'omission' because that was a word, in his view, that could cover everything.

But these were acts of "omission" because they were all killings which one agency or another had been forewarned about and an act of omission is an active act, it's an act of collusion in my view and most other peoples view, John Steven's view, Justice Cory's view, most reasonable peoples view but not, it seems the British government's view.

Now, in the days and weeks that followed the shooting of Loughlin McGinn as you recall there was an outcry from his family claiming, I think, that he wasn't connected to the Provisional IRA.

The UDA at that time were determined to prove that they thought he was and so they produced a video – which, if you remember, had been shot, filmed in I think Ballykinler Barracks, UDR Barracks - being in the possession of agent 6137, also known as Brian Nelson. The video was also in possession of Nelson's handlers and it was inevitable that someone on that video would get shot sooner or later as night follows day.

Nothing was done about it. Nothing! And as soon as the UDA published this video or excerpts from it, a copy as it happens I think, the balloon went up. Sir Hugh Annesley who had been Chief Constable for just a few months was I think like a rabbit caught in the headlights. This was an enormous, potentially an enormous rupture between the North and the South, because it was something that everybody had long suspected but here was the evidence and so of course the Irish government demanded and the British government couldn't refuse, an inquiry. And that task as you know was given to Sir John Stevens, not Sir John then, I think Deputy Chief Constable of Cambridge.

He at the time when he got the call, was sitting, I think he had just turned up in Cambridge, I remember he told me he was unpacking his boxes from wherever he'd moved. He knew nothing about Northern Ireland, got sent over and what do we know happened? We now know, we now know that Hugh Annesley gave instructions to the intelligence people, to the police – that no intelligence was to be handed over to Stevens inquiry. A public inquiry would no doubt wish to - there are many many things a public inquiry would wish to cover and I can only list a few of them. But I do think in the first four or five months when it was panic stations, take you through some of the relevant points, some of you may not have heard about.

We need to know, don't we, at whose behest Sir Hugh decided that the police were not to be given any intelligence material. The Force Research Unit that employed Brian Nelson immediately gave him lessons in how to evade interrogation were he to be arrested by Stevens. He was given a number of pep talks, he was told: "Don't worry, we've got the situation covered, it won't happen, the last thing they will do, the last thing they will do"; You will find all this set out in one of the contact form, the army's record of their meetings with Nelson - "The last thing they will get hold off are the files, don't worry, sit tight, if you get arrested say nothing." Fact. It's on the record, it's in there.

Then they began what I would call with respect to Sir Robert Armstrong, a Robert Armstrong moment where there was an attempt to comply with the procedures - the intelligence sharing procedures - whereby the army was supposed to send to the police any relevant information and sure enough there was something called a Military Intelligence Summary Report. And 'summary' is right, let me tell you. A copy of the video which had had Loughlin McGinn on it was given to the police with the specific instructions that this was not to be sent over to the Stevens inquiry. Either because it was the only copy that the FRU had – in fact, it was not the only copy that the FRU had, the FRU had two other copies but they knew that because the rules allowed the producer of the intelligence to have control over its dissemination that whatever the police might have wanted to do they couldn't do anything – that was the golden rule of all the

1949 - 1989



agencies, that whoever develops the intelligence has control over its dissemination. So they battened that hatch down and then there was another hatch to batten down which was the enormous dump if you remember of these cards which had been filtered, this huge, vast, hundreds of them, hundreds of files, old files and they were developed into, if you remember, what was called the P cards – personality cards which were crude, replicas actually, of what the army had. They were a similar methodology and the Force Research Unit then removed that suitcase of files to HQ Northern Ireland Thiepval Barracks and they told the police - later in his statement to the Stevens inquiry Colonel Gordon Kerr said that of course he had complied with the procedures, he had, as was his duty, he'd informed Special Branch of the existence of the dump.

As it turns out what he had informed them of, was not the existence of the dump. He had informed them - there was a record, of course, of a call so it all looked pretty good - but what he hadn't told them what was in the dump. He just told them that there's a house where we have some material which we would like you to make sure no-one searches. They were terrified Steven would go in. They didn't actually say "here is the dump where all the answers that Mr Steven's will wish to have are, they are there contained within the suitcase" - that was now safely under lock and key in Thiepval Barracks. And then the Stevens team went to Northern Ireland HQ and they were introduced to a team of police officers and soldiers for a briefing and they asked the senior officer: Do you run agents?" And the answer was: "No we don't." That was the way the army interpreted how they should apply the instruction that nothing should be given to the Stevens inquiry.

The next thing that happened, was that I got involved in an early stage in this story, I knew Tucker Lyttle quite well, had known him since the 70s and I said to Tucker Lyttle - Tucker Lyttle for those of you who don't know, I appreciate there are different generations here - he ran the UDA for a time. And I said to Tucker: "Well look, if

you've got a lot of this stuff, if you do have a lot of this material then I would like to see it" And Little was quite keen for me and other journalists to see it because he thought it would prove how their targeting had become "more professional." Where have you heard that one before? More refined, more concentrated, more focused?

So I went to see him and he said the man you need to speak to is Brian here and that was the first time I had met Brian Nelson and Brian Nelson was instructed to hand over a sample of documents which would prove that the targeting by the UDA was now much more professional than it had been and Brian said to me: "Well, I'll sort something out for you but it might take a little time, give me a few days." Okay I said. Nothing happened. "Call in a week." Nothing happened. "Call in a week, not as easy as it seems, give me another week." Two or three weeks went by and I kept putting calls in and so on.

We don't need for me to tell you the story because actually the story was being recorded on the contact forms for the Force Research Unit and what you will see is that I and Tommy Lyttle are pulling Brian Nelson one way and his military intelligence handlers are pulling him another way and as the pressure from me and Lyttle grows, so did the resistance from the army grow to the point where they are getting really quite panicky: "They are going to see a lot more stuff".... and they know that once we get it on television, the Stevens people will be steaming in and everything starts to unzip.

So we get to the stage where, where its decided that Brian Nelson should meet me in a hotel room and then maybe I will be caught in possession of a restricted or classified material and this is the entry in a contact form for the 6th December, they were obviously getting very tired of the BBC's persistence at getting this stuff and the handler comments, quote 'Conspiring to receive material of use to a terrorist organisation is a criminal offence' (indeed it is) 'Ware" – i.e. me – "is being given permission to act as an agent provocateur. If he has,

which is doubtful, then the true reason behind his actions would certainly incriminate the Source (i.e. Brian Nelson). If such clearance hasn't been given' (which is ridiculous, of course it hasn't been given) then Ware is leading himself open to criminal charges, a situation that could be exploited'. So I suppose what that meant was we'll charge you but we might not charge you if you drop all this.

Anyway we didn't drop it and the days and the weeks go by, the tension is rising and eventually it gets to the point where Nelson is instructed to close down any contact with me, the BBC and try to persuade me he has posted this material to London and I would be getting it in a few days. Nelson said he's "tried it three times, three times," Nelson said: "It's in the post, must be Christmas or whatever". And you can see the panic going on, you can see it within the files themselves until we get to point in early January 1990 when the game basically is up. Because Stevens by that time has discovered Nelson's spidery writing – Nelson is at his wits end as these pressures all conspire to move in. What Annesley is thinking I don't know but he is basically losing control of the situation and finally on the 9th January, Nelson is instructed to meet me (according to these documents) for the last time.

In the York Hotel at midday – I do remember this well – there was going to be a pretence that he was being followed and this was designed to elicit sympathy from me so I'd leave the poor devil alone and indeed there were two large gentlemen at the bar. I thought Nelson was being followed, he looked very nervous and he said 'you won't see me again but you will get the documents tomorrow, I promise but that's it, don't bother me again'. But of course the documents didn't arrive the next day, the next day being Wednesday so I went to see Tucker Lyttle and said: "That's it, it's not happening I don't know what's going on," and he said: "well I don't know what's going on either because Brian has done a runner, he's gone, he's gone to England. At the end of the table, there was Winkie Dodds, his name will be familiar to some of you no doubt, sitting silent, brooding, menacing. And that night on the 10th – I didn't know it actually but the

Stevens people were going to arrest Nelson the next day and they didn't know he had gone to England either and that was the night the fire broke out at Carrickfergus, and I don't know for sure what was going on there. I do know the Stevens people are convinced it was a fire and it probably was. The timing is pretty unfortunate isn't it?

So you saw all those things conspire to break the system and the next day as Stevens was walking through the smouldering remains, a senior RUC officer, Assistant Chief Constable with Stevens said: "I know what this is all about-this is the work of the FRU." This was not an idea that had occurred to Stevens at that stage, but it came from a senior RUC officer.

And the land rovers went out that morning to continue with the arrest but there was no sign of Nelson because Nelson had gone to England but his handlers were old: "That's it. Games up." So Nelson's handlers told him: "Game's up" and to present himself at Belfast Docks and that was the beginning of the end of the story.

Once in custody, Nelson sang like a canary (am I over time? Okay, well I will wrap it up) Anyway there followed efforts by the police to get these documents which eventually they did, and which involved threatening the General Officer Commanding – General John Muddy Waters and General John Muddy Waters having sought my arrest, so Stevens told me later, and Stevens said: "What's the charge?" and Waters said: "for being a bloody nuisance and he's getting involved in stuff he shouldn't be involved in. I want him arrested" Stevens said "well I can't arrest him unless you give me some evidence". He didn't arrest me – Muddy Waters was threatened with arrest when he got off his holiday plane. He chose the easier path and handed over the Nelson contact forms and that was when the story took off. That's it. Okay.

Thanks



1949 - 1989



## JANE WINTER

Jane Winter is the Director of British Irish RIGHTS WATCH (BIRW). BIRW is an independent non-governmental organisation and registered charity that monitors the human rights dimension of the conflict and the peace process in Northern Ireland. Its services are available to anyone whose human rights have been affected by the conflict, regardless of religious, political or community affiliations, and the organisation takes no position on the eventual outcome of the peace process. With a background in social research and legal casework, Jane Winter helped to found BIRW in 1990, where she worked as a volunteer until being appointed its Director in 1995. She has worked on many landmark cases, including Bloody Sunday, Patrick Finucane, Rosemary Nelson, Robert Hamill, Billy Wright and the Dublin and Monaghan bombings. In 2007 Jane Winter was awarded the Beacon Award for Northern Ireland, and in 2008 the Irish World Damien Gaffney Award. Shortly after the conference, BIRW was made the first ever recipient of the Council of Europe's Parliamentary Assembly Human Rights Prize.

One of the reasons I'm going to be so brief is because almost everything I was going to say has already been said by somebody today. The conspiracy theorists amongst us might think that MI5 had leaked my speech to all the other speakers [laughter] or you could think if you wanted to be kind that great minds think alike.

British Irish RIGHTS WATCH has become associated with Pat Finucane's case over the years, mainly, I think, because of stickability – an attribute Pat himself epitomised. We have been involved for nineteen years and – in a phrase that has resonated, for better or worse, in Northern Ireland, we simply haven't gone away. However, I am very conscious of the fact that BIRW has not by any means been the only NGO to fight Pat's cause. Mike Posner's Human Rights First; Human Rights Watch in the USA, who sadly could not be represented here today; Liberty and the Fédération Internationale des Droits de l'Homme, and their local representative, CAJ, from whose Mike Ritchie we heard earlier; the Brehon Lawyers in the USA and Australia; the International

Commission of Jurists; many other NGOs; and above all Amnesty International, represented today, I'm delighted to say, by Halya Gowan, who campaigned in Pat's lifetime, long before anyone else, as well as after his untimely death; have all played their part, and I pay tribute to them all.

Sadly, and unlike many people here today, I never met Pat, but in a way I feel that I have come to know him, through meeting his colleagues – like Peter Madden and Seamus Treacy – and others he worked with like Clara Reilly; and of course Geraldine and other members of his family; and studying his pioneering work, built upon by Michael Culbert and, separately but not I think unconnectively, by Michael Mansfield.

Recognition of NGOs was in its infancy in Pat's lifetime, as was awareness of the European Court of Human Rights, but Pat was always at the cutting edge, realising how important it was to expand the legal horizons and use whatever was available. He also recognised the importance of the media, and would have appreciated the work done by many in this room, including John Ware. He also, of course, was acutely aware of the necessity of political support and the value of international scrutiny, represented today by the very welcome presence of Dato' Param Cumaraswamy and Judge Peter Cory. I think he would have been immensely proud that his two sons, Michael and John, have become lawyers, and that his daughter Katherine and his brothers Martin, Seamus and Dermot, and many other members of his family have campaigned assiduously on his behalf. One thing I know for sure. Pat was an inspired lawyer who blazed the trail for others to follow.

I have just a short time to talk about the role of NGOs, human rights groups. I think the reason we are necessary is that we bring a moral and an international dimension to all the cases we work on, not just Pat's case, but other cases like that of another murdered lawyer, who has been mentioned many times today, Rosemary Nelson, who herself campaigned for justice for Pat). This is not meant to be in any way an exclusive list but one thinks of the sectarian murder of Robert Hamill –

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

I am glad that his sister Diane is here today; the murder inside the Maze prison of loyalist leader Billy Wright, whose father David would have been here but for ill-health; the hideous deaths in a lonely lane of David McIlwaine, whose father Paul is here today, and Andrew Robb, so reminiscent of the horrible murder here in the Republic of Seamus Ludlow; the victims of the bombings in Dundalk, Dublin, Monaghan, Omagh and elsewhere; the murder of journalist Martin O'Hagan; the killings on Bloody Sunday; and the murder of Raymond McCord, which has led to the exposure of widespread collusion in the name of protecting informers, a theme that first opened up with Pat's murder.

What NGOs say is that, whoever the victim, whatever his or her affiliations, he or she is entitled to an effective investigation, untainted by complicity on the part of the state and carried out without fear or favour. Regrettably, this is something that governments on both sides of the border have so far failed to deliver. We also say that, where there has been state collusion, impunity is not an option. Those responsible must be brought to justice, or, at the very least, to account. This is not only a moral imperative. It is also the considered opinion of the international community in drafting international human rights law.

When I first started work on these issues in 1990, a year after Pat's death, the UK government was in denial about the very existence of collusion. It told Parliament and the United Nations that it did not exist. Now they say they have never condoned torture in the so-called war on terrorism – I wonder about that. Now, people like Lord Stevens, Param Cumaraswamy and Peter Cory have all given the lie to those denials about collusion. However, and I say this with all humility, I do not think they could have done so without the hard evidence presented to them, over many years and in many ways, by the NGOs.

Thomas Jefferson is credited with coining the phrase that, "The price of freedom is constant vigilance" – perhaps a more elegant way of describing stickability. That is the watchword for NGOs. It is 20 years since Pat was so brutally murdered. Many would like to think that his death was a one-off, but Rosemary Nelson's murder and the murder of many other lawyers, such as that of Stanislas Markelov, who raised awareness about human rights abuses in Chechnya and whose murder has been highlighted by Thomas Hammarberg, whose address opened this conference, tells us this is not so. Even today, British Irish RIGHTS WATCH is receiving reports of lawyers who are still, over a decade after the Good Friday Agreement, being intimidated in Northern Ireland simply for doing their job. I know that Pat would have echoed our resolution in seeking to uphold the UN basic principle that no lawyer should be associated with the alleged crimes or supposed causes of his or her clients. As Geraldine rightly said at the time of his murder, Pat would have defended those responsible.

I want to thank everyone who has worked for justice for Pat Finucane, not because I have any right to do so, but because I know that none of us can take the sole credit for keeping his flame alive, and because unfortunately he is not here to thank you himself, but I know in my soul he would have done so if he could. I also believe that he would have been fighting the good fight on behalf of many of the human rights issues we are all battling with today. Given all that he stood for, he would not have been able to do otherwise.





1949 - 1989



## MICHAEL POSNER

Michael Posner, founder and President of Human Rights First (formerly the Lawyers Committee for Human Rights), has been at the forefront of the international human rights movement for 30 years. He has helped the organisation earn a reputation for leadership in the areas of refugee protection, advancing a rights-based approach to national security, challenging crimes against humanity, and combating discrimination. He has testified before the US Congress on a wide range of human rights and refugee issues. In 1980 he played a key role in proposing and campaigning for the first US law providing for political asylum, part of the Refugee Act of 1980. Human Rights First has fought to strengthen systems of accountability in many countries where human rights violations occur, and has campaigned for an independent public inquiry into the murder of Patrick Finucane for many years.

It's a real privilege to be here and I thank Geraldine Finucane and Jane Winter for inviting me. I was reminded that it was about eight years ago that I was here and spoke at a conference on Human Rights Commissions in Ireland and it was a time when we were waiting really breathlessly, holding our breath to hear about the results of an election in the United States, an election we thought was really important but did not realise how profound it was. We spent the last eight years either holding our breath or gasping for breath, so I'm happy to say that I'm here today and we're now breathing a little easier on the other side of the pond.

I want to do three things very quickly, and the first is to talk about Pat Finucane's case and accountability and why it matters. We've had lots of discussions about it today, and I want to put a fine point on what lots of people have said.

As Inez said, I first came over to Northern Ireland in 1992 and we looked around, talked to people and we came to the conclusion that there was a need for an investigation. There seemed to be evidence, or at least allegations, that the police, the RUC, knew about the murder before it

happened – the same thing with the army – and that there seemed to be a cover up. Those were simple propositions stated in a report in 1993 and we said there ought to be an independent judicial inquiry. It all seemed fairly straightforward.

But we've gone a lot of years, and as the years have gone and the level of official resistance to that has become more profound, it only makes me think more strongly than ever that there needs to be that inquiry because obviously something very significant is being held behind closed doors. This case has become emblematic of the broader issue of accountability and it's an issue that goes to the soul and the heart of any society, in terms of how its government behaves and treats its people.

We have a case in the US, an old Supreme Court case, about 90 years old – it's called *Homestead* – and in that case Justice Brandeis talks about how the state is a teacher for good or for ill.

Tony Blair actually, when he was Prime Minister, talked about much the same thing. He said, 'Where the state's own authorities are concerned, we must be as sure as we can of the truth, precisely because we pride ourselves on our democracy and respect for the law.'<sup>16</sup> – that's what this is about.

And when we talk about accountability, we're talking about three things. One is that the truth must be revealed in its entirety. Secondly, it must be officially acknowledged, so there is recognition that the state bears a responsibility. Third, the lessons must be learned to prevent things like this from happening in the future. That's what this is all about. It's profoundly important for this society and this community that it goes beyond us; it goes beyond Ireland and Northern Ireland and the UK because, as Param Cumaraswamy says, the whole world is watching. And I say this both for the US and the UK: when our officials start to obfuscate and delay and deny justice, it sends a signal to the whole world not only because of what our societies mean in the world but also

## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

because our government agents tend to do things in a way that gives others lessons on how to misbehave.

The combination of obfuscating the truth, delaying and promoting disinformation and even character assassination, and distorted legal reasoning – Jim Cullen and I have seen that in the context of the Bush administration's approach to official cruelty, the attitude that it's too important to tell you, the public, about, but trust us. And the Yoo/Bybee memo is a classic example of official misrepresentation of the law. It's really important we do not do this and so we have to be mindful of those official evasions and misrepresentations and we'll need especially with our societies to hold them to the highest standard. That's what this is about.

This is really a challenge, and I've thought of it often during the course of this day. There is a juxtaposition between hope and fear, there is juxtaposition between truth and obfuscation of the truth, and there is a juxtaposition between the law and unbridled government assertions of power and authority. This is a bigger subject than the resolution of a particular murder investigation.

I think we also need to see this in a broader global context. We live in a very dangerous and complicated world. There's more extremism, there's more intolerance, there's more fundamentalism, there's more violence out there, and the antidote to that is law and human rights and accountability. There has to be in the world an assertion that those things like the pursuit of promoting values like dignity and fairness and justice are the ways in which we challenge extremism. We can't just mouth the rhetoric; we have to live those values in the way that we operate in our own societies.

It's also true in the world today that there is juxtaposition between huge challenges and real opportunities and this is part of that broader discussion. We have a world in which hundreds of thousands of people have been killed and millions have been sent into exile in a place like Darfur. We have a failed state in Somalia and a

government in Zimbabwe which is basically destroying a once thriving society. We have nuclear threats in places like Iran and North Korea and Pakistan where governments are, to say the least, not acting responsibly, and there are long term problems in places like Burma. Yet at the same time, we have the creation in the last ten years of a range of new opportunities globally to deal with the worst offenders.

We have the Milosevic trial and Karadzic before the tribunal in Yugoslavia. We have thirteen ministers who were brought to the dock in Rwanda, and we have now an international criminal court which is about to indict the sitting president of Sudan.

Those are enormously changed circumstances in our world, so the challenge again for us broadly is to take these notions of accountability, apply them in our own societies and recognise the power of this idea globally. We are collectively part of a struggle to condemn and combat political violence, extremism and yet to create proper legal and political structures to address it and to oversee the states' responses. Martin Luther King said – and really that's what this is about – 'Injustice anywhere is a threat to justice everywhere.'<sup>17</sup>

I want to just say a few words in closing about Pat Finucane and what he represents to me. One is the concept of moral courage. Robert Kennedy said once that, 'Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality of those who seek to change a world that yields most painfully to change'.<sup>18</sup> As we've sat here today and looked and reflected back on Pat Finucane's life and what he has meant to us for the last twenty years, it's that concept of moral courage that's at the centre of it. The second thing I want to say is that to me he also – and this conference embodies it – was a catalyst for change. He provided that ripple of hope juxtaposed against a fearful world and he proved that a single individual can make a difference. Again, I want to quote Robert Kennedy on this, a quote that's been repeated over and over again and is set in the context of South Africa 1966

1949 - 1989



when he went to talk to a group of students, white students, who were feeling disempowered, that they couldn't make a difference. He said in that meeting hall, 'Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centres of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression.'<sup>19</sup>

Today we've really seen Pat's ripple, but we've also seen ripples of hope that Geraldine Finucane and the family have brought to keep this case on the front burner, keep people paying attention to what's at stake here. We've seen it with the lawyers, Peter Madden who has been so determined, so resolute, Seamus Treacy and Michael Mansfield and Barra McGrory and Paddy McGrory. We've seen it with the human rights advocates: Halya Gowan from Amnesty; Michael Ritchie, Martin O'Brien and Maggie Beirne from CAJ, and Jane Winter from British Irish RIGHTS WATCH, who is really a force of nature.

We've seen it with the journalists, John Ware and Bea Campbell and others who keep pushing for the truth.

If we have the truth, it is impossible to deny accountability. It's the essential ingredient and the journalists have helped get us there. We've seen it with the international actors who've come from far and wide, Param Cumaraswamy and Judge Cory and Chris Smith, who tried his best to get here but was defeated by the weather, but is on our side – he's played an enormous, useful role. And I think most importantly we've seen the ripples of hope from people like Clara Reilly and from Inez McCormack, representatives of the broader community, and many of you in this room today who don't have a direct stake in this case or this issue but have recognised that all of us again bear a responsibility.

Today we've drawn strength and hope from each other. We are confident and proud of what we've accomplished. And yet at the same time we are mindful of the steep challenges we face and determined to stay the course. Let there be no doubt that we will stay the course. I close with the words of Martin Luther King who really gave us the sense of what this is all about. He said, 'The moral arc of the universe is long but it bends toward justice.'<sup>20</sup>

Thank you.

## CLOSING REMARKS BY CHAIR INEZ McCORMACK

At this closing session I have been asked by the Finucane family to put the following resolution to you, to gauge whether you would wish to agree with it at this assembly. It reads as follows:

'This assembly reaffirms the demand made twenty years ago that a full independent, judicial, and public inquiry into the murder of Patrick Finucane is the only way to comply with the criteria of the European Convention on Human Rights and to satisfy the public interest'.

I am now going to put this to you and would ask that you indicate your views by raising your hand. I see overwhelming agreement. Are there any abstentions or opposition? I am delighted to say as Chair that there is unanimous agreement to the resolution. I would like to thank all of you who came today and the speakers. On behalf of all of us I wish to pay tribute to the integrity of the Finucane family in the manner in which they have honoured his memory and the needs of others who require justice.

I finish where I began. It was an honour and privilege to be asked to chair this conference. All of us who came here today feel they have shared in that honour and have renewed the commitment to seek justice and truth for Pat Finucane and the others who need and deserve it. On your behalf I would like to thank the long list of sponsors (you can read their names on the back of the programme).

We are celebrating the life of a man who had many parts to him and some of those memories will be tomorrow when there will be a football match at 11.30. There will be a dedication of a bench, sponsored by the Department of Sport at Trinity College to Pat's memory, after the match. There will be a reception at the Pavilion bar – I think he'd have liked that as well.

So on behalf of a man who is not here but his memory lives in everything that has happened today, thank you all and let's just keep going.

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17 Letter from Birmingham Jail, April 16, 1963, Dr Martin Luther King Jnr  
18 Day of Affirmation Address, Capetown University, South Africa, 6 June 1966,  
Robert F Kennedy  
19 Ibid  
20 A Testament of Hope, Dr Martin Luther King Jnr



## **PATRICK FINUCANE**

HIS LIFE AND HIS LEGACY

Trinity College Dublin 2009



*" On his return to Belfast after graduation, Pat played briefly Irish League football but family and work commitments meant that he was unable to stay playing at this level...."*

## THE FOOTBALL MATCH

15TH FEBRUARY 2009

*...Even while in Belfast and working hard and playing with Malachians he kept in touch with Trinity Soccer and indeed joined our tours to Italy and Switzerland in 1987 and sadly his last tour with us to Cuba in 1988."*

**TERRY McAULEY**





## PATRICK FINUCANE HIS LIFE AND HIS LEGACY

### TERRY McAULEY

Pat Finucane played soccer for Trinity College Dublin when he was a student there. On Sunday 15th March a knockabout was played in his honour on the College Park. The event was sponsored by the Department of Sport, Trinity College Dublin. After the "match", which was played in blazing February sunshine, a bench overlooking College Park was unveiled by Pat's three grandchildren, Piaras, Caoimhe and Ciarán. The Bench was inscribed: IN MEMORY OF PAT FINUCANE (1949 – 1989), FOOTBALLER, GRADUATE, LAWYER (in that order!). Terry McAuley, Director of Sport at Trinity, and a life-long friend of Pat's, made a speech, reproduced below, and John Keogh, who was the coach of Trinity's First XI team in Pat's time, also said a few words. After the game, a reception was hosted by the Pavilion Bar. Photos are by Geraldine McAuley.

#### TERRY McAULEY

Good afternoon all and welcome to College Park – and a particular welcome to Geraldine and all her family.

This weekend has been about the life and legacy of Pat Finucane and over the last two days we have heard about the outstanding legacy he has left in the form of his very able and loving children Michael, Katherine and John and also in the form of the tremendous work he undertook averting many human rights injustices.

But, today and now I would like us to celebrate and remember that part of Pat's life as a Trinity Student, Graduate and Footballer.

Pat and I grew up in Belfast in the '50s and '60's and all we ever wanted was to be footballers – His first team was our team 'Sevastopol Victors' which we formed as 9 year olds and then progressed into the formal schoolboy club scene of St. Pauls Swifts in the Down and Connor League.

But the real challenge came when we both played here in College Park as footballer students for DUAFC in the late 60's and early 70's.

Indeed, in many ways football became more important than any academic work and sometimes our examination results bore witness to this!

Pat's ability as a footballer was undoubted not only by those he played with but more importantly by Himself !! – Yes I can still hear him shout "Stick the ball in the box in the air, and I will score"!!

Some of Pat's colleagues from those days are here and we had great times trying hard to win the Universities Collingwood Cup and the Leinster Senior League.

But some of the greatest memories of Pat revolve around our tours abroad and one in particular stands out when we were in Switzerland and on a night out in Geneva Pat chose to cool off in the city centre fountain having stripped off all his clothes- when the local constabulary arrived with headlights full on the fountain Pat emerged NOT with hands covering his most private bits but strangely covering his face!!

Pat captained DUAFC from 1972 – 1974 and you will see his name inscribed on the Captains' board in the Pavilion later.

On his return to Belfast after graduation, Pat played briefly Irish League football but family and work commitments meant that he was unable to stay playing at this level. Nonetheless he maintained his life long love of football by joining Malachians and commenced what was to become a life long friendship with Frankie Caldwell also a Malachians player.

1949 - 1989



Even while in Belfast and working hard and playing with Malachians he kept in touch with Trinity Soccer and indeed joined our tours to Italy and Switzerland in 1987 and sadly his last tour with us to Cuba in 1988.

What a time we had in Castro's Cuba and even as a 39 year old player Pat was still the mainstay of the team.

In Switzerland, he highlighted his lawyer adversarial skills off the pitch when he, one of the senior members of the tour party, refused to give up our passports to the local hotel which was insisting that we could only stay if we surrendered them. Personally I wanted the easy life but he insisted this was not required and indeed legally bad practice!

But that was Pat - obstinate, opinionated and generous in the extreme - That year in Switzerland when prices were expensive he kept the 'poor' students in beer throughout the tour.

### **GRATEFUL THANKS**

The Finucane family would like to warmly thank the following for their support, whether financially or in kind, for these events, including some donors who prefer to remain anonymous.

Association Catala-Thevenet Avocats; The Atlantic Philanthropies; The Bar Council of Ireland; The Bar Council of Northern Ireland; The Brehon Law Society of Australia; The Brehon Law Society of New York; British Irish RIGHTS WATCH; Conflict Resolution Unit; Cumann Na Meirleach, Felon's Club Andersonstown; Department of Sport, Trinity College Dublin; The Department of the Taoiseach, DUCAC; Garden Court Chambers; The Irish American Unity Conference; The Irish Bar Council; The Irish Department of Foreign Affairs; The Irish Echo; The Irish Government; The John D and Catherine T MacArthur Foundation; The Joseph Rowntree Charitable Trust; The Law Society of Northern Ireland; Madden & Finucane; The Pavilion Bar, Trinity College Dublin; The Roddy McCorley Society; Trinity College Dublin.

Sir Geoffrey Bindman; Rory Brady SC; Jim Brosnahan; Frank Buttimer; John Callahan; Aude Catala; Kelli and Rick Conlow; Rosemary Connolly; the Hon Peter Cory; Julie Crutchley; Michael Culbert; Jim Cullen; Dato' Param

We, all, his friends and colleagues had hoped that we could all grow old together sampling fine wines and whiskies and the odd cigar sharing memories of great times and great games - but sadly that was not to be -

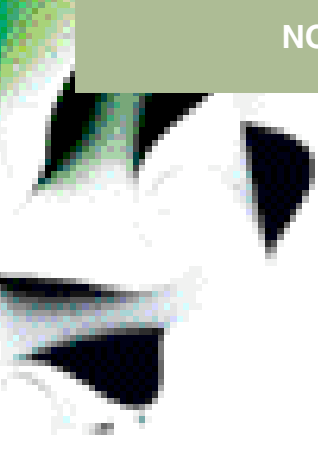
But today we have to celebrate the 39 years of friendship which he did enjoy with us and I conclude with a very appropriate quote by 'Albert Camus' French poet and writer: "Everything I've learned in life about human morality and duty I've learned from football."

May I now ask you all here to give a round of applause for Pat.

Finally, I would like to call on Pat's grandchildren to unveil the bench which has been placed here in College Park in memory of Pat.

Cumaraswamy; Sandra Davey; Fiona Doherty BL; Aileen Donnelly SC; Elizabeth Folarin; Eamonn Dornan; Patrick Fahy; Michael Farrell; Remy Farrell; Brian Fee QC; Cian Ferriter; members of the Finucane family; Colman FitzGerald SC; Bill Flynn; the two football teams; Alan Gannon; Lord Gifford QC; Jim Henning; Walter G Hooke; Anne Ireland; Seamus Kane; Michael Kennedy; John Keogh; Michael Lavery QC; Barry Macdonald QC; Sean Mackin; Peter Madden; Michael Mansfield QC; Geraldine McAuley; Terry McAuley; Oistin McBride; Kate McCabe; Cody McCone; Inez McCormack; Barra McGrory; Frank Milloy; Seán Mitchell; Jonathan Moore; Leo Mulrooney; Joseph Murray; Soraya Nadji; Jack O'Brien; Anna O'Connor; Turlough O'Donnell SC; Cormac Ó Dulacháin; Máirtín Ó Muilleoir; Pól Ó Murchú; Brandon O'Riordan; Timothy Otty QC; Caroline Parkes; Mary Pike; Timothy Pimlott; Michael Posner; Trevor Price and Julianna Mawhinney; Clara Reilly; Joe Rice; Mike Ritchie; Anne B Rowland; Sinead Shakley; Ciaran Shiels and Mandy McKinney; Martin Smith; Milan Svolic; Ann Thompson; David Thompson; Mr Justice Treacy; Patrick Twomey; Robert E West; John Ware; David Wheelahan; Jane Winter; Kevin Winters.

Special thanks to Christina Herdman and Seán Mitchell who so beautifully designed this report and the conference brochure and dinner invitations.



**PATRICK FINUCANE**  
HIS LIFE AND HIS LEGACY





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