

REPORT TO THE UNITED NATIONS SPECIAL RAPPORTEUR ON EXTRA-JUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS CONCERNING THE DEATH OF ROBERT HAMILL

SUMMARY

This submission to the Special Rapporteur is made on behalf of the family of Robert Hamill by British Irish RIGHTS WATCH. British Irish RIGHTS WATCH 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. Our services are available to anyone whose human rights have been affected by the conflict, regardless of religious, political or community affiliations, and we take no position on the eventual constitutional outcome of the peace process.

Robert Hamill, a Catholic, died on 8th May 1997 after being set upon by a crowd of loyalists in the Northern Ireland town of Portadown on 27th April 1997. His family alleges that RUC (police) officers were present at the scene in a landrover, but did nothing to intervene. The RUC put out press releases immediately after the attack claiming that there had been a fight between rival factions and that the police themselves had come under attack. Over time, they gradually admitted that the attack on Robert Hamill and three of his friends had been unprovoked, although they continued to maintain that RUC officers had intervened immediately but had been outnumbered. RUC officers in Northern Ireland are armed and, even if outnumbered, can fire shots in the air in order to disperse crowds.

The RUC officers concerned have not been suspended from duty. Some of their colleagues from the same RUC station have been concerned in making enquiries on behalf of the Independent Commission for Police Complaints, which is investigating a complaint made by Robert Hamill's family about the failure of the RUC to intervene to save his life. Inquest procedures in Northern Ireland are inadequate and will not assist the family to obtain any redress.

This attack was unprovoked and wholly sectarian in nature. The failure of armed RUC officers to intervene to save a Catholic from loyalist violence is all the more serious in light of the fact that the RUC's officers are overwhelmingly (93%) drawn from the Protestant/unionist/loyalist community in Northern Ireland. Sadly, but by no means unusually, the Hamill family have been the target for further sectarian abuse and harassment since Robert's death. RUC officers themselves have harassed one of Robert's brothers, and the RUC's response when called out to defend the family from loyalist abuse was inadequate.

We request the Special Rapporteur to transmit this submission to the United Kingdom government and to seek answers to the questions listed below.

THE FACTS

The following summary has been compiled by British Irish RIGHTS WATCH on the basis of eyewitness statements taken by the legal officer of the Committee on the Administration of Justice in Northern Ireland, their own interview with Robert Hamill's sister Diane, newspaper reports and letters to the Hamill family from the RUC and the Independent Commission for Police Complaints.

At around 1:45 am on the morning of Sunday 27.4.1997, Robert Hamill, aged 25, was coming home from a dance in St Patrick's dance hall in Thomas Street in Portadown. He was with a friend, Gregory Girvan, and two female cousins, Joanne (Gregory's wife) and Siobhan Girvan (who is Joanne's sister and is married to Gregory's brother). All but Siobhan had been drinking. They were walking towards the main crossroads in Portadown's town centre (please see map attached), and it would have been obvious since they were coming from the direction of St Patrick's hall (which is a Catholic social club) and they were heading towards Woodhouse Street (which leads to a Catholic area of town) that they were Catholics. This crossroads has been the scene of sectarian attacks in the past. They noticed a crowd of people hanging around at the crossroads, and would not have continued on but for the fact that an RUC jeep was parked just on the other side of the junction in Woodhouse Street. As they carried on, they were set upon by a crowd of around 30 young men and women. Robert was knocked unconscious almost immediately, possibly after being hit with a bottle. The crowd continued to kick him as he lay on the ground. Cries such as, "Die, you Fenian [republican] bastard!" were heard. Gregory was also knocked unconscious. The two girls screamed and called out for the police to help. The RUC jeep was about 20 feet away, and there were either 4 or 6 armed RUC officers in the jeep, including a female officer. The RUC officers did not make any move to get out of the landrover and come to their assistance. An ambulance arrived several minutes later. It is not known who called the ambulance, although the RUC subsequently told Robert's sister Diane that they called the ambulance using the radio in the landrover. The crowd was still surrounding Robert when the ambulance arrived. It had to reverse and drive around to get to him because the crowd was blocking the road. The RUC officers got out of their jeep just before the ambulance arrived. One of them told Siobhan, who had thrown herself over Robert in an effort to protect him, to turn him over on his side in the recovery position, but no other help was offered by the RUC. Gregory was given no help at all. According to Diane Hamill, an eyewitness, Maureen McCoy, went over to Robert to see how he was; his breathing was intermittent, and his head was bent forward, restricting his airway. He also seemed drunk.

The two men were taken to hospital in Craigavon. Gregory came round in the ambulance, but Robert never regained consciousness. He was diagnosed as suffering from a serious head injury and was transferred to the Royal Victoria Hospital that night, where he was put into the intensive care unit. He was given a brain scan, which showed only very slight injury to his brain, and he was taken off the ventilator because he was able to breath on his own. The family were told that he was expected to regain consciousness sometime that afternoon. In fact, he did not do so and could not even open

his eyes until some 9 or 10 days later, and then he was unable to focus them. The hospital told the family the only reason they could think of for his failure to regain consciousness was that his brain had been deprived of oxygen in the period before the ambulance arrived. He died on 8.5.1997. Robert Hamill's sister, Diane, has been told by the pathologist who carried out the post mortem, Professor Jack Crane, that there was no sign of hypoxia (oxygen starvation) and that Robert died as the result of a diffuse brain injury. The written report of the post mortem is not yet available.

The RUC have apparently said that they were unaware of the assault until a man approached them and drew their attention to it. It is not known who this man is. The RUC also put out conflicting press releases about what had happened, at first alleging that there had been a set battle between loyalist and republican factions in which it would not have been safe for them to intervene, and finally admitting the truth of the attack. The full text of all RUC press releases is as follows:

27.4.1997:

Two youths have been detained in hospital with head injuries following a clash between rival factions in Portadown around 1.45am this morning. Police moved in to separate the groups who encountered each other at the junction of Thomas Street and Market Street. Bottles were thrown during the hostilities and police themselves came under attack by a section of the crowd. Order was restored around 3am.

27.4.1997:

One of the youths injured is still detained in hospital. Police in Portadown are anxious to speak to anyone who was in the area of Market Street/Woodhouse Street and Thomas Street between 1am and 2am this morning and who witnessed this incident.

30.4.1997

A police land rover crew in Portadown town centre were alerted to a disturbance and immediately intervened to gain order and prevent assaults. The numbers involved, however, were such that these officers were unable to contain the situation and became themselves the subject of attack. Police reinforcement arrived and calm was restored. Detectives are continuing their investigations into this very serious assault and disturbance and take this opportunity to make a further appeal for witnesses to contact them at Portadown RUC Station on 332424.

7.5.1997

Portadown police are renewing their appeal for witnesses to a very serious assault which took place in the town centre, around 1.30am on the morning of Sunday 27 April. A special team was set up to investigate this incident and a number of people have already been interviewed. It now appears clear that four people, two couples who had left a social event in St Patrick's Hall were set upon by a large crowd. The two men in the group of four were knocked to the ground and viciously beaten. One young man remains very ill. On separate

occasions, during the incident, two men approached the police. One of these men has come forward and detectives are particularly anxious to speak to the second. They would also appeal to anyone who was in the area of Market Street/Woodhouse Street and Thomas Street between 1am and 2am on the morning of Sunday 27 April to get in touch with the CID on Portadown 332424 or call Crimestoppers on 0800 555 111. All information will be treated with the utmost confidentiality.

8.5.1997:

Victim of this sectarian attack died in hospital this afternoon. A murder enquiry has now commenced.

8.5.1997:

Detectives at Portadown have now launched a murder enquiry into the death of Robert Hamill, one of two men set upon by a crowd in Portadown town centre around 1.45am on 27 April. The ACC [Assistant Chief Constable] for the region, Mr Freddie Hall, tonight expressed his deep sympathy to Mr Hamill's family and again called for witnesses to the incident to come forward. He said: "A special team was set up last week to investigate the assault and a number of people have been interviewed. We would still like to hear from anyone who was in the area of Market Street/Woodhouse Street and Thomas Street between 1am and 2am on Sunday 27 April get in touch with the CID at Portadown 332424 or call the Crimestoppers on 0800 555 111." Mr Hall also stated: "I can assure Mr Hamill's family that my officers will be unrelenting in their search for the culprits."

9.5.1997:

All the circumstances surrounding the death of Robert Hamill in Portadown are being investigated by a Detective Chief Superintendent under the supervision of the Independent Commission for Police Complaints.

Some 30 people were questioned by the RUC in the days following the attack, but no-one was charged. The day after he died, however, 5 people were charged with murder. They are: Allister Hanvey (19), Wayne Lunt (17), Paul Hobson (20), Dean Forbes (18), and Stacey Bridgett (19). On 12.5.1997 a sixth man, Rory Robinson (25) was also charged. None of the six has applied for bail so far, and they are all remanded in custody until 27.8.1997. No-one has been charged in relation to the attack on Gregory, who sustained a cut face and severe bruising. Detective Inspector Irwen is in charge of the police investigation.

There were several security cameras installed in banks, building societies etc at the scene, but the RUC have refused to release any such videos that are in their possession to the family's solicitor, Rosemary Nelson.

At least six eyewitnesses - the three Girvans, Maureen McCoy, her boyfriend Colm Prunty, and Dermot McNiece - have been interviewed by the RUC, who they report were hostile towards them, treating them more like suspects than witnesses.

HARASSMENT OF THE FAMILY SINCE THE DEATH

The RUC has been hostile to the family since the attack, although originally they were very nice to them. Robert's brother Martin, who has previously been in trouble with the police and was beaten up by them, although he made no official complaint about it, has been harassed and has hit an RUC officer since his brother died. Flowers put by the family at the spot where Robert was attacked have been torn down repeatedly and a white handkerchief (to dry their tears) has been put up in their place. Around 12th July, an unknown person placed flowers on the spot where the attack happened with a card saying, "For the six heroes" i.e. those who have been arrested. A loyalist stood in the street shouting abuse at their house, in which he named Robert. The RUC were called, and they crawled past the house in their vehicle and did nothing. Diane Hamill went and stood in front of them until they stopped, and when she pointed the man out to them they deliberately drove the long way round, by which time he was gone. After British Irish RIGHTS WATCH raised this matter in a letter to the Chief Constable on 19.6.1997, Diane Hamill received a telephone call from a woman police officer, who explained that they "lost" the man.

INADEQUATE INVESTIGATIVE MECHANISMS

This murder is being investigated by Detective Inspector Irwen, who is based at Portadown RUC station, the same station as the RUC officers who failed to intervene.

The Independent Commission for Police Complaints is supervising the investigation of the family's complaint against the police. Detective Chief Superintendent McBurney, Superintendent Anderson and Chief Inspector Bradley are carrying out the ICPC investigation, under the supervision of Kevin Murnaghan, a member of the Commission. The RUC officers who were in the jeep have not been suspended. The family has launched a petition calling for their suspension; so far they have around 17,000 signatures.

The ICPC has no independent investigation officers of its own, but relies on the RUC to carry out enquiries on its behalf and under its supervision. In correspondence with the ICPC, British Irish RIGHTS WATCH has established that police officers from Portadown RUC station, the same police station as the officers who were in the jeep at the scene of the attack, are conducting enquiries on behalf of the ICPC. Such an arrangement does not inspire confidence in the independence of the investigation. Statements taken by RUC officers on behalf of the ICPC in other cases have been used in court by the RUC when defending civil suits and during prosecutions. For these reasons, family solicitor Rosemary Nelson has advised eye witnesses not to give statements to the ICPC.

No date has yet been fixed for an inquest, which will not take place until after the trial of the six alleged perpetrators. Although Robert Hamill's family are an interested party and as such have the right to be legally represented at the inquest, legal aid is not available to meet the costs of such

representation. If a lawyer does act for them, s/he will not be entitled to see any of the witness depositions before they are entered in evidence at the hearing, although counsel for the RUC will have had access to them. Thus, although the family's counsel may ask questions of witnesses, s/he will not have had any time to prepare those questions in advance. The remit of the inquest is limited by law to ascertaining the identity of the deceased and how, when and where he died. The inquest is not allowed to attribute responsibility for the death, nor can it reach a verdict such as unlawful killing.

In view of the defects in the ICPC investigative powers and in the inquest system, Robert Hamill's family has no access to any effective mechanism for the investigation of their allegation that RUC officers stood by and allowed him to be murdered.

CONCLUSION

We believe that this case falls within the remit of the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions because it involves a murder carried out with the complicity, tolerance or acquiescence of state officials, in this case police officers. Not only did the RUC stand by while two innocent men were subjected to a violent, unprovoked, and sectarian attack but they put out false statements concerning the incident, suggesting that the victims were themselves perpetrators and falsifying their own role, claiming to have intervened and to have come under attack themselves.

We also consider that the mechanisms for investigating Robert Hamill's death fall far short of the standards laid down in the Manual on the Effective Prevention and Investigation of Extra-Judicial, Summary and Arbitrary Executions.

We respectfully request the Special Rapporteur to:

- a. transmit this submission to the United Kingdom government;
- b. include Robert Hamill's case in his next report to the Commission on Human Rights; and
- c. seek from the United Kingdom government answers to the following questions:
 1. who were the RUC officers present in the RUC landrover at the time of the attack on Robert Hamill?
 1. why did they not come to his aid?
 2. what steps, if any, did they take to render him any assistance short of coming to his rescue themselves?
 3. why have they not been suspended until the outcome of the investigation by the Independent Commission for Police Complaints?
 4. are the RUC conducting their own disciplinary investigation into the behaviour of these officers?

5. why are officers from Portadown RUC station involved in the investigation by the ICPC, and what is the extent of their involvement?
6. what consideration was given to asking a police force from outside Northern Ireland to conduct the ICPC investigation?
7. if that option was not considered, why not?
8. if the option was considered, why was it decided to entrust the investigation to RUC officers?
9. why did the RUC put out misleading press statements suggesting that Robert Hamill was taking part in a gang fight when he was attacked?
10. why did the RUC claim that they had intervened immediately and that they had themselves come under attack?
11. why did the RUC fail to take effect action when the Hamill family complained about a loyalist shouting sectarian abuse at their house?
12. why is legal aid not available for inquests?
13. why are inquest juries barred from delivering verdicts in Northern Ireland?

The Hamill family have suffered a double tragedy. Not only have they lost Robert but they live with the knowledge that the RUC, who are public servants charged with the prevention of such crimes, could have intervened to save him but failed to do so. We hope that the Special Rapporteur will assist us to help them to establish the truth about what happened to their loved one.

AUGUST 1997

