

they have any knowledge of why their clients have been arrested. It is also obvious from the many cases that we have studied that the line of police questioning can alter radically in the course of an interview, as the interviewing officer receives new information in the form of eyewitness statements, statements made by other suspects, forensic reports and so on. A solicitor cannot advise his or her client adequately on how to respond to such developments unless he or she is physically present during the interview.

4.6 Principle 16 of the United Nations Basic Principles on the Role of Lawyers says:

"16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference. ...."

In our opinion, the RUC's general practice of excluding lawyers from interrogations constitutes hindrance and improper interference with solicitors' ability to prepare their clients' defence.

5. THE ROLE OF THE INDEPENDENT COMMISSIONER FOR THE HOLDING CENTRES

5.1 During the United Nations Committee Against Torture's examination of the United Kingdom's periodic report in November 1991, Peter Burns, the country rapporteur, observed:

"Detainees in Northern Ireland could be held for 48 hours without charge, and then upon application for a further five days. Studies had shown that torture most frequently occurred during the first 48 hours of detention. During the first 48 hours, detainees could be denied access to counsel, which effectively constituted incommunicado detention. This met all the necessary conditions for abuse by the authorities to take place."<sup>9</sup>

5.2 After this criticism of the regime, the government appointed an Independent Commissioner of the Holding Centres in June 1992. The purpose of his post, as set out in the terms of reference, is as follows:

"1. The principal purpose of the appointment of a Commissioner is to provide further assurance to the Secretary of State that persons detained in Holding Centres are fairly treated and that both statutory and administrative safeguards are being properly applied. His appointment is also intended to reassure the public that the police have nothing to hide and that persons detained in Holding Centres are not being ill-treated or denied their rights."

His main role is described as being "to observe, comment and report upon the conditions under which persons are detained". He carries out his functions by inspecting the centres, scrutinising custody records and conducting interviews with detainees. Until December 1994 he was not allowed to remain present during police interrogations, but now he may do so with the consent of the detainee. However, the police officer in charge of the centre can veto his presence. While this is an improvement on the previous situation, it is, as the Commissioner

<sup>9</sup> United Nations press release HR/2955, 13.11.1991 (morning), p. 5