

# Introduction to the special issue of Collected Contributions of Professor Stephen Livingstone to the *Northern Ireland Legal Quarterly*

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It is a great pleasure and an honour for us to write these words of introduction to this special issue of the *NILQ*, collecting together some of our friend Stephen Livingstone's writing for this journal. Of course, the essays here represent only a small fraction of the very important work that Stephen carried out during his all too short time as one of the brightest stars of Queen's University Belfast, which is home to the *NILQ*. They do, however, give a flavour of Stephen's interests and the formidable powers of analysis and critique that he was able to bring to bear on some of the range of issues that occupied him. The essays here are focused mainly on human rights issues. This was one – but by no means the only – focus of Stephen's interests.

As both an activist and a scholar, Stephen was engaged with big questions of human rights, around how they might be used to protect the most vulnerable citizens, including prisoners, as well as the application of rights to the particular circumstances of the local jurisdiction and the fall-out from the conflict there. His work, however, expanded beyond these issues to constitutional law more generally, as well as legal theory and, in particular, the contribution of the American 'legal realist school', including his great hero Felix Cohen. Nevertheless, the work here does allow us to see something of the intellectual landscape that Stephen inhabited and, of course, reinforces that he was an enthusiastic, if not always uncritical, supporter of the work of the School of Law at Queen's University Belfast, including its house journal.

The essay on prisoners' rights (see page 3 of this special issue), as well as being a significant contribution on the key issue of the right to legal representation at prison disciplinary hearings, is a prefiguring of Stephen's ongoing interest in this area. This was to culminate in his authorship (with Tim Owen) of *Prison Law: Text and Materials* (Oxford University Press 1993). This was the first text of its kind on this important subject. The fact that the book continues on now as *Livingstone, Owen and McDonald on Prison Law* (5th edn, Tim Owen and Alison McDonald (eds), Oxford University Press 2015) is eloquent testimony to the enduring importance of this work. As Stephen always liked to remind us, in the words of the US radical George Jackson, 'the ultimate expression of law is not order, it is prison'. There can be no doubt that the continuing existence of this text offers practical help to the advisors of generations of prisoners who not only may have to face the impotence and isolation associated with imprisonment but also, potentially, a range of

unfair and unlawful interpretations of the legal framework designed to regulate their incarceration.

Stephen's paper from 2000, written with Colin Harvey, on the role of the European Court of Human Rights (ECHR) (see page 51) reflects on the rise of 'Strasbourg-style' judicial reasoning within UK courts since the introduction of the Human Rights Act 1998 and the value of a purposive approach to interpretation in this area. However, as is typical of Stephen, the interest is less in how judges articulate their decisions and more on the effectiveness of human rights protections for those such as immigrants, asylum seekers and prisoners who need protection. Further, as the ECHR Section Registrar, Michael O'Boyle, points out in his preface to the *NILQ* special issue where this essay appeared, the focus is on people and their personhood in all its flawed and vulnerable circumstances, rather than citizens in a safe world of democratic citizenship.

The paper arguing for a Bill of Rights for Northern Ireland (see page 72) is remarkable in so far as the issues he discusses remain as pertinent as ever despite the passage of nearly 20 years. As is evidenced in that paper, Stephen had a nuanced feel for the respective attitudes of both nationalists and unionists toward rights discourses. The Bill of Rights debate has been given additional impetus recently given the Brexit-inspired focus on the possibility of a united Ireland. Stephen would have relished the interplay between politics, human rights and constitutional law that this debate has engendered. In the contemporary noise and dust of such a politically sensitive topic, his calm, measured and intellectually precise analysis would have made a huge contribution as this discussion takes shape.

In part, Stephen's grasp of the political complexities associated with human rights in Northern Ireland was because he was also a human rights activist himself. He was a former chair of and long-term Executive Committee member of the local human rights NGO, the Committee on the Administration of Justice (CAJ). He worked across a range of rights issues there and co-authored their prisoners' rights guide, a document freely distributed to every prisoner in Northern Ireland at the time. He was quite tickled at the idea that this document might in turn give him material for future editions of the *Prison Law* book as, inspired by the CAJ document, prisoners in Northern Ireland might decide to litigate to assert their rights. His CAJ work also took him to the Drumcree stand-off in the mid-1990s, there to observe that the rights of both the loyal orders and the nationalist protestors were upheld in the policing of that dispute. He was placed on the loyal orders side of the barricades, 'by dint of perceived community background', as he put it with a trademark wry smile. As he told us afterwards, he also made a tactical decision not to be overly didactic concerning the respective weight of the competing arguments concerning the right to freedom of assembly versus freedom from sectarian harassment. As he put it, 'Timing is everything, comrades.' Stephen saw the lived realities of human rights beyond legalistic platitudes.

We both worked closely with Stephen on different writing projects and valued his intellectual abilities, his wit, friendship and warmth. In an era when there is much emphasis within academia on internationalisation, 4\* outputs, impact, mentoring and all the rest, Stephen did all of that and more before it was a thing. He was, as John Morison wrote in tribute to Stephen in 2004 (see page 89), the real deal, and he remains much missed.