

Nicky Kelly

REMAINS UNJUSTLY IMPRISONED
FOR SOMETHING HE DID NOT DO
DESPITE WIDESPREAD CALLS FOR
HIS RELEASE FROM ALL SECT-
IONS OF IRISH SOCIETY AND AB-
ROAD.



Who is Nicky Kelly?

Nicky Kelly was one of 40 members of the IRSP arrested and interrogated by the 'Heavy Gang' shortly after a mail train robbery at Sallins, Co Kildare in March 1976. Four of these men were eventually brought to 'trial' in the juryless Special Criminal Court in 1978. One man was acquitted on the second day of the trial because there was no evidence against him. The only evidence against the other three were statements which they claimed they were *forced* to sign after lengthy periods of interrogation over 3 days, during which they were repeatedly beaten, refused sleep and access to either solicitor or doctor.

No Evidence — No Jury — No Justice

Despite the evidence of two doctors who examined the three and detailed the extensive bruising they had found on their bodies — despite the acceptance by the Court that these injuries had without doubt been inflicted on them while they were in garda custody — despite the evidence of other prisoners in the Bridewell on the night of the interrogations that they heard screaming — despite the fact that the garda produced no 'real' evidence i.e. witnesses or forensic evidence the 'Court' accepted the statements as having been made voluntarily and on the basis of these statements alone the three were convicted of the robbery. Brian McNally was sentenced to 9 years and Osgur Breatnach and Nicky Kelly (in his absence) to 12 years.

Nicky Kelly absconded to America during the trial and after his statement had been accepted as 'voluntary'. He was in a deep state of anxiety and realised he would not get justice from the Special Criminal Court. In 1980 the Provisional IRA, of which he was never a member, admitted responsibility for the robbery because "innocent men had been convicted" and shortly after, Nicky's co-accused were released on appeal when their statements were ruled to be involuntary. Nicky Kelly returned home to clear his name in June 1980 and has been in Portlaoise Prison ever since. In May 1982 the Court of Criminal Appeal rejected his Appeal and in October 1982 it was also rejected by the Supreme Court. He has no legal options left open to him.

In 1977 an Amnesty International enquiry team to Ireland found that 'during the relevant period there was systematic ill-treatment of suspects in police custody...' They also said that the juryless Special Criminal Court '...has failed to scrutinize allegations of maltreatment according to principles of law'.

Nicky Kelly has recently endured the painful ordeal of a 38 day hunger-strike in order to protest his innocence, to highlight the facts of his case and to secure his rightful freedom.

The campaign for his release continues ...

CONTACT THE RELEASE NICKY KELLY COMMITTEE NOW!

TELEPHONE DUBLIN 01-787801

Nicky Kelly is Innocent

Solicitors Say Release Him Now!

Hunger Strike Ends . . . No Deals Done . . . Campaign Continues . . .

In an unprecedented move in Irish legal history, 145 solicitors have petitioned the Minister for Justice "to exercise his legal authority to direct the immediate release of Eamon 'Nicky' Kelly from custody". That 145 members of the legal profession saw fit to intervene in this manner is indeed unique, but nonetheless indicative of the wide ranging public disquiet surrounding the conviction and continuing imprisonment of Nicky Kelly.

MR NOONAN REFUSES TO INTERVENE

The Minister for Justice, Mr Noonan, in reply to numerous appeals for the release of Nicky Kelly has said that to intervene would constitute *an insult to the judiciary* ... (that he has) *no authority to examine evidence adjudicated on by the court* .. (that) *to act on the basis that the courts may have erred would be an abuse of his position*... He has implied that to release Nicky Kelly would create a possible constitutional crisis.

The above statements by Mr Noonan are both evasive and misleading.

To quote members of the Faculty of Law, University College Dublin, *The right of the Executive to pardon those who have been wrongly convicted has long been recognised as a fundamental constitutional principle. Nor should the Government be shy of stating that the courts have made a mistake. No court including the Supreme Court is infallible in matters of law.*

MR NOONAN HAS THE POWER TO RELEASE

The Minister is empowered to release Nicky Kelly under Article 13.6 of Bunreacht na hÉireann, Section 23 of the Criminal Justice Act, 1951 and Section 33(1) of the Offences Against the State Act, 1939 which states that the Government may at their *absolute discretion at any time remit in whole or in part any punishment imposed by the Special Criminal Court.*

NICKY KELLY, PRISONER OF CONSCIENCE

RAMSEY CLARK, the former US Attorney General and National Chairman of U.S. Council for Civil Liberties, has called for the release of Nicky Kelly.

AMNESTY INTERNATIONAL, the worldwide Human Rights Organisation has called on the Irish Government to intervene. Amnesty has expressed "serious doubts" about the trial of Nicky Kelly.

THE IRISH COMMISSION FOR JUSTICE AND PEACE (est. by the Irish Conference of Catholic Bishops in 1970) have expressed serious concern.

JUSTICE DEMANDS THE RELEASE OF NICKY KELLY