

HUMAN RIGHTS AND THE PEACE PROCESS IN NORTHERN IRELAND

HEARING BEFORE THE SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN RIGHTS OF THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

—————
OCTOBER 9, 1997
—————

Printed for the use of the Committee on International Relations



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1998

45-500 CC

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-056369-0

H461-74.

COMMITTEE ON INTERNATIONAL RELATIONS

BENJAMIN A. GILMAN, New York, *Chairman*

WILLIAM GOODLING, Pennsylvania	LEE HAMILTON, Indiana
JAMES A. LEACH, Iowa	SAM GEJDENSON, Connecticut
HENRY J. HYDE, Illinois	TOM LANTOS, California
DOUG BEREUTER, Nebraska	HOWARD BERMAN, California
CHRISTOPHER SMITH, New Jersey	GARY ACKERMAN, New York
DAN BURTON, Indiana	ENI F.H. FALEOMAVAEGA, American Samoa
ELTON CALLEGLY, California	MATTHEW G. MARTINEZ, California
ILEANA ROS-LEHTINEN, Florida	DONALD M. PAYNE, New Jersey
CASS BALLENGER, North Carolina	ROBERT ANDREWS, New Jersey
DANA ROHRBACHER, California	ROBERT MENENDEZ, New Jersey
DONALD A. MANZULLO, Illinois	SHERROD BROWN, Ohio
EDWARD R. ROYCE, California	CYNTHIA A. MCKINNEY, Georgia
PETER T. KING, New York	ALCEE L. HASTINGS, Florida
JAY KIM, California	PAT DANNER, Missouri
STEVEN J. CHABOT, Ohio	EARL HILLIARD, Alabama
MARSHALL "MARK" SANFORD, South Carolina	WALTER CAPPS, California
MATT SALMON, Arizona	BRAD SHERMAN, California
AMO HOUGHTON, New York	ROBERT WEXLER, Florida
TOM CAMPBELL, California	STEVE ROTHMAN, New Jersey
JON FOX, Pennsylvania	BOB CLEMENT, Tennessee
JOHN MCHUGH, New York	BILL LUTHER, Minnesota
LINDSEY GRAHAM, South Carolina	JIM DAVIS, Florida
ROY BLUNT, Missouri	
KEVIN BRADY, Texas	

RICHARD J. GARON, *Chief of Staff*

MICHAEL H. VAN DUSEN, *Democratic Chief of Staff*

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN RIGHTS

CHRISTOPHER H. SMITH, New Jersey, *Chairman*

WILLIAM F. GOODLING, Pennsylvania	TOM LANTOS, California
HENRY J. HYDE, Illinois	CYNTHIA A. MCKINNEY, Georgia
DAN BURTON, Indiana	GARY L. ACKERMAN, New York
CASS BALLENGER, North Carolina	ENI F.H. FALEOMAVAEGA, American Samoa
PETER T. KING, New York	DONALD M. PAYNE, New Jersey
MATT SALMON, Arizona	EARL F. HILLIARD, Alabama
LINDSEY O. GRAHAM, South Carolina	ROBERT WEXLER, Florida
ILEANA ROS-LEHTINEN, Florida	

GROVER JOSEPH REES, *Subcommittee Staff Director and Chief Counsel*

ROBERT R. KING, *Democratic Professional Staff Member*

DOUGLAS C. ANDERSON, *Counsel*

ELISE M. KENDERIAN, *Staff Associate*

CONTENTS

WITNESSES

	Page
Ms. Julia Hall, Northern Ireland Researcher, Human Rights Watch	6
Ms. Jane Winter, Director, British Irish Rights Watch	8
Mr. Martin O'Brien, Director, Committee on the Administration of Justice, Belfast	11
Ms. Halya Gowan, Researcher, International Secretariat of Amnesty Inter- national	15
Ms. Elisa Massimino, Director, Washington Office, Lawyers Committee for Human Rights	18

APPENDIX

Prepared statements:

Hon. Christopher H. Smith, a Representative in Congress from New Jersey and Chairman, Subcommittee on International Operations and Human Rights	47
Ms. Julia Hall	52
Ms. Jane Winter	58
Mr. Martin O'Brien	62
Ms. Halya Gowan	65
Ms. Elisa Massimino	74

Additional material submitted for the record:

Excerpts from the report "To Serve Without Favor. Policing, Human Rights, and Accountability in Northern Ireland," submitted by Human Rights Watch	84
Report from Amnesty International entitled "United Kingdom. An Agen- da for Human Rights Protection," June 1997	98
Report on the "Hamill Killing" submitted by Hon. Benjamin A. Gilman	112
Letter of June 27, 1997, from Chairman Benjamin A. Gilman to Dr. Marjorie Mowlam, Secretary of State for Northern Ireland	113
Chronological listing of riots and firebombs in England and Scotland, submitted by Chairman Gilman	115
Statement of Inez McCormack analyzing the McBride Principles, submit- ted by Chairman Gilman	117
Letter of January 23, 1998 from Mr. Richard Menocker, Clerk to Legisla- ture from Rockland County containing Resolution No. 694 of 1997	127

HUMAN RIGHTS AND THE PEACE PROCESS IN NORTHERN IRELAND

THURSDAY, OCTOBER 9, 1997

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND
HUMAN RIGHTS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 1:06 p.m., in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the Subcommittee) presiding.

Present: Representatives Smith, King, and Gilman.

Also present: Representative Neal.

Mr. SMITH. [presiding] The Subcommittee will come to order. Good afternoon.

The purpose of this hearing today is to hear testimony on the importance of human rights as a central element of the peace process in Northern Ireland. I recently returned from a 5-day fact-finding and human rights mission to Northern Ireland. I had numerous meetings with community groups and individuals on all sides of the conflict. I met with British officials, including Secretary of State Mo Mowlam, and Royal Ulster Constabulary Chief Constable Ronnie Flanagan. I also met with representatives from all of the major political parties and visited two prisons, the Maze, formerly Long Kesh, which holds only those convicted of political crimes, and Castlereagh, an interrogation center where political prisoners have been held without charge for days and interrogated without regard to their rights, including the right to remain silent and the right to consult with an attorney.

I was encouraged by my meeting with Secretary Mowlam, who demonstrated a clear understanding of the problems and a genuine commitment to address human rights abuses in the North of Ireland. Similarly, I was pleased with my meeting with Ben Cooper of the Fair Employment Commission, the FEC. While the FEC has much more work to do in eliminating discrimination against Catholics in the workplace, it is clear that the message of the MacBride Principles campaign in the United States has been heard and has had an impact.

In meetings with political leaders, including Gerry Adams of Sinn Fein, the Social Democratic and Labor Party, SDLP's Alex Attwood, and on the other end of the spectrum, David Ervine of the Progressive Unionist Party and Gary McMichael of the Ulster Democratic Party, it was evident that these leaders had a vested interest in securing real progress at the multi-party peace talks. I

stressed that the American public had no tolerance for terrorist attacks and punishment beatings orchestrated by paramilitary groups on both sides, and that the U.S. Congress is only interested in helping those who seek to resolve their differences through non-violent means. All of the leaders seemed to agree that the guarantee of fundamental human rights should be at the core, at the center of the talks and not just a bargaining chip for one party or another.

My most disappointing sessions were with RUC Chief Ronnie Flanagan and Lord Chief Justice Sir Robert Carswell. Both men head up departments, police and judiciary, respectively, which have been severely criticized by human rights groups the world over. Both men remained in a state of denial, refusing to admit that human rights abuses take place in their agencies. It was easy to see why so few in the Catholic community have any confidence in the ability of the police or the judiciary to make meaningful reforms on their own. Reforms in these departments will have to come from external pressures and sources.

Visiting Belfast, it was evident that central to the conflict in Northern Ireland has been the failure of the government to guarantee an equal protection of rights to both the Protestant and Catholic communities, especially to the Catholic minority. The central responsibility for protecting rights and maintaining the rule of law rightfully belongs to the government, in this case the British Government. In the past, the government has failed in this regard and abuses have exacerbated the problem. When a government or its officials resort to methods that are illegal, unjust or inhumane, even when these methods are seemingly directed against the guilty or the dangerous, the effect is not to preserve law and order, but to undermine it.

The main purpose of the hearing this Subcommittee held in June and of my trip to Ireland in August was to spotlight the abuses in Northern Ireland so that eliminating them will become a center component of any peace agreement. No peace will be lasting or just if the abuse of fundamental human rights is not stopped.

Unfortunately, not even the best of intentions guarantee that any agreement will genuinely protect human rights. In peace processes around the world, most recently in Bosnia and in Guatemala, we have seen that the atmosphere at these negotiations, the pressure to get an agreement and the reluctance to reopen old wounds can have the unfortunate side effect of making human rights an afterthought rather than a central element of the agreement. Before there can be forgiveness and reconciliation, there must be truth telling and full disclosure. The victims of human rights abuses and the families of these victims are entitled to know the truth about what happened to them and to their loved ones. They need to know the truth if they are ever to forgive.

While truth commissions and similar institutions may help people on all sides to come to terms with past violations of human rights, it is perhaps even more important to guarantee such rights for the future. A bill of rights, including guarantees of the right against self-incrimination, the right to counsel, and the right to a speedy and public trial is important to the people of Northern Ireland, and should be part of any agreement.

Our witnesses today represent human rights organizations in Northern Ireland, in Great Britain, and in the United States. They are known and respected for their expertise with respect to the situation in Northern Ireland, and most importantly for their commitment to fundamental principles of law and justice. I look forward to their testimony. But before hearing from them, I am very very pleased to yield to the distinguished chairman of our Full Committee, Ben Gilman.

Chairman GILMAN. Thank you, Mr. Smith. I am pleased to have the opportunity to join Chairman Smith at today's hearing to bring forth a further update and report on the Northern Ireland human rights situation. The International Relations Committee has held several hearings on human rights and the fair employment conditions in the North of Ireland, both during the 104th Congress and again just this past June. No such examination and/or action on Northern Ireland was undertaken as I remind our colleagues and our visitors who are here today in the previous 20 years by this Committee. I am proud of these efforts and pleased to work with Chairman Smith on such an important cause.

The need for the respect for human rights has to be high on the agenda for any meaningful effort to find lasting peaceful solutions for the difficult Northern Ireland question. The critical need for a human rights element is self-evident. The history of Northern Ireland is littered with previously failed attempts at political solutions which did not adequately address the need for the fundamental respect for human rights, the quality of esteem, and opportunity.

I compliment the gentleman from New Jersey, Mr. Smith, the distinguished chairman of our Subcommittee on International Operations and Human Rights, for his leadership on this subject. Mr. Smith's commitment and his continual work to make human rights a centerpiece of the solutions of the long and tragic troubles in the North of Ireland is vital. It will have an important and salutary impact on the current peace talks, now actively underway in Belfast.

After many years of closely following this situation, and after having visited the North of Ireland on numerous occasions, I strongly support the approach of stressing human rights. Without a comprehensive focus and without a resolution of the underlying human rights issues, the quality of treatment, opportunity and parity of esteem among both traditions, we would never be able to see a lasting peace and justice take hold.

Our Nation has taken the lead most recently in the important area of reconciliation. Seven Irish nationals here facing harsh and unfair deportation back to the North recently had their INS deportation proceedings suspended. The Irish Government just provided early release for six IRA men in the south serving time for illegal cross-border activities.

The question which now needs to be asked is when will the British Government step up to the plate in this area of reconciliation and human rights reform. For example, it's certainly time for seeing the end of the use of plastic bullets by the security forces, especially now that we have a cease-fire. We would all hope to see the release of the remaining Casement Park defendants, easing of the harsh treatment of Irish prisoners in England, and the release of

loyalist prisoners as well. We, as well as the Irish and British Government, can and must help build on the momentum that's now underway in the talks going on in Stormont. I look forward to today's testimony, and again, I commend Chairman Smith for continuing to pursue these important issues.

Mr. SMITH. Thank you very much, Mr. Chairman.

I would just like to note at the outset that there are a number of Members interested in this issue, some of whom can not be here today. Mr. Lantos, Ranking Member of our Committee, would have liked to have been here.

The effort to promote peace and human rights in Northern Ireland certainly has been bipartisan. For example, in H. Con. Res. 152, the legislation I introduced to promote the peace process, is cosponsored by Mr. Gilman, Mr. King, Mr. Manton, Mr. Walsh, Mr. Kennedy of Massachusetts, Mr. McHugh, Mr. Payne, Mr. Shays, Mr. Hinchey, Mr. Andrews, and Mrs. Kennelly of Connecticut, and the number of cosponsors has grown. So for all involved, this is a very very heartfelt issue on both sides of the aisle, with liberals, moderates, and conservatives.

We are joined on the panel by Mr. Neal of Massachusetts, who is not a Member of the Committee, but cares enough to be here because of his interest in the issue. I would yield to the gentleman if he would like to make an opening statement.

Mr. NEAL. Mr. Chairman, like everything else around here today, I just came from Secretary Rubin, and at 2 p.m. we have a markup on CBI, but I did want to come by to lend my support, and just remind all that the first speech I have always pointed out I made 9 years ago when I came to the House of Representatives was on plastic bullets. I happen to feel as strongly today as I did then and I think in terms of a confidence-building measure, that one of the best ways to build some confidence in the nationalist community would be to renounce the policy of using plastic bullets, and also acknowledge that we did have some success over the last few weeks in a number of important cases, and as one who has been involved in them for the better part of almost a decade, we're grateful for these forums.

The truth is, as I have always said, that the British Government is far more sensitive to American public opinion than they are to many other forms of public opinion anywhere else. That is why it's our obligation to continue to do what it is that we do. I thank Ben and Peter, who have been long stalwarts as well. Thanks, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Neal.

Mr. King, the gentleman from New York.

Mr. KING. Thank you, Mr. Chairman. I want to congratulate you for once again holding a hearing of this importance. It is an issue which I think for too many years has not received the attention from the Congress that it deserves. But under your leadership and the leadership of Chairman Gilman, it really is now being put front and center. I think it's certainly to your credit.

I just want to say and echo what Congressman Neal said, that until the human rights abuses are addressed in the North of Ireland, there is no real hope for a lasting peace. The fact is, that while violence does come from many sides in the North, while vio-

lence comes from many quarters, the fact is the underlying cause of the violence has been the British misrule, has been the violation of human rights by the army, by the police, and also the fact that the British Government has not been evenhanded in its application of justice in the North of Ireland.

So to the extent that this hearing will address those issues as certainly your previous hearing did, I think it's a very very significant step toward addressing the concerns of the nationalist community. Also letting the unionist community know that we're not treating them as adversaries. But the fact is, we have to face up to realities. The reality is that the criminal justice system in the North of Ireland has not been fair to the nationalist community. In fact, there have been abuses by the criminal justice system against all parts of the community, but particularly against the nationalist community. That I believe is the underlying cause of the violence of the past 25 years. If the peace talks at Stormont are going to go forward and make progress, it can only be done if these underlying abuses are addressed.

So I think this hearing will go a long way toward doing that. I commend you for calling it.

Mr. SMITH. Thank you very much, Mr. King. I would like to very publicly state how grateful we all are for your leadership. It has been tenacious regarding the problems in the North of Ireland.

I would like to introduce our very distinguished panel of experts to the Subcommittee. As pre-arranged, this will be the order in which I would ask you to proceed. Julia Hall is the W. Bradley Wiley Fellow and Northern Ireland researcher in the Helsinki Division of Human Rights Watch. Ms. Hall earned her J.D. at the State University of New York at Buffalo School of Law, and holds a certificate in international law from the Hague Academy of International Law.

Jane Winter is the director of the British Irish Rights Watch. Prior to her work with the organization, she was the project coordinator for the Public Law Project. Her past experience includes work on welfare rights, employment, and immigration issues for both the Battersea Law Centre and the Wandsworth Citizens Advice Bureau in the United Kingdom.

Martin O'Brien is the executive director of the Committee on the Administration of Justice in Belfast. Mr. O'Brien, who earned his degrees in human rights law and sociology from Queens University, Belfast, is an international human rights monitor for Human Rights Watch. Mr. O'Brien is also involved in the Kilcranny House, a rural education center which he helped to establish in 1985.

Halya Gowan is a researcher for the International Secretariat of Amnesty International. Her areas of expertise include the United Kingdom, Ireland, and Scandinavian countries.

Finally, Elisa Massimino, who is no stranger to this Committee, is the director of the Lawyers Committee for Human Rights in Washington. She earned her degree from the University of Michigan, and directs the Lawyers Committee's national advocacy program with a special focus on refugee issues.

Julia, if you could begin.

**STATEMENT OF JULIA HALL, NORTHERN IRELAND
RESEARCHER, HUMAN RIGHTS WATCH**

Ms. HALL. Thank you, Chairman Smith, Chairman Gilman, and Members of the Subcommittee, for this opportunity to speak with you about the human rights dimension of the Northern Ireland peace process. As you all know, Human Rights Watch has been monitoring and reporting on human rights violations in Northern Ireland since 1991. But over the past year, we have focused specifically on the issue of police abuse. I had an opportunity in June to communicate to this Subcommittee our grave concerns about persistent allegations of abuse against the Royal Ulster Constabulary, Northern Ireland's police force.

In addition to profound problems with policing, Human Rights Watch remains concerned about a number of outstanding human rights issues in Northern Ireland which my colleagues here today will discuss in more detail. I would like to speak today to the unique opportunity which the Northern Ireland peace process affords all of us, governments, political parties, international organizations, NGO's, and the people of Northern Ireland, for success not just at halting the violence that has characterized this conflict over the past 27 years, but also for laying a strong and durable foundation for a just peace, based on the long-term protection and promotion of human rights for everyone in Northern Ireland.

Over the past 20-odd years, Human Rights Watch has attempted to influence many peace processes with the understanding that conflict management, that is, the cessation of violence, must be coupled with the creation and maintenance of a strong foundation upon which a human rights culture can be built. Regrettably, our experience tells us that all too often human rights are not addressed at all in the course of peace negotiations. Sometimes they serve as a subtext or are mentioned vaguely as some future goal to be achieved after the political negotiations are complete. Many times, to our utter dismay, human rights are used as bargaining chips at the negotiating table as if inalienable rights can be traded and bartered. It is indeed rare for human rights to play a central role in any peace process.

This reality should surprise us. Indeed, for many of us who have experience working in conflict situations, the lack of attention to human rights concerns during the full course of negotiations appears to defy logic. It is axiomatic that human rights violations are central to the way in which much contemporary armed conflict is conducted. We have seen in El Salvador, Haiti, Guatemala, South Africa, Angola, Cambodia, and more recently in Bosnia and Rwanda, the human rights abuses have been the modus operandi by which governments and opposition actors in these armed conflicts have advanced their political and ideological goals.

Thus, when these same actors are involved in negotiating a peace, it should appear obvious that addressing continuing human rights abuses and creating mechanisms for accountability for past violations must also be a modus operandi of making and sustaining the peace. Without careful attention to human rights abuses, accountability for past violations, and the creation of national institutions such as an impartial police service and a judiciary for the fair

and peaceful resolution of conflict, violence will inevitably re-emerge.

Human Rights Watch believes that it is instructive to look at some of the mistakes which have been made in the course of other peace processes in order to inform ourselves about the possibilities for positive action on human rights in the Northern Ireland process. While the scale of violations in other conflicts may be greater, in some cases like Bosnia or Rwanda, rising to the level of genocide, every contemporary armed conflict shares a common feature. Human rights violations have been at the heart of the conflict.

We have seen instances, for example in Angola, where human rights protections, accountability for past violations, and the maintenance of the rule of law were at best subtexts in the peace process. The key focus in Angola was to end the violence and "to promote a spirit of reconciliation" by passing a series of amnesty laws for perpetrators of gross human rights violations.

While the cessation of violence is undoubtedly a necessary requisite to peace, the absence of a long-term strategy to protect human rights has predictably spiraled Angola back into a threatening situation in which violence is imminent. It is clear that there is a tradeoff in Angola between justice and peace, which not surprisingly has resulted in a current situation in which neither authentically exists.

Bosnia is a different case altogether, but provides ample evidence of the dangers of human rights rhetoric without action. The human rights provisions of the Dayton Accords undoubtedly form a comprehensive package of protections for all of Bosnia's citizens. Lack of attention to implementation, however, has resulted in a post-conflict environment in which human rights abuses such as restrictions on the freedom to move and the right to return to one's home, are features of daily life.

In both Angola and Bosnia, the absence of or weaknesses in mechanisms for accountability for past violations have resulted in virtual impunity for perpetrators of gross human rights abuses. In both cases, human rights abuses inherent to the conflict were addressed inadequately through a peace process myopically concerned with the immediate cessation of violence, without any provision at all for authentically maintaining a just and lasting peace.

These are just two of numerous examples worldwide, where ignoring human rights in the course of trying to create peace has led to a renewal of violence, and threatened to destabilize the original agreement.

I would also direct the Committee's attention to an article in today's International Herald Tribune by good friends of human rights workers the world over, Sten Andersson and Tom Hammarberg, in which they point to the same lack of attention to human rights as a major problem in the Middle East peace process.

Let me say a very brief word about chronology. Although many of us at this table will talk about the human rights dimension of the Northern Ireland peace process, it is imperative to note that there are a number of ways in which human rights can be advanced in the course of any process without actually being part of the substantive negotiations. Indeed, Human Rights Watch strongly believes that there are many human rights issues that can not

and must not be outcomes of negotiations. There are roughly three stages at which action can and should be taken on human rights in the course of peace negotiations. Thus, my colleagues will discuss measures that can and should be taken immediately by the British and Irish Governments as a matter of compliance with their existing international obligations and to build confidence in the peace process. Certain issues, perhaps related to prisoners and the final adoption of a bill of rights may be part of the substantive negotiations themselves. However, the drafting of a bill of rights should involve a broad-based public debate, such as the one which evolved in the course of writing South Africa's new constitution. That debate could begin now.

Finally, there may be human rights issues which will be addressed in the post-conflict stage, as the people of Northern Ireland go about the business of building a culture of rights. Careful attention to human rights in each of these stages promises a peace secured by confidence in the rule of law, and the protection of individual rights.

The conflict in Northern Ireland is ripe for authentic resolution. All the parties at the negotiating table have agreed to the principle of non-violence as formulated in the Mitchell Principles. Human rights is on the agenda of the talks. More generally, the British Government has embarked on a number of welcome initiatives with respect to human rights. Most importantly, the people of Northern Ireland want and indeed deserve a just peace. Thus, the task at hand is to continue to encourage everyone involved in the talks process to understand the critical importance of human rights to its success. To that end, Human Rights Watch fully supports the resolution now being considered for passage by the Congress regarding human rights in the Northern Ireland peace process. The resolution rightly recognizes the gravity of past violations and the role that such abuses have played in perpetuating the conflict. It calls for immediate action on some issues, and recommends that a mechanism for accountability for past violations be established.

In short, the resolution is a signal that Congress is eager to prevent the same lack of attention to human rights issues which has doomed other peace processes to threaten the success of the Northern Ireland peace process. Thank you.

[The prepared statement of Ms. Hall appears in the appendix.]

Mr. SMITH. Ms. Hall, thank you very much for your excellent testimony.

Ms. Winter.

STATEMENT OF JANE WINTER, DIRECTOR, BRITISH IRISH RIGHTS WATCH

Ms. WINTER. Thank you, Mr. Chairman and Members of the Subcommittee. I am the director of British Irish Rights Watch, an independent non-governmental organization that has been monitoring the human rights dimension of the conflict and latterly the peace process in Northern Ireland since 1990. Our services are available free of charge to anyone whose human rights have been violated because of the conflict, regardless of religious, political or community affiliations. We take no position on the eventual constitutional outcome of the conflict.

We welcome this opportunity to address this open meeting of the Subcommittee on International Operations and Human Rights on the topic of human rights and the peace process in Northern Ireland, and are grateful to Representative Christopher Smith and the other Members of this honorable Subcommittee for their ongoing concern about this vital issue.

British Irish Rights Watch has worked closely with the two main human rights organizations in Ireland, the Committee on the Administration of Justice, and the Irish Council for Civil Liberties. Although this submission is entirely my own, it reflects the views of all of us on the positive role that respect for human rights can, in fact must play in the Northern Ireland peace process if its outcome is to be fair to all parties and is to endure.

Violations of human rights have been a persistent feature during the last 27 years of conflict in Northern Ireland. They have consistently acted as flashpoints for violence and distrust, and have undermined the rule of law, as the controversy surrounding parades and marches has vividly demonstrated. The effects of these violations have also made themselves felt in Britain and in the Republic of Ireland, where the criminal justice systems have been badly distorted by emergency laws.

The recent commencement of peace talks provides a golden opportunity to address the human rights deficit that has developed in Northern Ireland and the neighboring jurisdictions over the years, and presents a new perspective on matters such as emergency laws, policing, and the position of prisoners. It creates the space in which it's possible to consider acknowledging past wrongs, making amends, and reconciling differences. If human rights were recognized and tackled in parallel with the political process, there could be tremendous benefits in terms of building mutual trust and confidence between formerly divided communities.

Equally, if human rights concerns are not addressed, then the prospects for a just and enduring peace are remote. The failure to make progress on human rights questions undoubtedly contributed to the failure of the first phase of the peace process. Mercifully, we now have a second chance. Failure to grasp the opportunity to redress the human rights deficit this time around will mean an almost inevitable return to violence and to an even more bitter and entrenched conflict.

Action on human rights issues can play a central role in building confidence across all communities. Both communities in Northern Ireland have been dreadfully afflicted by violence. Everyone has suffered from the emphasis placed on the role of the police as part of the security forces to the detriment of ordinary community policing. Miscarriages of justice have arisen across the board because of the lack of due process rights under emergency laws, and in the no-jury Diplock courts. Both loyalists and nationalists are concerned about the fate of prisoners, who would never have found themselves serving long jail sentences had it not been for the conflict. Although they might differ over its content, there is cross-party support for a Bill of Rights. There is thus considerable scope for creating common ground and in the course of doing so, strengthening the peace process.

An agenda on human rights has been built into each of the three strands of the peace talks. However, the talks are not a suitable forum for addressing specific violations or drafting legislation. Furthermore, human rights are not bargaining chips to be traded for political concessions. They are standards to which all civilized governments must subscribe and which they must enforce impartially. Progress on human rights need not, indeed must not wait until a political settlement has been hammered out. Not only might it be too late by then, but the chances of ever reaching such a settlement could be substantially reduced.

We hope that all parties to the talks will recognize the need for human rights gains, such as a Bill of Rights and reform of policing. But these are ultimately the responsibility of the British and Irish Governments, and must not on any account be allowed to become casualties of any failure to make political progress in the talks.

We have already identified various steps toward building common rights and enhancing confidence in the peace process in Northern Ireland. These include: introducing a bill of rights, repealing emergency laws and removing restrictions on the right to remain silent, ensuring that the police are able to deliver an effective community service to everyone and to uphold the rule of law impartially, redressing outstanding miscarriages of justice created by the conflict, extending and strengthening anti-discrimination legislation, and broadening the base of the judiciary and training judges and lawyers in human rights.

Taken together, these moves would help to create a culture in which accommodation, negotiation, and reconciliation can thrive. Everyone in Northern Ireland, regardless of their religion or politics would benefit from these measures, as would people in Britain and the Republic of Ireland. There would be no losers.

The spillover from the conflict into the Republic of Ireland has led to the adoption of emergency measures there, the no-jury special criminal court is still in operation, despite the cease-fires in Northern Ireland and the much lower level of paramilitary activity in the Republic for several years past. Special rules of evidence and restrictions on the right of silence also operate, and there have been ongoing allegations of police brutality against paramilitary suspects. As in the North, mechanisms for dealing with complaints against the police are woefully inadequate.

The peace process offers an opportunity to end emergency measures in the Republic as well as in the United Kingdom. Progress in this regard and in strengthening human rights protections in the Republic would enhance the climate for progress in Northern Ireland, and vice versa.

Many ordinary people in Northern Ireland are disillusioned with politics. The failure of the first phase of the peace process has left many people feeling cynical or hopeless. The political talks will not in themselves provide a mechanism for engaging everyone or giving them a sense of ownership in the process. It is essential that a wider debate is established about human rights matters that affect people's daily lives in order to create the potential for giving everyone a say in their future and a chance to invest in peace.

However, ultimately, it is governments who are responsible for upholding human rights. Both the British and Irish Governments

bear the responsibility for establishing and enforcing human rights protections for everyone in Northern Ireland, Britain, and the Republic, and for placing human rights at the heart of the peace process. Whatever the ultimate political solution in Northern Ireland, both communities will need to be reassured that they will not be oppressed or discriminated against under the new arrangements. The U.S. Government, which has done so much to support and encourage moves toward peace in Northern Ireland, can be of vital assistance in emphasizing the positive role that human rights can play in building confidence in the peace process and ensuring a just and enduring settlement.

Human rights were almost completely excluded from the equation the last time around. If this second chance is missed, a third opportunity may be a long time coming and the cost in terms of loss of life in the meantime is too high to contemplate. Integrating human rights into the peace process is not a luxury, but a necessity. It cannot be left until last on the premise that nothing can be resolved until everything is resolved. Nor can progress on human rights be allowed to become a casualty of the peace process. There is everything to gain and nothing to lose at all from putting into practice the moral and legal principles to which all civilized governments subscribe.

I thank this honorable Subcommittee for its time and attention.

[The prepared statement of Ms. Winter appears in the appendix.]

Mr. SMITH. Thank you, Ms. Winter. I want to thank you again for the rather lengthy multi-hour briefing you gave us when our delegation was in Belfast.

I would now like to ask Martin O'Brien from the Committee on the Administration of Justice if he would present his testimony. Just a note for the record that, in both the previous hearing and during our visit, Mr. O'Brien was very helpful in putting our Subcommittee in contact with many of the victims and their families, and those who were adversely affected by the Emergency Powers Act, and the PTA and other enforcement mechanisms by the RUC, and other abuses. So I just want to thank him for providing the Subcommittee that very valuable service and the insights that it afforded us.

Mr. O'Brien.

STATEMENT OF MARTIN O'BRIEN, EXECUTIVE DIRECTOR, COMMITTEE ON THE ADMINISTRATION OF JUSTICE

Mr. O'BRIEN. Thank you, Mr. Chairman, Chairman Gilman, other Members of the Subcommittee, and for the invitation to testify before you today. I would particularly like to thank Chairman Smith for his close and personal interest in this issue and for the time which he spent on his visit to Northern Ireland, which was a source of great encouragement to all of us.

Since our last appearance before the Subcommittee, a new cease-fire has been put in place. Multiparty negotiations have recently begun. All of those involved in bringing the process to this point are to be congratulated, and the efforts of Senator Mitchell deserve particular praise.

In order for the process to bear fruit, it's essential that the two governments receive all the support and assistance which their

friends around the world can offer over the coming period. It is for this reason that the timing of these hearings is particularly opportune. As my colleagues from Human Rights Watch and British Irish Rights Watch have already pointed out, issues of justice and fairness must be tackled if we are to build a lasting peace.

I would therefore request that Congress use its good offices to provide whatever assistance it can to help the two governments to make progress in the following areas. The first area which I would like to turn to is emergency legislation. CAJ has consistently maintained that emergency law in Northern Ireland has contributed to the conflict rather than assisting in its resolution. Regardless of the merits of that argument, there can be little doubt that given the continued absence of sustained violence, there is now no justification for the maintenance of the Prevention of Terrorism Act and the Emergency Provisions Act. International law is clear. Once an emergency has ended, special measures adopted to deal with that emergency should cease.

The recent announcement by the Secretary of State that she intends to remove the power to intern people without trial from the statute book is a welcome first step, but it does not go far enough. The U.K. Government is under a legal obligation to scrap emergency legislation now. The U.K. Government continues to derogate from the European Convention on Human Rights and the International Covenant on Civil and Political Rights in relation to its 7-day detention powers.

The government should immediately withdraw its derogation and should stop holding people for periods which breach the minimum standards set by the European Court. It should also implement the recommendations made by the U.N. Human Rights Committee and the Committee Against Torture to close the infamous Castlereagh detention center which has given cause to so many complaints from both Protestant and Catholic detainees of police abuse.

The second issue which I would like to raise is in relation to the need for a bill of rights. CAJ has long believed that Northern Ireland requires a bill of rights. We therefore welcome the decision of the new labour government to incorporate the European Convention on Human Rights into domestic law. The need for a bill of rights is something which all of the parties agree on. We believe that discussions around the content of a bill of rights would be an important step in building a lasting peace.

The European Convention is now over 40 years old. Its provisions are somewhat dated. Furthermore, it will not address some of the difficulties associated with the conflict in Northern Ireland. For instance, the provisions dealing with discrimination are weak, and there is no protection for the rights of groups. It is therefore imperative that a tailor-made bill of rights is developed which meets the needs and fears of all sections of the community in Northern Ireland, and reassures them that they will be treated fairly in any future arrangements.

The adoption of such a bill of rights will, of course, increase the importance of the judiciary. It is therefore essential that consideration be given to the role of the judiciary in the interpretation of any bill of rights, to the extent to which they fully represent the different elements within Northern Irish society.

While these matters will undoubtedly be discussed within the talks process, it is essential that the wider society is involved in this debate, and that international expertise is brought to bear on the best way to protect rights in Northern Ireland. To this end, we suggest that it would be helpful if a group of internationally respected experts were assembled to work alongside the talks process on the preparation of a bill of rights and effective mechanisms for its enforcement, for example, a human rights commission. This group should also develop an extensive process of public consultation on the contents and shape of any bill of rights along the lines of the constructive public debates on this issue which took place in Canada and South Africa.

The two governments should move quickly to establish such a mechanism in order to assist those involved in the talks process and to ensure that rights protections are suited to the specific needs of Northern Ireland.

The third issue involves the concerns around discrimination. In the field of discrimination, the government is already extremely fortunate to have a detailed set of some 156 recommendations for ways to improve and enhance its work to eliminate discrimination and inequality based on religion. These recommendations are the results of an extensive process of research and consultation over a 2½ year period carried out by the government's own Standing Advisory Commission on Human Rights.

Given its commitments to establishing justice and fairness in Northern Ireland, the new government will want to move quickly to implement these recommendations for change. Fairness and the visible implementation of mechanisms to achieve fairness must be the cornerstone of any peace settlement. In particular, the government should ensure that the policy appraisal and fair treatment guidelines which are designed to ensure that government's policies do not adversely impact or discriminate against particular groups within society, are transformed from advisory guidance as they are at the moment, to government, and to legally binding requirements on government departments and policymakers. Such a step would be of immense reassurance to all sections of the community.

Turning to miscarriages of justice, those prisoners who continue to assert their innocence should be given a speedy review of their convictions. It may be that the newly established Criminal Cases Review Commission can fulfill this function. But if, as is widely understood it is inundated with cases, then perhaps a more specific mechanism of a temporary nature needs to be established. Either way, it must be recognized that the use of special powers, interrogation procedures and courts have led to innocent individuals from across the community being imprisoned. This has led to a corresponding decrease in confidence in the administration of justice. This should be a matter of concern for all parties to the talks process, but the governments must ensure that an effective mechanism exists to review such convictions.

Twenty-seven years of violent conflict have inevitably left a bitter legacy. Steps to tackle legacy must be initiated immediately. A starting point would be a prompt and positive response from the British Government to the Irish Government's report on the Bloody Sunday controversy which was delivered last June. It is essential

that a new and credible inquiry be established, which has the confidence of the families, the local and international community.

On the issue of plastic bullets, when this Committee considered Northern Ireland at its hearings in June, serious concerns were expressed about the use of plastic bullets and the need to ensure that they would not be used in the coming marching season. Sadly, the 1997 marching season saw similar problems with plastic bullets with some 2,500 being fired in a 60-hour period.

In August, after considerable local and international pressure, the guidelines governing the use of plastic bullets were published. Their publication, however, highlighted a number of issues. Firstly, it emerged that the army and the police operate under different guidelines and that the guidelines in force in Britain where plastic bullets have never been used are much more restrictive than those in force in Northern Ireland.

It also emerged that warnings should be given before the use of plastic bullets, but CAJ observers have never once heard such a warning. The evidence which we gathered this past summer confirmed earlier conclusions that the guidelines on use are routinely breached with many of those hit receiving head and upper body injuries. The guidelines stipulate that the bullets should only be aimed at the lower body.

Efforts made by CAJ to secure information from the police on the numbers of bullets used broken down by date and incident, have been unsuccessful. We were told that the information was unavailable. This raises profound concerns about the supervision of the use of this lethal weapon which has resulted in the deaths of 17 people, more than half of them children.

It remains our firm conclusion that this is an inherently unreliable and lethal weapon which should have no place within the public order armory of a State which claims to respect human rights. We would urge the Labour Government to implement its previously stated commitment to withdraw plastic bullets from use.

The final issue which I would like to raise is in relation to policing. It is clear that any solution to Northern Ireland's problems will require new policing arrangements. This will be a long and involved process, but action in this area to achieve an accountable, representative police service respecting human rights must begin promptly. Again, the government already has some proposals for change which command cross-community support. These relate to the need for a truly independent system to investigate complaints against the police. The government should act promptly to implement these proposals in their entirety. Any attempt to dilute their force would be a mistake.

Obviously, an independent complaints system is only the first step. But it is vitally necessary to give confidence to all sides of the community that they will have some redress against abuses by the police in the interim process.

Finally, any effort by Congress to raise these issues is particularly welcome and deserves widespread support. In that regard, the initiative taken by Chairman Smith and supported by other Members in relation to the resolution on these issues and others is particularly welcome. In particular, it would be helpful if the concerns of Congress on these and other human rights issues could be raised

with the British and Irish Governments, Senator Mitchell, and with the U.S. Administration. It would also be important that these concerns are raised with those compiling the State Department country reports. Thank you very much for your attention.

[The prepared statement of Mr. O'Brien appears in the appendix.]

Mr. SMITH. Mr. O'Brien, thank you very much for your testimony and for your great work.

Ms. Gowan.

**STATEMENT OF HALYA GOWAN, RESEARCHER,
INTERNATIONAL SECRETARIAT OF AMNESTY INTERNATIONAL**

Ms. GOWAN. Thank you, Mr. Chairman. Amnesty International welcomes this opportunity to address Members of the Subcommittee on the role of human rights protection in the peace process in Northern Ireland. Amnesty International welcomes the resolution proposed by the Congress which situates the centrality of human rights within the peace process and raises a number of key concerns which are in line with many of our own concerns. The recommendations, if acted upon, would make a significant contribution to developing a lasting peace in Northern Ireland.

The continued abrogation of basic human rights in Northern Ireland has played a central role in the conflict. Previous U.K. Governments have hidden behind secrecy and internal inquiries to avoid being accountable for the human rights violations by its agents. They have ignored the recommendations of many international treaty bodies, as well as some of their own internal inquiries.

The protection of fundamental human rights has been seen as secondary to the maintenance of a high level of security. The new government has an opportunity to reassert the primacy of the protection of human rights in Northern Ireland.

The incorporation of the European Convention on Human Rights is a first step toward implementing its international obligations. The government should also move swiftly to establish a human rights commission, which would have full and effective powers to strengthen human rights protection.

Amnesty welcomes the commitments expressed in initial government statements to emphasize issues of fairness and justice in Northern Ireland. The organization believes strongly that the protection of human rights and the strengthening of the human rights culture are central to a lasting peace. However, the organization also believes that a lasting peace has to be built on the basis of full accountability of the security forces for their actions.

One of the striking features about the human rights situation in the United Kingdom is the underlying assumption that one can provide less human rights protection to people in Northern Ireland than to people in England. The lower standards of justice have resulted in the lack of accountability, and measures need to be taken to ensure that all laws and procedures conform with international standards.

I will focus on just a few issues which blatantly illustrate this disparity. The special interrogation centers. There is no statutory basis for the existence of the special police interrogation centers in

Northern Ireland. The most notable of all is Castlereagh Holding Centre in Belfast. The centers have been the subject of many allegations of police ill-treatment and torture since the 1970's. Similar centers do not exist in the rest of the United Kingdom, and suspects arrested under emergency legislation are held in police stations and interrogated in the presence of their lawyers. Given the oppressive nature of these centers, Amnesty International believes that Castlereagh and the other centers should be closed down and that suspects should be detained in designated police stations.

In addition, other safeguards should be implemented. Lawyers should be given immediate access to their clients, as well as being allowed to attend interviews. Further safeguards including audio and video recording of all interrogations should be introduced. This is done in England and Wales. Another vital safeguard, particularly in the Northern Ireland situation, is the need to urgently implement a new system for the complaints procedure.

My colleague will be talking about the Diplock courts, but I would just like to make a few points. Amnesty International has monitored many trials over the years because of concerns that the lower standards of admissible evidence in Northern Ireland as opposed to England and Wales have led to unfair trials and wrongful convictions. Recently, we welcomed the quashing of the conviction of Patrick Kane, but we continued to campaign for a review of the convictions of Sean Kelly and Michael Timmons. We also sent an observer to an appeal hearing of Christopher Sheals in April. He was convicted in 1994 under the doctrine of common purpose, the same as we had seen in the Casement Park.

Most recently, we took action on the case of Colin Duffy. Colin Duffy was arrested on the 23rd of June and was held on remand for 3½ months until his release last week, despite evidence which was held in police possession from a very early stage which indicated that he was not involved in the killing of two police officers in Lurgan. This evidence included 12 statements supporting his alibi that he was not in the vicinity of the killings. Amnesty International had written to the government, to the prosecution, and to the police. We expressed concern about not only his continued detention, but the police's failure to suspend interviews to allow him to obtain legal advice, and allegations that police officers had made disparaging comments to Colin Duffy and another suspect about a lawyer, their lawyer.

Although he was released last week, we believe that the case highlights a critical flaw in the criminal justice system in that there appears to be no checks on the soundness of charges brought by the RUC. When we wrote to the director of public prosecutions asking him what he was able to do about the fact that there was insufficient evidence to continue to hold him, the DPP's office stated that they were unable to do anything until they received the police file. It took 3½ months for them to receive the police file.

Another issue which is different in Northern Ireland from England and Wales is inquests. The right to life is a fundamental and non-derogable right. Amnesty International is concerned that the government is failing to protect the fundamental right to life because it is not meeting its international treaty obligation to effec-

tively review the lawfulness of the use of lethal force by State authorities in Northern Ireland.

The inquest system in Northern Ireland has been so severely restricted, first through legislation, and then through the interpretation of the law and the rules by the courts, that it can no longer fulfill any useful role in determining the full circumstances of a disputed killing. Furthermore, the inquest system in Northern Ireland has seen the usage of public interest immunity certificates by the Secretary of State and by the police to block the disclosure of crucial evidence which contributes to the lack of accountability of the security forces.

Now the inquest system in England and Wales has certain restrictions which hamper a public inquiry into the full circumstances of a death. However, in England and Wales, the people who are allegedly responsible for a death, be it police officers, soldiers, prison officers, are required to attend the inquest and to give evidence. This is not so in Northern Ireland. Moreover, the jury is able to return a verdict, in particular, a verdict of unlawful killing. International standards require the government to provide a mechanism which will look into the lawfulness of a killing. The inquest in Northern Ireland is totally forbidden from doing that.

We have urged the government, and we continue to urge the government to establish a wide-ranging judicial inquiry, the remit of which would be to recommend the establishment of a different public judicial procedure to examine disputed killings or deaths which would be in conformity with international standards.

Despite the many serious allegations of human rights violations in the past in Northern Ireland, there has been a marked failure by successive governments to carry out wide-ranging independent investigations into such allegations, and to make the findings public. We believe that a full investigation of the violations will help instill in the security forces a new sense of accountability for their actions and a willingness to act within the law. At the same time, a fair and effective investigation will help reduce lingering fears among people who have long been subjected to a criminal justice system intended to cover up abuses rather than ensuring that perpetrators are brought to justice.

There are a number of outstanding issues which need to be either properly investigated or publicly clarified. These include allegations of collusion between the security forces and loyalist paramilitary groups, allegations of extra-judicial executions by the security forces, the killing of the lawyer, Patrick Finucane, and the killing of 13 unarmed people and the wounding of 15 others by soldiers on the 31st of January 1972, Bloody Sunday. Thank you.

[The prepared statement of Ms. Gowan appears in the appendix.]

Mr. SMITH. Thank you, Ms. Gowan. I'll just note that our resolution, as I think you know so well, includes *whereas* clauses, as well as findings and recommendations that include all of the points that you raised, but you did it so eloquently. We thank you.

Ms. Massimino.

**STATEMENT OF ELISA MASSIMINO, DIRECTOR, WASHINGTON
OFFICE, LAWYERS COMMITTEE FOR HUMAN RIGHTS**

Ms. MASSIMINO. Thank you. Chairman Smith and Members of the Subcommittee, thank you for inviting the Lawyers Committee to testify today on this timely and important topic. We greatly appreciate the Subcommittee's attention to this complex issue and, in particular, Chairman Smith, your leadership in examining the human rights situation in Northern Ireland. Your tenure as chair of the Subcommittee has been marked by strong advocacy on behalf of the human rights of all people, and against rights violations regardless of whether the offending government is a friend, a foe, or even our own government.

Nearly 4 months ago when we last gathered in this chamber to address the human rights situation in Northern Ireland, sectarian violence persisted, and talk of movement toward a negotiated peace was faltering. Events since that time, including the IRA cease-fire and the opening of multiparty peace talks, now present a unique opportunity for progress on human rights in Northern Ireland.

The United States can play a critical role in capitalizing on this opportunity by pressing for progress now on a number of significant issues on the human rights agenda. Though some argue that respect for human rights in Northern Ireland will come only after larger political issues are resolved, we believe the opposite is true. If peace and reconciliation in Northern Ireland are to be achieved and take on deep roots, all members of the community must feel that their rights are being respected.

We are deeply concerned that significant violations of well-established rules of international law continue to occur in Northern Ireland and that these violations can not be justified. We urge the Clinton Administration and Members of Congress to focus on these issues and to underscore the importance of significant progress on human rights in its bilateral discussions with U.K. officials. We hope that today's hearing will serve as a catalyst to encourage the Clinton Administration and Senator Mitchell to do what they can to incorporate human rights issues more centrally into their efforts with respect to the Northern Ireland peace process.

As you have heard from us before, Chairman Smith, the Lawyers Committee believes that a transparent and fair justice system is a barometer of the health of a civil society and a strong indication of a government's commitment to human rights and the rule of law. In two reports, following extensive fact-finding missions, the Lawyers Committee has focused on a number of problems related to the justice system in Northern Ireland that need to be addressed promptly and aggressively. It is on this aspect of the human rights situation in Northern Ireland, and in particular on the challenges facing defense lawyers and on the independent judiciary, which I will focus my remarks today.

The judiciary of Northern Ireland confronts a predicament typical of permanent emergency States. On one hand, judges in Northern Ireland have had to implement the basic guarantees of due process amidst the threat of danger from paramilitary violence. On the other hand, the Northern Ireland judiciary must also do its job in the face of domestic legislation that too often derogates from the standards of fairness that international law charges judges to en-

sure. The Lawyers Committee believes that even if Parliament has enacted legislation that is contrary to international human rights principles or permits the creation of a system such as the Diplock courts, the judiciary nevertheless has leeway to interpret these domestic laws as fairly as possible, and to attempt to ensure an impartial tribunal as stipulated in international law.

I would like briefly to list the chief problems we have identified in this regard: the absence of jury trials for some crimes listed under the Emergency Powers Act; the willingness of the judiciary to admit confessions obtained as the result of abusive police tactics during prolonged detention; the willingness of the judiciary to draw inferences of guilt from a defendant's decision to remain silent; reluctance on the part of the judiciary to question uncorroborated police statements; disparaging comments made by some members of the judiciary in reference to defendants, particularly those who appear before non-jury Diplock courts; the lack of transparency in the process by which members of the judiciary are appointed to the bench; the narrow interpretations of ambiguous domestic laws drawn by the judiciary where binding guidance from international conventions exists; and the reluctance of the judiciary to enforce Article 2 of the European Convention on Human Rights with respect to protection of persons against the unnecessary use of lethal force by the security forces.

The Lawyers Committee recognizes that an independent judiciary functions under considerable stress when subject to chronic political instability, personal threats, and the continued suspension of rights by the executive, and that some individual judges have demonstrated patience and courage in the face of these challenges. However, it is the core function of an independent judiciary to correct swiftly any abuse of authority by the executive and to strive to protect the rights guaranteed to each citizen by national and international law. An independent, fair-minded, and impartial judiciary—and a clear public perception of those qualities—are key components for Northern Ireland to move beyond civil strife and toward the creation of a more pluralistic and inclusive society.

The legal setting in Northern Ireland is one that fosters intimidation of defense lawyers. Together, the Emergency Powers Act and the Prevention of Terrorism Act operate to encourage the security forces to rely on custodial interrogation as the primary means of obtaining convictions. Practices and conditions within the detention centers facilitate this incentive. The overall approach the law establishes makes legal counsel more crucial and therefore more often subject to police hostility. Far from checking this hostility, the law encourages it, often in dangerous ways. Complaints procedures which might provide a measure of redress remain ineffectual, prompting the skepticism solicitors accord the complaints process in contributing to their tenuous position in the system itself.

No event came to symbolize the hazards faced by Northern Ireland's defense lawyers more than the murder of Patrick Finucane. A leading defense and civil rights solicitor, Finucane was murdered by loyalist paramilitaries in circumstances which suggest that elements of the security forces colluded in the killing. Despite information suggesting official collusion, the Northern Ireland Director of Public Prosecutions chose not to prosecute, despite a promising

publicly disclosed lead in the case. The RUC's own investigation into Finucane's death remains incomplete. To date, none of the government inquiries relating to the Finucane case have been made public.

The Lawyers Committee and other human rights groups have repeatedly called for an independent and public judicial inquiry into Patrick Finucane's murder. In June, this Subcommittee heard eloquent testimony from Mr. Finucane's son, Michael, himself now a lawyer, about the circumstances surrounding his father's murder, and urging that the United States press the British Government to embark on an independent inquiry. We echo that call again today. An inquiry now would put suspicions of official collusion to rest and provide a key showing of good faith on behalf of the British Government.

Additionally, ongoing problems relating to the intimidation of defense lawyers, which must be addressed include the following: threats made by interrogators to detainees with the purpose of interfering with the attorney-client relationship and interfering with the accused's choice of counsel; failure of the Independent Commission for the Holding Centers to address the problem of threats against solicitors occurring in detention centers; failure on the part of the U.K. authorities to provide an effective means of investigating threats against solicitors; permitting police to prevent any person detained under emergency provisions from seeing a solicitor for up to 48 hours after arrest, and then for subsequent 48-hour-periods until charge or release; inability of detainees to access legal advice during interrogation; and failure of the United Kingdom to provide an effective means of investigating complaints of police harassment and abuse.

So long as the emergency laws remain on the books, they provide a basis for the harassment of defense counsel. As an initial matter, this holds true even for provisions that do not apply directly to lawyers. Such general provisions include measures ensuring prolonged detention, easy admissibility of confessions, and the effective elimination of the right to silence.

The result is a system that gives the security forces every incentive to rely on confessions obtained in custody and, in turn, to impede solicitors who are often the only significant hurdle to safeguard against improper convictions. The result, not surprisingly, has been repeated miscarriages of justice, which in turn undermine public confidence in the justice system and lead to further erosion of the rule of law.

In light of these ongoing problems, the United Nations' Special Rapporteur on the Independence of Judges and Lawyers will be conducting a mission to Northern Ireland later this month. We urge the British Government and officials in Northern Ireland to provide Mr. Cumaraswamy full cooperation during his mission.

Chairman Smith, we join in your call, expressed in the concurrent resolution, for repeal of emergency laws and the establishment of a mechanism for independent investigations of threats and intimidation of solicitors. We urge Congress, the Clinton Administration, and this Subcommittee to continue to press its concerns about human rights in Northern Ireland with the British and Irish Gov-

ernments, with the Clinton Administration, and with Senator Mitchell.

Included in our written submission are a number of additional concrete suggestions for progress in these areas. I ask that that statement be included in the record as well.

[The prepared statement of Ms. Massimino appears in the appendix.]

Mr. SMITH. Without objection, your full statement and all of the full statements will be made a part of the record.

Ms. MASSIMINO. Thank you, Chairman Smith.

Mr. SMITH. Thank you very much. I want to thank all of our witnesses for their fine testimony. Just let me begin questioning. There are obviously three strands that make up the talks. I was wondering if perhaps one of you, or as many as would like to comment on this, could give some details as to what the negotiations look like from day to day as they are beginning to shape up, and where in the strands would human rights best be suited? Would it be internal political structures? Or is there room for and should we be promoting the idea of a fourth strand, or some other talk?

Because again, my conversations with Secretary of State Mo Mowlam at least suggested to me at the time, as fruitful as that seemed, that human rights was going to be a sub-issue that might be spliced in somewhere along the line. It seems to me they need to be at the core. Where do human rights fit in? Who should be raising them? Is there an ombudsman? Is there somebody that you have identified who would be most appropriate to be speaking to these issues?

Let me also say that on the issue of repealing the Emergency Powers Act, the EPA and the PTA, we made it very clear at our last hearing—and several of our witnesses said this very well—that the British Government clearly missed an opportunity during the last set of cease-fires. It seems to me even more so now, this would be a modestly bold stroke. It's not even all that bold any more to say these egregious laws that do grave harm and treat individuals with impunity ought to be repealed so that there is that transparency that many of you have talked about, and that many of my colleagues have talked about, in policing.

If it's not there, the suspicion and perception of injustice will continue. Then the potential of going back to things as they existed before is very real. But where are the peace talks? What do the peace talks look like from day to day, Mr. O'Brien, or whoever would like to begin?

Mr. O'BRIEN. I suppose the first thing to say in response is that the actual talks process is taking place entirely in private. The information which arises from that is rather fractured. So there are three strands to the process which deal with internal relationships, relationships between Britain and Ireland and North-South relationships. I think I have got those three strands right. Human rights issues are formally on the agenda of each of those three strands, but the actual substantive negotiations, discussions were due to begin in the last couple of days. So the process is really at a very early stage.

I think our view is that there are a number of matters which are essentially matters for action by the British Government. For ex-

ample, repeal of emergency legislation, action to remedy discrimination, those are matters where there are international commitments, international human rights law, examples of matters of that nature which are clearly not a matter for talks or for negotiations.

There are other matters, for example, the whole concept of a bill of rights which is clearly something which the parties to the conflict will want to be involved in. It's our view, however, that that should be something which transcends the talks process and involves wider civil society, and that that can have a very positive impact on the community in trying to develop a culture of rights and of respect, and join together the inextricable link between human rights and democracy which is so essential.

Perhaps some of my colleagues might want to—

Ms. HALL. Getting back to my original comments about contextualizing the Northern Ireland peace process within other peace processes worldwide, what is so hopeful here is the fact that there are agenda items called "human rights".

What is also very hopeful here is the idea that there are structures in place right now for the British Government to comply with its international obligations, completely outside of the process. In other words, the process is the flashpoint for action, but it's not the only place where action can take place. Right now there are at least 10 things that the British Government can do without any parliamentary time at all to build confidence in the peace process. This could have an immediate, positive effect on the process.

So again, I encourage all of us to think about the process as a catalyst, but not necessarily as the focal point for action on human rights at this time.

Ms. WINTER. Mr. Chairman, you mentioned emergency laws and the fact that the opportunity had been missed the first time around to repeal those laws. We would very much urge the U.K. Government now to consider repealing the laws because they are in flagrant breach of the international human rights standards. There must be an emergency threatening the life of the Nation to allow for derogation from the European Convention on Human Rights and the International Covenant on Civil and Political Rights. By no stretch of the imagination is there such an emergency, or frankly, has there been one for some time now.

We are particularly concerned that the Republic of Ireland has also not repealed its emergency Special Powers Act with the panoply of quite draconian powers that that brings with it. They can justify a state of emergency even less than the United Kingdom. If both governments were to act now on that, it would begin to bring about an air of normality in which dialog could take place. It would take away the feeling that somehow we're still at war.

Mr. SMITH. Chairman Gilman.

Chairman GILMAN. Thank you, Mr. Chairman. I want to thank our panelists for taking their time to be with us today. I regret I had to run in and out with some other business. I also want to thank our Irish leaders who are here in the audience today.

I am addressing this to all of the panelists. What is the status of the British Government's review that was undertaken by the RUC's use of plastic bullets? Is there any hope for a change in policy? We had written to the Government of Ireland, asking for a

change of policy. We would like to see a change in the use of these deadly projectiles that have killed and maimed so many innocents. Any one of our panelists want to comment on that?

Mr. O'BRIEN. One of the things which came out of an inquiry which was conducted last year by Her Majesty's inspector of constabulary was that he suggested that the guidelines governing the use of plastic bullets in Northern Ireland should be brought into line with those in Britain. The chief constable said that he would implement that, but he has of yet not done so. There is a review underway of the guidelines. It's anticipated that the results of that review will come to light before the end of the year. But the government and the police certainly remain committed to continuing to use plastic bullets, which we think is a quite untenable position.

We would, however, urge Congress to continue to raise this issue and in particular, to try to ensure that the guidelines governing this are as restrictive as possible if the government continued to maintain that the weapons are useful, although it's been our experience that the guidelines appear to be fairly irrelevant in that they are routinely breached.

Chairman GILMAN. [presiding] I appreciate your comment. I am going to ask, our letter in our Committee, Mr. Smith and my own letter dated June 27, 1997, to Dr. Mowlam, Secretary of State for Northern Ireland, urging an immediate ban on the use of plastic baton rounds in Northern Ireland. We haven't had a response to that yet. I am going to ask that that letter be made a part of the record.

[The information referred to appears in the appendix.]

Chairman GILMAN. I am also going to ask that we make part of the record an analysis, a chronological listing of riots and firebombs in England and Scotland where petrol or firebombs were reportedly thrown. After a number of riots in 1981, British police were reportedly authorized by then Prime Minister Thatcher to use plastic bullets like those already in use in Ireland against rioters. However, no reported incidents of their use occurred in British citizens in Great Britain.

Then I go on to list all of the various riots from June 1981 on through May 1997, where petrol bombs were used. That raises a question. If we are going to decommission, how do we decommission fertilizer and all of the other ingredients that go into, and fuel oil that go into firebombs? I didn't hear anything said in the decommissioning of those items.

I also ask that it be made part of the record a statement by Ines McCormick, a leader in the MacBride campaign that be included in the record, analyzing the MacBride Principles.

[The information referred to appears in the appendix.]

Chairman GILMAN. Now another question I would like to ask our panelists. Have all the groups before us had an opportunity to review the Northern Ireland Human Rights Resolution that our Committee is considering? If you have, do you believe it can be helpful to our struggle in making human rights a critical part of the peace process? Have panelists looked over our resolution? I would welcome any comments you may have.

Ms. Hall.

Ms. HALL. Yes, Chairman Gilman. We have looked it over carefully. Frankly, we find nothing in the resolution with which we can not agree heartily.

Chairman GILMAN. I appreciate that.

Ms. HALL. Not only that, but as I stated in my testimony, one of the major mistakes made in peace negotiations the world over is that these types of efforts are not made at all or are not made early enough in the process. It is not stated clearly by helping governments such as the U.S. Government, that human rights must be central to the negotiations.

So we heartily endorse the resolution.

Chairman GILMAN. I appreciate your comments.

Ms. Winter.

Ms. WINTER. Mr. Chairman, we very much welcome this resolution. It's the first document of its kind that we have seen that acknowledges the role that human rights must play in the Northern Ireland peace process. The individual issues that it raises are all matters of burning concern to the people of Northern Ireland. We thank you and the Committee for putting it forward.

Chairman GILMAN. We appreciate your comments. We feel it is a core issue in the peace process.

Mr. O'Brien.

Mr. O'BRIEN. We look forward to the resolution receiving widespread support and are grateful for the efforts of Congress, and hope that they will continue.

Chairman GILMAN. Thank you. Your comments will be helpful to us.

Ms. Gowan.

Ms. GOWAN. Mr. Chairman, I think we said in our opening comments that we welcome very much the resolution. We believe that a number of the key concerns that were raised in the resolution were similar to the ones that we have raised in the past, and we have no disagreement with them.

I think we also believe that the recommendations, if they were acted upon, would actually make a significant contribution to developing a lasting peace in Northern Ireland.

Chairman GILMAN. Thank you. Ms. Massimino.

Ms. MASSIMINO. Yes. Thank you. We too welcome the resolution, and in particular the call for repeal of the emergency laws and for establishing a procedure to investigate intimidation of defense lawyers, which is a subject in which we have been interested for some time.

We welcome the resolution. We also look forward to working with you and other cosponsors of the resolution to follow up and see some of these recommendations pressed for by the Administration and implemented by the British Government.

Chairman GILMAN. We appreciate your statements of support. It will be very helpful to us as we get on with this.

Can I ask our panelists, how are we doing with job discrimination in the North? Do all of our panelists support the MacBride Principles? We have heard some conflicting reports in the past. Ms. Hall.

Ms. HALL. I can say with confidence that we endorse the MacBride Principles. However, in the past year, given the urgency

of the peace process, our focus has been primarily on the RUC. So I would yield to my other colleagues to give you substantive comments on that.

Chairman GILMAN. Thank you.

Ms. Winter.

Ms. WINTER. I am in much the same position, Mr. Chairman. I think the Committee on the Administration of Justice has taken the lead on fair employment issues. But we certainly endorse the MacBride Principles and believe that they have played and continue to play a very useful role in Northern Ireland.

Chairman GILMAN. Thank you.

Mr. O'Brien.

Mr. O'BRIEN. The major focus of the Committee's work in relation to fair employment has been on trying to ensure that there are firm and effective mechanisms in place within Northern Ireland to ensure that discrimination does not occur. It's very clear that the MacBride Principles have played an important part in ensuring that legislation within Northern Ireland has been strengthened.

We feel that there are a number of ways in which the framework for preventing discrimination can be strengthened. In particular, we would commend the report from the Standing Advisory Commission for Human Rights, which I referred to in my testimony. We look forward to prompt implementation of recommendations from the government in that respect.

Chairman GILMAN. Thank you.

Ms. Gowan.

Ms. GOWAN. Amnesty International's mandate is narrower than a number of other human rights organizations. So regarding issues of fair employment, we don't work on issues of fair employment within our mandate. So we don't have a position.

Chairman GILMAN. I would hope you would take a good hard look at our proposal on MacBride Principles.

Ms. Massimino.

Ms. MASSIMINO. I have nothing to add, but would concur with my colleagues on the ground in Northern Ireland. We definitely support the MacBride Principles.

Chairman GILMAN. Thank you. One last question before I have to go to vote. The bill of rights the panelists favor, should that be modeled after our own bill of rights which has served us so well?

Mr. O'Brien.

Mr. O'BRIEN. I think there is undoubtedly a lot which can be learned from the U.S. experience of a bill of rights. The work which we have been doing on the whole concept of a bill of rights has also looked at the experience in Canada, which has perhaps a more similar kind of legal framework. We have also looked at South Africa, Hong Kong, and a number of other countries. We have been very fortunate in having very distinguished visitors from the United States, very recently Justice Breyer from your Supreme Court, who was able to share something with us about the American Bill of Rights. So it's clearly been an important factor.

It is our view, however, that Northern Ireland requires a tailor-made bill of rights, and one which responds to the particular needs and circumstances of our society.

Chairman GILMAN. Thank you very much. I have to go vote. The Committee will stand in recess only a few minutes.

Mr. Smith has returned so we're not in recess. Thank you.

Mr. SMITH. [presiding] I understand Mr. Gilman asked a question on plastic bullets. Perhaps this is redundant, but let me just ask it anyway. When I met with Ronnie Flanagan and raised the issue of banning those bullets, he was reluctant—would be putting it mildly—to suggest what his response was. We got into a rather long argument on it. He claimed that there were no alternatives to the use of plastic bullets. Apparently he has real sway with the Government of Britain because when I talked to Mo Mowlam about it, even though her government and her party prior to this had been very outspoken in their belief that plastic bullets should be banned.

What alternatives do exist to plastic bullets for riot control? How do you respond to his objections, which I tried my very best to respond to, but I would appreciate your view. I mean crowd control, mob control, if you will, is a problem worldwide. There are some governments that do it right. There are other governments regrettably who do it wrong and injure people.

Also, in connection with that, we understand that Amnesty again has issued another report of another bad batch of plastic bullets that was discovered. They were heavier and were causing more damage. Perhaps you might want to comment on that as well.

Ms. Gowan.

Ms. GOWAN. In relation to your first question, basically in the rest of the United Kingdom, in England and Wales, you have had some very very big riots, much bigger than anything you have seen probably since the 1970's in Northern Ireland, but not in recent years. It brings to mind in particular recently the poll tax riots in London. Plastic bullets were not used. The police used other traditional methods, batons and shields and horses, you know, whatever. Even in situations which have been extremely violent and have gone on for many many hours, plastic bullets have not been used. So I think the RUC should look to the metropolitan police for alternatives in crowd control.

Ms. HALL. I understand why you ask the question. It is a question which came up in my numerous hours of meetings with Ronnie Flanagan. My response to the question is, can you please tell us precisely what research has been done by the RUC and the government on alternative methods? The response to that question has been evasive at best. So the idea that plastic bullets are the best method of crowd control can quickly be dispensed with because there's no clear answer as to what alternative methods have been tried.

However, to ask human rights groups to come up with answers to that question puts us in something of an awkward position. For example, for us to say, oh well, use CS gas or use water is very unlikely. In our minds, those are extremely strong responses that could harm people. For us to actually take a position on a specific alternative method would not necessarily be possible.

But the reality is that worldwide plastic bullets and rubber bullets are used in very rare circumstances. They are used in Israel currently. They were formerly used in South Africa. They are cur-

rently used in Northern Ireland. To look at the scale of conflict in those three different situations leads one to the conclusion that bullets are used as a matter of first resort in Northern Ireland.

For those of us who monitored the parades and marches this past summer, we have personal knowledge, eye witness knowledge that in one particular instance one that I was involved in—plastic bullets were used when there was in fact no threat to life nor a threat to property. Human Rights Watch would take the position that the bullet should not be used when there is a threat to property, period.

I think a little more in-depth questioning when that question is raised and a little more deliberate conversation about alternative methods with the RUC itself and the government itself would be useful, but we must always maintain the bottom line, that the bullets are unacceptable.

Ms. WINTER. Mr. Chairman, you mentioned the defective plastic bullets. In fact, two batches have been found to be defective this year. One of them because they were too heavy, and the other because they propelled too quickly out of the guns. These bullets cost quite a considerable amount of money. I believe they are around \$10 each. There have been at least a couple of hundred thousand such bullets found to be defective so far. So the cost is enormous just in economic terms.

In our view, and I think the view of all the human rights groups who have been in a position to see the damage caused by plastic bullets, and the way that they have been used in Northern Ireland which has been absolutely excessive. We have all concluded that defective or functioning perfectly properly, these are not weapons that should be used against unarmed civilians. They have no place in modern police riot control.

Ms. MASSIMINO. I would just add that, in addition to the damage that can be done by the use of plastic bullets, I think there is merit to the argument that in fact they are completely ineffective in controlling crowds for the reason that they frequently exacerbate tension and cause further violence. I would urge you to raise that with Mr. Flanagan as well.

Mr. SMITH. I also did raise with him the very tragic testimony of Brenda Downes, when she spoke of her husband's death as a result of the plastic bullets when she testified here.

Let me ask you, are you familiar with the group from Derry called the Relatives of Justice? Have any of you seen their report in which they suggest that the RUC or security forces have acted in collusion in over 100 deaths? Would anybody like to respond to that?

Ms. WINTER. Yes, Mr. Chairman. Relatives for Justice is a group in Northern Ireland who represent the relatives of those who have been killed by the security forces. I am familiar with their report. British Irish Rights Watch has undertaken its own independent research into many of the allegations made in that report and found to them to be substantiated.

Ms. HALL. I would just like to comment on a specific case that Human Rights Watch worked on last year. That is the case of Patrick Shanaghan. We felt confident enough that the allegations were credible of collusion between the police, and loyalist paramilitaries

were credible enough to include that particular case in our own report on policing.

Mr. SMITH. Mr. O'Brien.

Mr. O'BRIEN. Mr. Chairman, if I could return to the point of plastic bullets for a moment. Particularly in response to the comments from my colleague from the Lawyers Committee. When Her Majesty's inspectorate of constabulary, a very senior police officer looked at the use of plastic bullets in Northern Ireland, he himself acknowledged that they could exacerbate the situation and he pointed out that the police needed to look at their training, and that they needed to look at the other ways in which they tried to respond to these situations. A careful reading of his report would suggest that he himself felt that there was a too-ready resort to the weapon.

The whole issue of plastic bullets and indeed in last summer's marching seasons, is one in which we have looked at in some detail and which together with the Lawyers Committee for Human Rights, we have prepared a short 20-minute video on that matter. I don't imagine that is something which can be easily entered into the record, but it's something which we would like to make available to, Members of the Subcommittee. It covers a range of these issues, together with issues around abuse of defense lawyers who were actually abused in the course of the marching season and wider issues of police accountability.

Mr. SMITH. I would appreciate seeing that video.

Let me just ask you with regard to collusion. When I raised that question with Ronnie Flanagan, he totally dismissed the idea. What kind of independent review has been done or is being contemplated to get to the core of that issue of collusion in the police? Again, if there is that kind of complicity on the part of people who are in power to uphold and enforce the laws, that certainly has to shatter the confidence on the part of the people. As a matter of fact, I was told by some people in the nationalist community that they won't even bother to call the RUC if something happens because they just have no confidence whatsoever.

Ms. Gowan.

Ms. GOWAN. There has never been a proper independent inquiry. The only inquiry that was held into an aspect of collusion was under John Stevens, who was an English chief constable. The findings of that inquiry were not made public, except for some general statements saying that although collusion might exist at a certain level, it was not widespread, it was not systematic, and that the police were able to introduce certain procedures in order to put a stop to it. But the inquiry itself was very limited. The findings were never made public.

We have repeatedly called for a wide-ranging independent investigation into this because it has been going on for a very long time. It was only highlighted in the 1980's with the arrest of an army intelligence officer who turned out to also be a loyalist intelligence officer. Some information came to light that some police documents had been leaked and they were made public. But it was extremely limited, that inquiry. I think that this is one of the issues that we have raised in terms of dealing with the past. We have got to have some wide-ranging investigation into that issue. The truth has got

to come out on that issue. It's very very important in terms of public confidence in any future police force.

Mr. SMITH. Is there anything to suggest that Tony Blair's Government will do that?

Ms. GOWAN. We've certainly not had any indications of that so far, but I think we should continue to press for it, definitely.

Mr. SMITH. Ronnie Flanagan has said that he could cut the size of his police force in half if progress is made toward peace. Is this a realistic or a likely proposal?

Mr. O'BRIEN. Certainly if one looks at the current staffing levels of the police force in Northern Ireland, one finds that it is a highly policed place, and that there are, I think, more police officers per head of the population than most other countries around the world. So clearly, if we move to a peaceful resolution of the conflict, one of the key issues facing policing is what do you do with that very large body of people. That's clearly got to be part of the policing debate.

But also then how do you make your police service representative and how do you ensure that it reflects people from all sections of the community, whether they be men or women, Protestant or Catholic, from minority ethnic backgrounds, whether they be people of different sexual orientation, the full breadth of the society? Those are clearly issues which need to be reflected.

Ms. HALL. The fact that Ronnie Flanagan says that, I think, is meant to be the segue into the idea that recruitment levels thus would go down. Therefore, recruiting Catholics and other ethnic minorities would be more difficult. So you know, when he says that, it may or may not be a genuine gesture toward a reduction in the security forces in peacetime.

I also look at it somewhat dubiously from the perspective of composition, as Martin said. So I think it's a little bit of a double-edged sword, that response.

One other thing I would like to add is that we have seen some success, particularly in Haiti and El Salvador with reconstituting a police force that makes sense in a post-conflict period. The idea that there are all of these intractable problems in transforming the RUC into a force which enjoys the confidence of everyone in Northern Ireland should not be taken as a final word. Certainly it will be difficult and certainly it will take time, but we have seen great success in South Africa as well. We should look to those other regions for lessons about Northern Ireland in the post-conflict period.

Mr. SMITH. Yes. Ms. Gowan.

Ms. GOWAN. I just want to say that another aspect of the issue of collusion is the even-handedness of policing. I just want to draw your attention to two recent cases which have been extremely disturbing. One was the case of Liam Thompson, who was a taxi driver. He was asked to pick up a passenger on a particular street where previously during the day a woman living on the street had noticed that there was a breach in the security wall. The wall was, you know, dividing the nationalist community from the loyalist community. She had rung both the police and the Northern Ireland Office to tell them that there was a hole in the wall and it could be dangerous. She also alerted a number of residents that there was the hole in the wall. Unfortunately, Liam Thompson who was

the taxi driver hadn't received that alert and went to pick up the passenger.

The inquest into his death was adjourned twice now. The problem is that the RUC and the Northern Ireland office are both blocking any information to be brought to the inquest about their role, why they did not respond to that call, why they didn't repair the wall, why they didn't provide any security.

The other case concerns the death of Robert Hamill, who very recently was walking in the middle of the night down the street with another man and two women. They came across a crowd of Protestant people in the center of Portadown who attacked them without provocation. The women ran to a parked RUC car asking for help. They did not receive it. The women ran back and threw themselves on the men's bodies to prevent further beatings. These are allegations being made by the women who were at the incident.

As far as we are aware, there has still been no public accounting of what happened in that incident. It's extremely tragic. It's extremely disturbing.

Mr. SMITH. I got just a scintilla of insight into the way the process works. When we met with Michael Timmons, Sean Kelly and William Bell at Long Kesh, after clearing this and making the request through all of the diplomatic channels that we had to go through, when we got to the Maze or Long Kesh and we were in the outer building talking to some, three or four of the people who were meeting us there, I was asked, "Which Sean Kelly do you want to see?" I mean it wasn't even funny because it was just part of a process of trying to say we don't like you being here.

We did have a rather productive meeting with each of those individuals. But then when we met with Ronnie Flanagan, I asked him specifically about the cases of Sean Kelly and Michael Timmons, and he said, "Who are they?" This is after saying he knew intimate details about each of the cases that were of interest to human rights organizations. As a matter of fact, at one point he came forward and said, "I feel like there's a wall between us." I said, "Well, if you are not familiar with these two individuals who are two of the most celebrated cases, and there are many others, I question your sincerity, at best." We didn't hit it off, as you might gather.

But it shows if they treat a visiting congressional delegation with that kind of dismissiveness and give it the back of the hand, it's no wonder they treat human rights organizations and especially those who are accused and who are innocent with such disdain.

Let me just ask one final question before yielding to my distinguished friend from New York. The State Department Country Reports on Human Rights Practices states that loyalist and republican paramilitary organizations have carried out increasingly frequent punishment attacks. That was for 1995 and 1996. Can you comment on the frequency of those attacks as they exist today? Is it something that's in decline or what? Ms. Hall.

Ms. HALL. Yes. As you know, in our 1996 policing report, we dedicated a chapter to this phenomenon and took very strong positions against paramilitary punishment attacks. What we've seen as a result of the second cease-fire is a marked decline in these types of punishments in the nationalist community.

This is a very good community-based effort to approach crime in the nationalist community from a non-violent perspective. We can't speak to the mechanism for that yet because Human Rights Watch is not well enough informed. However, the marked decrease itself in punishments gives us confidence that the non-violent principles articulated in the Mitchell document are being taken seriously.

Mr. SMITH. Mr. O'Brien.

Mr. O'BRIEN. I think there has been a very welcomed decline in this quite appalling form of behavior. That's to be welcomed. It's essential that mechanisms be put in place in local communities to ensure that law and order operates there and that when people have a problem that needs to be dealt with, that they can feel confident about this as I think you were raising earlier, feel confident about contacting a police service to deal with that. That's really got to be a priority for the coming process.

But very fortunately, there has been some marked improvement in trying to bring an end to this quite outrageous behavior.

Mr. SMITH. Let me just make it clear too, and I know that we have already done this through letters from the Subcommittee as well as other Members have raised this. But it seems to me that a great confidence builder as well would be to release the egregious cases like Sean Kelly, Michael Timmons, William Bell and others. That's something that Mo Mowlam and the Government of the United Kingdom could do immediately. I think there would be a tremendous amount of support for that, certainly in the Congress and in the United States. So I hope the Government of Great Britain certainly gets that message that we would regard that in Congress as a great step in the right direction.

Mr. King.

Mr. KING. Thank you, Mr. Chairman. I want to thank all of the witnesses for the testimony. It was really enlightening and very informative. I would just like to add something to what the chairman said about the case of Sean Kelly. I was in Belfast last week and I was meeting with people from all communities. I was talking to a former IRA prisoner who was never denied his guilt, never denied his involvement in the IRA. He was just released recently. I was talking to him to get a perspective on what the conditions are in the prisons. He was talking about the republican wings and the loyalist wings and how the IRA men stay together and the UVF men, the UDA men. About 20 minutes into the conversation, he mentioned it so casually I almost missed it. He said unless you have someone like a Sean Kelly who doesn't belong to any of us. I said what do you mean about Sean Kelly? He said he was never involved with anyone. It was just like a matter of faith with him, just common knowledge that everyone in the prison, loyalists, republicans, prison guards, everyone knows that Sean Kelly was never involved in the IRA, never involved in any incident and no one knows what he is doing there. This person would have no reason at all to be telling me this. He mentioned it again, just as a matter of fact, as if he thought the whole world knew this. It's just an example of an ongoing injustice.

I would say again, that's just one anecdotal story, but it struck me. It certainly reinforces everything we have heard from anyone who knows anything about the case. One of the reasons perhaps

why Sean Kelly is not being released is because his brother, Jerry Kelly, who is active in Sinn Fein, who has been active in the republican movement, is now part of the negotiating team.

Would any of you care to comment on that as to what the political reasons may be as to why someone like Sean Kelly is not being released? His uncle, I'm sorry, Jerry Kelly is his uncle.

Ms. GOWAN. I think that what there was, because of the way the killing took place and the way it was shown on television over and over, there was a sort of massive overreaction in terms of arresting a huge number of people and charging a huge number of people with a variety of offenses. I think there were seven separate trials, and each trial that took place raised certain issues which were then later questioned. People then had their convictions quashed on appeal.

The other thing that the seven trials raised was the difference, the inconsistencies in judgments between different judges, quite frankly. So you had a situation where the Casement Three, who were in what was called the second stage of the incident, were sentenced to life imprisonment. Then you had somebody who was convicted to 7 years imprisonment who was involved in the third stage around the taxi. So the inconsistencies in sentencing were very marked.

So it is difficult to say exactly why these three remained imprisoned for so long, but——

Mr. O'BRIEN. I think the key issue in relation to miscarriages of justice regardless of whether it be in this case or in any other, and we have seen this with the Birmingham Six and the Guildford Four, Judith Ward, and other cases, is that there is a remarkable reluctance on the part of the judiciary and of the authorities to admit that they have made a mistake. I think that that is the common factor in all of these things. Sadly, this is not the only case in which we have innocent people locked up in prison. There is a very large number of cases of people from all sections of the community who remain in prison to the complete consternation and bewilderment of anyone who seriously looks at the case. I think at the heart of that is a fundamental flaw within the legal system which finds it virtually impossible to believe, for example, the police officers like everyone else occasionally tell lies. I think it's more a systemic issue about the nature of the criminal justice system which finds it very difficult to admit that it's got it wrong.

Ms. MASSIMINO. If I could just add one quick thing. You know, any criminal justice system is going to have some miscarriages of justice. We have them in our own system here. The key is when you see a system where there are repeated and numerous miscarriages of justice which undermine confidence in the system and infect the entire justice system and turn public opinion against the justice system, then you have to question whether, as Mr. O'Brien just pointed out, there is something fundamentally wrong with the laws and procedures which govern that system. I think that's what we have been trying to point out, each of us, in our own way here. That we will continue to see these kinds of miscarriages of justice until these fundamental problems with the system are rectified.

Ms. HALL. I would add that the government's establishment of the Criminal Cases Review Commission is welcome in one respect

and is completely illogical in another. There is legislation which fuels the miscarriage of justice phenomenon that needs to be repealed. To establish a review commission is a half-hearted attempt to address an issue that is much more fundamental and lies in the law itself.

Ms. GOWAN. Can I just add very quickly? Sorry. On Casement. I think that the importance of Casement was that within one trial, a number of the problems of the criminal justice system, the Diplock courts were highlighted. You had confession-based convictions. You had issues around the right of silence raised. You had the doctrine of common purpose applied. You had the heli-tely identification evidence.

So within one trial, you had a combination of different measures that are used in the criminal justice system which led to the miscarriage of justice.

Mr. KING. One final question. Maybe it's open-ended. We're talking about the system and we're talking about the police. We're talking about the judiciary. I believe maybe it was Ms. Hall who used the statement before, reconstitute the police force.

I would like if you could give me a definition of what you mean by reconstitution or the extent to which it has to be reconstituted. I would also ask that question not just in relation to the RUC, but also in relation to the judiciary itself. Because if we are talking about a new system and a new process going forward, if the same personnel stays in place, are we really replacing anything? Are we just in effect putting a different gloss on it?

So I would ask if any of you could comment on the extent to which you think the police force and the judiciary should be reconstituted, restructured, or perhaps just torn apart and rebuilt.

Ms. HALL. I think that "extent" is a good word to use. We would like to see changes in national institutions—such as law enforcement and the judiciary to the extent that every individual actor within those institutions conducts her or his responsibilities in conformity with international standards. Thus, when we talk about the use of force, we want to see individual officers not use excessive force. We want to see standards for lethal force used in conformity with international standards.

Our bottom line is that it is incumbent upon whatever authority is in power to establish a policing service and a judiciary that conforms to these international standards. Until that time, those institutions will remain unacceptable to Human Rights Watch and to other organizations who use the international standards as their framework for acceptability.

Ms. WINTER. It think it's undoubtedly clear, Mr. Chairman, that both the police and the judiciary are too narrowly drawn at the moment. The police force is predominantly Protestant. The judiciary who have been presiding over the emergency laws are few; there are 10 Diplock judges. It's a very small pool. It's clear that there will have to be fundamental change in the policing service and hopefully with the repeal of emergency laws in the criminal justice system in Northern Ireland, and that both the police and the judiciary will need to be expanded to become more representative of the population at large.

There will obviously need to be, particularly for the judiciary, retraining to take account of the incorporation of the European Convention on Human Rights, which is a promised reform. So I think the writing is on the wall for those institutions and many other institutions in Northern Ireland, that there will be a new dispensation and it will be necessary for those institutions to change radically. But I think it will inevitably be a relatively gradual process in that it's difficult to tear up any of those institutions overnight unless one has something useful to immediately substitute.

But anything that can be done either domestically or internationally to encourage a climate of change and openness to new ideas I think would be most welcome. I know that the Committee on the Administration of Justice has carried out very intensive research on different models of policing throughout the world. I don't know whether they would like to say a little bit more about that, but it's something that I think is a positive contribution to the debate. We are going to need an awful lot of that in the months and years to come.

Mr. O'BRIEN. Just to follow up on that. We have been involved in the process of research, looking at how other societies around the world have dealt with the particular problem of policing. We have looked at South Africa, El Salvador. We have also looked at problems with policing in Canada and Australia and the Middle East. In those circumstances, you find countries which decided to reform their policing structures, for example, in South Africa. You find situations in El Salvador where they decided to start afresh. The purpose of our research will be to look at the strengths and weaknesses of both of those approaches and to try to learn from other jurisdictions around the world as to how they made their police services more representative, how they made them more accountable, how they ensured that they respected human rights, and how they handled the actual process of transition. That's something which we'll be publishing within the next month. I hope to insert into the public debate about policing in Northern Ireland.

I think the other point which Congressman King made in relation to the judiciary is a particularly important one in that if we change the law and change the police, but don't actually make changes to the judiciary, then we may not actually get the kind of change which we need. It's particularly important that all three of those issues are addressed and at its most basic level. For example, in Northern Ireland at the moment we have no women judges. That is an issue of representativeness, and of trying to build a more pluralist society along with the other issues which perhaps get more attention. But clearly that's a very important agenda.

Ms. GOWAN. If I could just briefly add. I mean part of the problem of achieving change is that you have to first recognize and acknowledge that something isn't working. I think that is something we have felt very very strongly, that what we don't get from the government is a public recognition that ill treatment goes on or that collusion has happened or whatever the allegations are. Those allegations aren't investigated. So there's never a sort of public finding from any inquiry.

So really, in a sense, the first step is that there has to be some kind of official acknowledgement that certain procedures, whether

it's policing or the judiciary, don't function properly, and therefore, they need change. The government has to say clearly that needs changing. The police have to accept they need changing. The judiciary has to accept they need changing. So it's a bit problematic in terms of how it's going to happen.

Mr. KING. Thank you very much, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. King. Let me ask a couple of additional questions. Ms. Hall, you might find this of interest. When I met with Ronnie Flanagan, one of the other hats as I think you know that I wear, is that I am also chairman of the Helsinki Commission. Perhaps in his briefing notes or somewhere along the line, he thought that I was part of your organization because he immediately launched into a tirade about your most recent report which had been released almost immediately prior to my trip there, "To Serve Without Favor, Policing Human Rights and Accountability in Northern Ireland."

Again, during this trip I in my delegation had the privilege of meeting with Rosemary Nelson, a prominent defense lawyer who has been intimidated numerous times and told us personally of some of the concerns that she had, not only for her own safety, but that of her clients.

Perhaps some of you might want to elaborate on this intimidation of defense attorneys, which I think is outrageous. If there is to be any due process of law and protection for the rights of the accused, those who represent them not only need access to their clients immediately, and not after 48 or 72 or however many hours, where coerced confessions can occur. There has to be almost a wall of protection, sandbagging around those defense attorneys to protect them from intimidation, particularly by the police.

As you point out in your report, Ms. Hall, many of her clients were told things about her that would lead a client to be fearful about their representation. It reminds me of Helsinki monitors. One of the things in Eastern and Central Europe and the former Soviet Union that those of us on the Helsinki Commission always went out of our way to protect were the Helsinki monitors. In Czechoslovakia, it was charter 77. In each of the countries there were brave people who would stand up for the oppressed at risk to themselves. The human rights community always to a person said these are the ones we have to protect because they are the eyes and ears to let us know what's going on.

Here we have Rosemary Nelson and others being singled out wrongly by people like Ronnie Flanagan. I hate to sound like I'm beating up on the RUC's top man, but he was so hostile personally to me and to our delegation when he thought that we were part of your organization. It just was an insight into what you face. I was told by some people from our own embassy, our own consul, that he was a very charming man and flattering and seemed to be different from the others. Yet my brush with him and the answers that I had in our exchange, the dialog if you will, the debate, were less than satisfactory.

Is it time for him to go? If you could comment on the defense attorney's issue. Ms. Hall, if you might want to begin.

Ms. HALL. I would like to comment about your exchanges with Ronnie Flanagan, but I would defer to my colleague from the Law-

yers Committee on the defense lawyers question, not because Human Rights Watch hasn't likewise addressed the issue, but since that is Lawyers Committee's particular issue in Northern Ireland, I feel that Elisa will be able to answer that more fully.

With respect to the RUC, I think it is very important to note that when I did my initial research in Northern Ireland, I did not meet a hostile RUC. In fact, the acknowledgements in my report are very clear. The RUC not only granted us unlimited access to Ronnie Flanagan and his top deputies, but phone calls were made to the RUC for statistics, followup information, and context information almost every other day in the month of November when I was there and then 4 months subsequent while I was doing my research.

What that tells me is that the new chief constable who started his job on the day that I arrived in Northern Ireland, did not have a clear sense at all of the gravity of the human rights violations for which the RUC is responsible, nor the responsibility that would become his in terms of the RUC's public attitude toward international organizations like my own.

We frequently included within our report the RUC's verbatim response to issues we addressed. We also used RUC statistics. We tried as hard as we could at all points to make sure that the RUC's point of view was reflected in the report. Having read it, the gravity of the situation perhaps may have struck Ronnie Flanagan. He realized the full brunt of what he had taken on.

I don't want to make it sound like Flanagan himself has not been part and parcel of the RUC throughout the entire course of the trouble. But he has never been the sole public face responsible to international groups like ours. However, it should be made clear that Ronnie Flanagan was the chief strategist during Drumcree 1996. He bears responsibility for the violations themselves as well, but the hostile response to you, I suspect, was a sudden sense that he was the public face of the RUC and that international groups like mine would focus on him as the top person.

Having said all of that, the RUC has not responded to our report despite repeated requests for a response. Normally groups like ours will get a dismissive letter. We did not even receive a dismissive letter. We received a press statement saying that he felt that although the RUC hadn't read the report, it was "naive". This defies logic.

The whole culture of policing in Northern Ireland can be wrapped up in these anecdotes about interaction with top management. If such hostility exists at a level where the public of the RUC face is supposed to be somewhat conciliatory and engaging, it is frightening to think of what occurs at the street level where nobody sees anything and very few of us are there to monitor.

Ms. MASSIMINO. On the issue of harassment and intimidation of defense lawyers, as you well know, Mr. Chairman, there are international standards governing the role of lawyers in a civil society. They are spelled out in great detail in the U.N. Basic Principles on Lawyers, which were adopted by the U.N. General Assembly in 1990. I would just like to quote, if I might, two provisions that are particularly relevant here, paragraph 16, which says "Governments shall ensure that lawyers (a) are able to perform all of their profes-

sional functions without intimidation, hindrance, harassment, or improper interference, (b) are able to travel with their clients both freely within their country and abroad, and (c) shall not suffer or be threatened with prosecution or administrative economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."

Paragraph 18, which is particularly relevant here, reads "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions." I was very pleased to hear that you had a chance to meet with Rosemary Nelson while you were over this summer. Her situation has been of grave concern to the Lawyers Committee. She continues to operate in the face of threats, harassment, death threats, threats both directly and through her clients. This kind of situation is incredibly stressful for lawyers. It drives weaker lawyers out of the system and contributes again to the erosion of the rule of law because people are unable to get adequate defense. There are then miscarriages of justice which lead to this entire cycle of erosion of the rule of law and public confidence in the justice system. That is why in particular we urged the U.N. Special Rapporteur to visit Northern Ireland to see firsthand and make a report on this ongoing situation which is of central concern to the Lawyers Committee, and should be of concern to legal professionals everywhere in the world.

Mr. SMITH. Mr. O'Brien, did you want to comment?

Let me yield to my good friend, the chairman of the full Committee, Mr. Gilman.

Chairman GILMAN. Thank you, Mr. Chairman. Again, I thank you for this hearing. Don't feel too badly about not receiving any answer to your mail. The Irish Nationalist community has been waiting for several hundred years for a response. This is typical.

To any of the panelists. Wouldn't Sean Kelly's release be a good thing now in building reconciliation in the North? Can we do anything to expedite that? Does anyone want to comment?

Mr. O'BRIEN. Absolutely. I think that there is a great deal of scope in relation to expedited procedures to release victims of miscarriages of justice like Sean Kelly, William Bell, and others. At this point in time, I think in about a week's time, the Life Sentence Review Board will be reviewing the case of Sean Kelly and Michael Timmons and I think it might well be appropriate for Members of Congress to consider contacting the Life Sentence Review Board. Although ultimately the decision in relation to release rests with the Secretary of State, it is she who has powers in relation to this matter. There are other cases which I think would be worthy of support as well, for example, the case of Neil Latimer, and a wide variety of others which many of us have been working on for many years.

Chairman GILMAN. Could you give my staff assistant, Mr. Mackey, a short memo before you leave on some of those cases, and who we should be directing our request to? I think we will undertake to do just that.

Mr. O'BRIEN. We'll be very happy to.

Chairman GILMAN. Ms. Winter, why is there such a difference in the treatment of Irish prisoners in England, which is quite harsh, against treatment in Northern Ireland which is, comparatively

speaking, a little more reasonable? Is this another case of a British double standard?

Ms. WINTER. We certainly believe that it is, Mr. Chairman. We, together with the Committee on the Administration of Justice and the Irish Commission for Prisoners Overseas in Dublin, have produced a report on the circumstances of republican prisoners in British jails, i.e. in England. We have sent that report to the European Committee on the Prevention of Torture Inhumane and Degrading Treatment, and also to the U.N. Committee Against Torture because we found that in British jails, republican prisoners were over-represented in the special secure units, which are prisons within prisons, and which have an extremely harsh regime. There was no published or available to public scrutiny rationale for how a prisoner was chosen to put into a special secure unit.

I am pleased to say that recently the government has announced that the security category of most of those prisoners has been reduced so that they no longer remain in the special secure units, but the units themselves remain. There are also five allegedly republican prisoners on remand at Belmarsh prison, who although they apparently have been decategorized, still appear to be being kept in a special secure unit and are still being subjected to quite unnecessary and repetitive strip searching, very little association with other prisoners, very few facilities in terms of recreation or education.

Compared to the way that prisoners are treated in Northern Ireland, there is considerable discrimination against republican prisoners held in England. I can't give you an answer as to why that should be. I think that is a question that needs to be addressed to the British Government. It's certainly something that we would like to see an end to.

Chairman GILMAN. Any response to your queries with regard to this discrepancy?

Ms. WINTER. No. I am afraid not. We have sent the report to the government, but we have had no response from them that has answered that question.

Chairman GILMAN. Who did you send your report to?

Ms. WINTER. We sent our report to the Secretary of State and the Prison Service.

Chairman GILMAN. Can you tell us how is Danny McNamee's health now that he has been moved to Northern Ireland from England? Can anyone tell us anything about that?

Ms. WINTER. I am afraid I don't have an up-to-date report on that, but I do know that before he was moved, his health was giving rise to serious concern and a psychiatrist commissioned by the British Government to report on his health expressed serious concerns about him.

Chairman GILMAN. If you have any further information, we would welcome it.

Ms. WINTER. Certainly. I will see what I can find out.

Chairman GILMAN. To the entire panel, in Northern Ireland, the inference of guilt comes from the exercise of one's right to silence. I think that is important to our standards over here. We affirmatively advise defendants before custodial questioning under our fourth amendment and U.S. law enforcement supports and wel-

comes and abides by the established rights of prisoners without any adverse impact on any of their conflicts.

What is the basis for the Northern Ireland inference of guilt? Can anyone give us any background on that?

Mr. O'BRIEN. This is a matter of the law which was changed a number of years ago when a piece of legislation was proposed which effectively meant that silence in the face of police questioning or silence in court or failure to account for presence in a particular place at a particular time could be used to support a finding of guilt. This is something which has now been extended throughout the United Kingdom. It is also something which the U.N. Human Rights Committee has found to violate the International Covenant on Civil and Political Rights. The U.K. Government was recently found or was sometime ago found to have violated the European Convention on Human Rights, in particular, the fair trial provisions of that convention.

In relation to the combination of the effective denial of the right to remain silent on restrictions on legal advice, the government has yet to amend its law to take account of the judgment of the European Court. That is something which would again merit some attention from Congress, and perhaps some approaches to the U.K. Government as to when exactly it intends to comply with the judgment of the European Court in the Murray case.

Chairman GILMAN. Are the British authorities using the inference of guilt from silence in English courts other than in Northern Ireland?

Mr. O'BRIEN. Yes. This is now a matter of law which first began in Northern Ireland but has now been extended throughout the United Kingdom and is in a sense, an example of the corrosive effect of some of the measures which are first implemented in Northern Ireland.

Chairman GILMAN. Chairman Smith raised the issue of British Government collusion with the loyalist paramilitaries and attacks on nationalists. Father Raymond Murray, when he testified before us last hearing said when he submitted testimony, said that the SAS, the British army and the RUC have been involved in the killing of nationalists in controversial circumstances. Do you agree with that assessment?

Ms. WINTER. I am afraid that we have no option but to agree, Mr. Chairman. There are many many cases of abuse of lethal force by the security forces, by soldiers and police officers, and other cases such as ones that Halya Gowan has touched on, that of Liam Thompson, where there has been a blatant failure to protect members of the public even in the situation where the security forces were in full possession of information which suggested that people were at risk.

There have been attempts to cover up information which lead inevitably to suspicion of collusion, even though collusion may not have taken place in that particular case. But against a background where there really has been a consistent chain of cases where collusion quite clearly has taken place, inevitably the suspicions will arise if questions are not answered and if information is not disclosed.

Chairman GILMAN. Thank you, Ms. Winter.

Ms. Hall, would you care to comment on that last question?

Ms. HALL. What Human Rights Watch has asked for from the British Government is a response to the allegations. Collusion by its very nature is very difficult to prove. What we have gathered is enough evidence to tell us that a response is necessary. What we face when we ask for a response is silence. Our position has been not to level the allegations, but to say that as the allegations have been made by families and in the face of sham inquests, the British Government must speak to the issue of collusion.

Chairman GILMAN. Do you get any response?

Ms. HALL. The response that we got during the course of this research was a classic response; there may be a few bad apples at the bottom of the barrel; however this phenomenon does not reach into the upper management.

The research that we have done indicates to us that the few bad apples theory is untenable given the number of cases, the types of evidence, the way the evidence is very similar from one case to the next. We do not buy that theory. We have asked for a more deliberate and careful response to these allegations.

Chairman GILMAN. Thank you. Mr. O'Brien, would you care to comment?

Mr. O'BRIEN. I don't think I could add much in terms of the comments which my colleagues have made.

Chairman GILMAN. Ms. Gowan.

Ms. GOWAN. I think it is extremely important that the government actually carry out an independent and thorough investigation going back over the years. I mean it's not just in order to set the record straight, but it is also to learn the lessons of it. So I think it's extremely important.

Chairman GILMAN. Ms. Massimino.

Ms. MASSIMINO. I could just add one thing on your previous question on the privilege against self incrimination. I would emphasize to you that, I can't recall right now if it's in your resolution, but it's an issue that is very clear in international law; the right to remain silent and for there to be no negative inferences drawn from that silence. It's a long tradition in English law systems. So I believe it is a point on which we can justifiably press very hard with the British Government to restore the privilege against self incrimination. I would encourage you to include that in your efforts.

Chairman GILMAN. Thank you. I would like to urge our panelists—Father Murray has put together an impressive amount of proof. I urge your review of his submitted report in our June 1997 hearing record with relation to the collusion problem. I think we should all be pursuing that further.

Again, I want to thank our panelists for being here, for being patient and exploring all of the issues with us. I want to thank our chairman, Chairman Smith, for pursuing this issue for all of us in the Congress.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Chairman Gilman.

Ms. Massimino, we do have that in our resolution, but I know full well how important it is. We will try to keep it amplified as we go through the process of marking it up and then having a floor debate on the House floor sometime before this session concludes.

Just let me ask a few final questions. You have been an outstanding panel. But more importantly, the work you do each and every day on behalf of vulnerable people, is absolutely laudatory and you certainly have the admiration of Chairman Gilman and me, and people on both sides of the aisle for the work that you do. You are witnesses to the brutality of what people can do when they have the power to do it and especially when they think people aren't looking.

On that issue, I visited Castlereagh, as I think some of you may know, and raised a number of questions about police interrogation tactics. Specifically, I was talking about the William Bell case, where his sister was used to help coerce a confession from him. Out of concern for his sister and her mental state, he according to Mr. Bell, gave in and signed a confession under that kind of duress.

I was shown by authorities at Castlereagh their new system, which included a video. It had a uniformed member of the police force monitoring what would go on in one of those small rooms where the interrogations take place.

While I was watching an interrogation actually go on, I was struck by the lack of audio and inquired about that. I was told that they are afraid that the transcripts or the audio itself might make its way into the hands of one of the paramilitaries.

I also took note of the fact that somebody in uniform was monitoring somebody in uniform. It struck me that that doesn't fit the definition of an ombudsman or someone who would be watching out for the rights of the accused. It also struck me as window dressing.

Now maybe it's a step in the right direction. Perhaps you might want to comment on it. But they were showing me this as if this was a big 180 degree turn from what their past practices had been to what they are now.

Ms. Gowan.

Ms. GOWAN. If there is video recording which is kept, i.e. you can keep the record of it, then at least that would provide some kind of evidence in terms of physical ill treatment. But since 1991, the number of allegations of physical treatment have decreased. But what we have had is the kind of psychological pressure which you have talked about. Without audio recording of those kinds of interviews, and in particular we say without a lawyer being present in order to—it's not just the audio recording, but sometimes people are confused about what a police officer says to them and they have got to be given proper advice.

So I think that without audio recording, without a lawyer being present, there are insufficient safeguards for that kind of interrogation. They do happen in England. That's the crucial point. People arrested under emergency legislation have their lawyers present. It's audio recorded, and can be video recorded. So there is no reason why they can't do it in the North. It hasn't stopped them prosecuting and convicting in England.

Mr. SMITH. Mr. O'Brien.

Mr. O'BRIEN. I think the point you raise is particularly interesting because one of the issues which we have long campaigned for is for audio and video recording of interviews. Now sometime ago, some years ago, I think 2 years ago, the government made a commitment that it would introduce video recording. Certainly there

has been no public announcement that I am aware of that video recording has in fact been introduced in Castlereagh Holding Centre. The system which has been in place there for many years has been one of closed circuit television, whereby someone watches but no recording is made. It is my understanding that that is still the system which is in place.

There have been a number of cases where substantial damages have been awarded against the place in relation to allegations of ill-treatment, but when we have asked on how many occasions police officers monitoring these interviews have actually interrupted the process because of observing some improper behavior, the answer which we received was that they were unaware of occasions when that had occurred.

So it is my understanding that the system which exists there at the moment is simply one of closed circuit monitoring, and that no recording is made. We would endorse the views raised by colleagues that the most effective safeguard of all is to have a lawyer present. If one's lawyer was allowed to be present, then that would provide you with some protection. It would also be more likely to prevent the kind of quite outrageous slurs which have been made against lawyers.

Importantly, also of importance is the fact that it would provide protection against the place against false accusations. That is another matter which should be considered. There is an independent commissioner for the holding centers who can make visits to the holding centers. But he and his assistant have only monitored a very tiny proportion of interviews, and have only been able to be present at a very tiny proportion of interviews.

So we would like to see the government act to implement the commitments which were made previously to install an effective system for recording of interviews.

Ms. WINTER. Another aspect of this, Mr. Chairman, is that in the absence of the presence of a lawyer during the interview, and in the absence of proper video and audio recording, the only record of what happens in a police interview of a suspect is the handwritten notes made by police officers, which is clearly not an adequate basis on which to procure trials and convictions.

Mr. SMITH. Mr. Gilman.

Chairman GILMAN. Mr. Chairman, thank you. Just one final comment. I would like to note for the record the presence today of Father Sean McManus of the Irish national cause and Joe Roach, former national president of the AOH, and Dan Withers, one of our leaders in my own constituency in Rockland County. These leaders have kept the candle burning for human rights in the North for a long period of time. We welcome their presence here today.

Thank you, Mr. Chairman.

Mr. SMITH. Just, Mr. Chairman, on that same note, I would like to welcome Jim McFarland from the Hibernian division in my own home county, township of Hamilton, New Jersey, and a good friend, Kevin Meer, who is also here. Glad to have you at this hearing.

I wasn't here when you put her testimony into the record, Mr. Chairman, but I want to say Ines McCormick, who I also met when I was in Northern Ireland, we're very happy to have her here as well.

I would like to ask just some final questions and then thank the witnesses for their expert testimony. In August, I met with Diane Hamill, the sister of Robert Hamill who was beaten to death while the RUC evidently did nothing. I wonder if there is any update perhaps Mr. O'Brien or anyone else might bring to bear on that particular case?

Mr. O'BRIEN. I am afraid the pace of these matters moves incredibly slowly. From Ms. Hamill's point of view, she certainly remains with a whole series of questions to which she has not received answers. In particular, she and very many others have felt that there's a manifest case for the officers involved and to be suspended pending the outcome of an inquiry. It has caused her some considerable concern that that has not taken place.

It has also been a matter of concern to her that when she made a complaint in relation to the incident that she was requested to go to the very police station from which the police officers involved were based to register a complaint. That is clearly a quite unacceptable situation.

So again, we would request that Members urge prompt action in relation to providing answers to the questions which Mr. Hamill's sister and his family have.

Mr. SMITH. On the relationship of the human rights community to Mo Mowlam, the Secretary of State, and not only to yourselves but also SACHR, the Standing Advisory Committee on Human Rights, how seriously does she take the recommendations that are made by SACHR, by yourself, and other interested parties in devising policy? Is it something that she is aware of but doesn't integrate or what is the relationship?

Mr. O'BRIEN. The Secretary of State has been in her job for a relatively short time, but she is certainly someone which many of us had very productive working relationships with prior to her becoming Secretary of State. We have continued to maintain those relationships with her and with her staff. A particularly welcomed development with the election of Labour Government has been the very prominent position which it has given in relation to its international foreign policy to human rights, but also it itself has pointed out that it would be inappropriate if it were to apply those standards internationally but not domestically. That's particularly welcome.

So we are very pleased to see that she has prioritized issues of policing, issues of fair employment, issues around protections for rights. We are keen to work with her to achieving the implementation of those commitments. So we look forward to a continued relationship with the Secretary of State and welcome the interest which she has shown to date in these issues. The challenge for the Secretary of State and for all those involved in the peace process in Northern Ireland is to implement change and then to deliver change. That's really what in our view would be the priority.

Ms. HALL. Likewise. She has been receptive to our requests for high-level meetings in our advocacy effort with respect to the policing issues. But one of the things that struck us with the new government occurred during the time of the Hong Kong transition when the new government strongly criticized regressive civil liberties legislation or attempts to restrict civil liberties in Hong

Kong. At that time, it became clear to us that there was a tremendous gap in the U.K.'s commitments to human rights between Hong Kong and Northern Ireland.

I'm not even sure that there is a realization on the part of the U.K. Government that Northern Ireland deserves the same kind of respect and attention in terms of its human rights situation as do other places like Hong Kong.

Mr. SMITH. Do as I say, not as I do.

Ms. HALL. I think so.

Mr. SMITH. Let me ask if there is any significance at all, because as co-chairs of the peace talks, the Foreign Minister of Ireland obviously plays a real role, in Ray Burke stepping down and David Andrews, if my understanding is correct, taking that position. Is that just a personal matter of no substantive difference?

Mr. O'BRIEN. I think those of us from Ireland have been out of the country during the time in which Mr. Burke tendered his resignation. So it is a very difficult matter for us to comment on. It's obviously very important that those involved in the process are able to focus on the process and the situation which applies now will hopefully allow that.

Mr. SMITH. Are you familiar with David Andrews?

Mr. O'BRIEN. I know of him, yes.

Mr. SMITH. Let me ask one final question on the truth commission. We have had in the past, hearings on truth commissions, particularly as they related to El Salvador. I'll never forget being briefed before they were embarked and deployed, while they were there, and then after the fact when we actually had the three internationally respected jurists appear before the Subcommittee in El Salvador speak as to what they did with very limited resources to try to end the reign of impunity and to come up with a realistic means of dealing with those who committed such horrible things down there.

Would a truth commission be appropriate for the North of Ireland? At what point do you think that should be considered, as part of this peace talk or something that might be a follow-on? Obviously some of those who perhaps may even be participating might have reason to be concerned about what a truth commission may find, but it seems to me people have a right to know answers, whether about Bloody Sunday or any other incident. That would be one way of clearing the air.

Ms. WINTER. There certainly is a need to deal with the legacy of the past. Cases like Bloody Sunday, the case of Patrick Finucane, and many others that have arisen in the past 27 years certainly need inquiry, airing, and the truth to be told.

I think the difficulty in the Northern Ireland situation is that a truth commission will only work if the government of the day is prepared to open the books. You, in your opening remarks described, I think it was the chief constable, as being in denial. I regret to say that I think the security forces in toto in Northern Ireland are in denial that there has been anything at all improper about the way that they have gone about things over the last 27 years. They have been extremely reluctant to admit that they have made mistakes or that they have done anything wrong.

There is no sign at the moment that the government would be prepared to back a truth commission as such for Northern Ireland. But it is beyond doubt that unless some of these outstanding miscarriages of justice in the broader sense of the term are dealt with and the truth is told, then it will be very difficult for many people in Northern Ireland to put the past behind them and to move on, because they will be left with a sense of injustice and of feeling left behind by the process of political change.

So some mechanism has to be found. Some painful truth telling on all sides, not just the government's side, I think will be required. But how that will be done, at the moment is not at all clear.

Ms. HALL. I would endorse the general principle that some mechanism for accountability for past abuses is essential. But we would not take the position of what that mechanism would be. I can give an example of a different route to the truth that would not require a truth commission. Ms. Gowan was talking about a full inquiry into allegations of collusion. The establishment of such an inquiry, coupled with the full vetting of the RUC of any officer in any position who has had elicited associations with paramilitary groups, is another way to bring the truth to the fore, confront the perpetrator, and somehow settle scores without necessarily having a full-fledged truth commission.

There are probably a number of configurations that these accountability mechanisms can take and all will have the same outcome of reconciliation.

Chairman GILMAN. Nothing further, Mr. Chairman. Just again, our thanks to the panelists for their patience and their willingness to appear before us.

Mr. SMITH. I, too, want to thank our very distinguished panelists. The hearing is adjourned.

[Whereupon, at 3:43 p.m., the Subcommittee was adjourned.]

L



A P P E N D I X

Opening Statement of Representative Chris Smith Chairman, Subcommittee on International Operations and Human Rights

The purpose of this hearing is to hear testimony on the importance of human rights as a central element of the peace process in Northern Ireland.

I recently returned from a five-day fact-finding and human rights mission to Northern Ireland. I had numerous meetings with community groups and individuals on all sides of the conflict. I met with British officials including Secretary of State Mo Mowlam and Royal Ulster Constabulary Chief Constable Ronnie Flanagan. I also met with representatives from all of the major political parties and visited two prisons: the Maze (formerly Long Kesh), which holds only those convicted of political crimes; and Castlereagh, an interrogation center where political prisoners have been held without charge for days and interrogated without regard for their rights, including the right to remain silent and the right to consult with an attorney.

I was encouraged by my meeting with Secretary Mowlam, who demonstrated a clear understanding of the problems and a genuine commitment to address human

rights abuses in Northern Ireland. Similarly, I was pleased with my meeting with Bob Cooper of the Fair Employment Commission (FEC). While the FEC has much more work to do in eliminating discrimination against Catholics in the workplace, it is clear that the message of the MacBride Principles campaign in the United States has been heard and has had an impact.

In meetings with political leaders including Gerry Adams of Sinn Fein, the Social Democratic and Labor Party's (SDLP's) Alex Attwood and, on the other end of the spectrum, David Ervine of the Progressive Unionist Party and Gary McMichael of the Ulster Democratic Party, it was evident that these leaders have a vested interest in securing real progress at the multi-party peace talks. I stressed that the American public has no tolerance for terrorist attacks and punishment beatings orchestrated by paramilitary groups on both sides and that the U.S. Congress is only interested in helping those who seek to resolve their differences through non-violent means. All the leaders seemed to agree that the guarantee of fundamental human rights should be at the center of the talks and not just a "bargaining chip" for one party or another.

My most disappointing sessions were with RUC Chief Ronnie Flanagan and Lord Chief Justice Sir Robert Carswell. Both men head up departments, police and judiciary respectively, which have been severely criticized by human rights groups the world over. Both men remained in a state of denial, refusing to admit that human rights abuses take place in their agencies. It was easy to see why so few in the Catholic community have any confidence in the ability of the police or judiciary to make meaningful reforms on their own. The reforms in these departments will have to come from external pressures and sources.

Visiting Belfast, it was evident that central to the conflict in Northern Ireland has been the failure of the government to guarantee an equal protection of rights to both the Protestant and Catholic communities, especially to the Catholic minority. The central responsibility for protecting rights and maintaining the rule of law belongs to the government -- in this case the British government. In the past, the government has failed in this regard and abuses have exacerbated the problem. When a government or its officials resort to methods that are illegal, unjust, or inhumane, even when these methods are seemingly directed against the guilty or the dangerous, the effect is not to preserve law and order but to undermine it.

The main purpose of the hearing this Subcommittee held in June, and of my trip to Ireland in August, was to spotlight the abuses in Northern Ireland so that eliminating them will become a central component of any peace agreement. No peace will be lasting or just if the abuse of fundamental human rights is not stopped.

Unfortunately, not even the best of intentions guarantee that any agreement will genuinely protect human rights. In peace processes around the world --- most recently in Bosnia and in Guatemala --- we have seen that the atmosphere at these negotiations, the pressure to get an agreement and the reluctance to reopen old wounds, can have the unfortunate side-effect of making human rights an afterthought rather than a central element of the agreement. Before there can be forgiveness and reconciliation, there must be truth-telling and full disclosure. The victims of human rights abuses, and the families of these victims, are entitled to know the truth about what happened to them and to their loved ones, and they need to know the truth if they are ever to forgive.

While truth commissions and similar institutions may help people on all sides to come to terms with past violations of human rights, it is perhaps even more

important to guarantee such rights for the future. A Bill of Rights, including guarantees of the right against self-incrimination, the right to counsel, and the right to a speedy and public trial, is important to the people of Northern Ireland, and should be a part of any agreement.

Our witnesses today represent human rights organizations in Northern Ireland, in Great Britain, and in the United States. They are known and respected both for their expertise with respect to the situation in Northern Ireland and for their commitment to fundamental principles of law and justice. I look forward to hearing their testimony.

HUMAN RIGHTS WATCH

A HUMAN RIGHTS WATCH REPORT; COPYRIGHT © HUMAN RIGHTS WATCH; ISSN: 1041-9197

STATEMENT

OF

JULIA A. HALL

**COUNSEL, HUMAN RIGHTS WATCH/HELSINKI
WESTERN EUROPE RESEARCHER**

HUMAN RIGHTS WATCH

OCTOBER 9, 1997

**HOUSE COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS
AND HUMAN RIGHTS**



485 FIFTH AVENUE
NEW YORK, NY 10017-6104
TEL (212) 972-8400
FAX (212) 972-0905
E-MAIL: hwnyc@hrw.org

1522 K STREET, NW, #910
WASHINGTON, DC 20005-1202
TEL (202) 371-6592
FAX (202) 371-0124
E-MAIL: hnwdc@hrw.org

33 ISINGTON HIGH STREET
LONDON N1 9LH UK
TEL (44171) 713-1995
FAX (44171) 713-1800
E-MAIL: hrwatchuk@gn.apc.org

15 RUE VAN CAMPENHOUT
1000 BRUSSELS, BELGIUM
TEL (192) 732-2009
FAX (322) 732-0471
E-MAIL: hrwatcheu@gn.apc.org

WEB SITE <http://www.hrw.org>

GOPHER SITE
gopher@gopher.humanrights.org 5000

LISTSERV ADDRESS: To subscribe to the list, send an e-mail message to majordomo@gn.apc.org with "subscribe hrw-news" in the body of the message (leave subject line blank).

Thank you, Mr. Chairman, and members of the subcommittee, for this opportunity to speak with you about the human rights dimension of the Northern Ireland peace process. As you know, Human Rights Watch has been monitoring and reporting on human rights violations in Northern Ireland since 1991. Over the past year, we have focused specifically on the issue of police abuse and had an opportunity in June 1997 to communicate to this subcommittee our grave concerns about persistent allegations of abuse against the Royal Ulster Constabulary (RUC) -- Northern Ireland's police force -- and the lack of accountability for gross RUC misconduct. In addition to profound problems with policing, Human Rights Watch remains concerned about a number of outstanding human rights issues in Northern Ireland which my colleagues here today will discuss in more detail.

I would like to speak today to the unique opportunity which the Northern Ireland peace process affords all of us -- governments, political parties, international organizations, non-governmental organizations, and the people of Northern Ireland -- for success not just at halting the violence that has characterized this conflict over the past twenty-seven years but also for laying a strong and durable foundation for a just peace based on the long-term protection and promotion of human rights for everyone in Northern Ireland. Over the past twenty odd years, Human Rights Watch has attempted to influence many peace processes with the understanding that conflict management -- that is, the cessation of violence -- must be coupled with the creation and maintenance of a strong foundation upon which a human rights culture can be built. Regrettably, our experience tells us that all too often human rights are not addressed at all in the course of peace negotiations. Sometimes they serve as a subtext or are mentioned vaguely as some future goal to be achieved *after* the political negotiations are complete. Many times -- to our dismay -- human rights are used as bargaining chips at the negotiating table, as if inalienable rights can be traded and bartered. It is

indeed rare for human rights to play a central role in any peace process.

This reality should surprise us and, indeed, for many of us who have experience working in conflict situations, the lack of attention to human rights concerns during the full course of negotiations appears to defy logic. It is axiomatic that human rights violations are central to the way in which much contemporary armed conflict is conducted. We have seen in El Salvador, Haiti, Guatemala, South Africa, Angola, Cambodia, and, more recently, in Bosnia and Rwanda that human rights abuses have been the modus operandi by which governments and opposition actors in these armed conflicts have advanced their political and ideological goals. Thus, when these same actors are involved in negotiating a peace, it should appear obvious that addressing continuing human rights abuses and creating mechanisms for accountability for past violations must also be a modus operandi of making and sustaining that peace. Without careful attention to human rights abuses, accountability for past violations, and the creation of national institutions -- such as an impartial police service and judiciary for the fair and peaceful resolution of conflict -- violence will inevitably re-emerge.

Human Rights Watch believes that it is instructive to look at some of the mistakes which have been made in the course of other peace processes in order to inform ourselves about the possibilities for positive action on human rights in the Northern Ireland process. While the scale of violations in other conflicts may be greater -- in some cases like Bosnia and Rwanda rising to the level of genocide -- every contemporary armed conflict shares a common feature: human rights violations have been at the heart of the conflict. We have seen instances, for example in Angola, where human rights protections, accountability for past violations, and the maintenance of the rule of law were, at best, subtexts in the peace process. The key focus in Angola was to end the violence and "to promote a spirit of reconciliation" by passing a series of amnesty laws for perpetrators of human rights

violations. While the cessations of violence is, undoubtedly, a necessary prerequisite to peace, the absence of a long-term strategy to protect human rights has, predictably, spiraled Angola back into a threatening situation in which violence seems imminent. It is clear that there was a trade-off in Angola between justice and peace which, not surprisingly, has resulted in a current situation in which neither authentically exists.

Bosnia is a different case altogether but provides ample evidence of the dangers of human rights rhetoric without action. The human rights provisions of the Dayton Accords undoubtedly form a comprehensive package of protections for all of Bosnia's citizens. Lack of attention to implementation, however, has resulted in a "post-conflict" environment in which human rights abuses -- such as restrictions on freedom of movement and the right to return to one's home -- are features of daily life. In both Angola and Bosnia the absence of or weaknesses in mechanisms for accountability for past violations have resulted in virtual impunity for perpetrators of gross human rights abuses. In both cases, human rights abuses inherent to the conflict were addressed inadequately through a peace process myopically concerned with the immediate cessation of violence without any provisions for authentically maintaining a just and lasting peace. These are just two of numerous examples worldwide where ignoring human rights in the course of trying to create peace has led to a renewal of violence and threatened to destabilize the original agreement.

Let me say a brief word about chronology. Although many of us will talk about the "human rights dimension of the Northern Ireland peace process" it is imperative to note that there are a number of ways in which human rights can be advanced in the course of the process without actually being part of the substantive negotiations. Indeed, Human Rights Watch strongly believes that there are many human rights issues that cannot and must not be "outcomes" of the negotiations. There are

roughly three stages at which action can and should be taken on human rights in the course of peace negotiations. Thus, my colleagues will discuss measures that can and should be taken immediately by the British and Irish governments -- as a matter of compliance with their existing international obligations -- to build confidence in the peace process. Certain issues -- related to prisoners and the final adoption of a Bill of Rights -- may be part of the substantive negotiations themselves. However, the drafting of a Bill of Rights should involve a broad-based public debate -- such as the one which evolved in the course of writing South Africa's new constitution -- which could begin now. Finally, there may be human rights issues which will be addressed in the "post-conflict" stage as the people of Northern Ireland go about the business of building a culture of rights. Careful attention to human rights concerns in each of these stages promises a peace secured by confidence in the rule of law and the protection of individual rights

The conflict in Northern Ireland is ripe for authentic resolution. All the parties at the negotiating table have agreed to the principle of non-violence as formulated in the Mitchell Principles. Human rights is on the agenda of the peace talks. More generally, the British government has embarked on a number of welcome initiatives with respect to human rights. The people of Northern Ireland want, and indeed deserve, a just peace. Thus, the task at hand is to continue to encourage everyone involved in the talks process to understand the critical importance of human rights to its success. To that end, Human Rights Watch fully supports the resolution now being considered for passage by the Congress regarding human rights and the Northern Ireland peace process. The resolution rightly recognizes the gravity of past violations and the role that such abuses have played in perpetuating the conflict. It calls for immediate action on some issues and recommends that a mechanism for accountability for past violations be established. In short, the resolution is a signal that

Congress is eager to prevent the same lack of attention to human rights issues which has doomed other peace processes and may threaten the success of the Northern Ireland peace process if action is not taken now. Thank you.

ADDRESS TO THE OPEN MEETING OF THE SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN RIGHTS OF THE COMMITTEE ON INTERNATIONAL RELATIONS, UNITED STATES HOUSE OF REPRESENTATIVES, 9th OCTOBER 1997, BY JANE WINTER, DIRECTOR, BRITISH IRISH RIGHTS WATCH

HUMAN RIGHTS AND THE PEACE PROCESS IN NORTHERN IRELAND

I am the Director of British Irish RIGHTS WATCH, an independent non-governmental organisation that has been monitoring the human rights dimension of the conflict, and latterly the peace process, in Northern Ireland since 1990. Our services are available free of charge to anyone whose human rights have been violated because of the conflict, regardless of religious, political or community affiliations. We take no position on the eventual constitutional outcome of the conflict.

We welcome this opportunity to address this open meeting of the Subcommittee on International Relations and Human Rights on the topic of Human Rights and the Peace Process in Northern Ireland and are grateful to Representative Christopher Smith and the other members of this honorable Subcommittee for their ongoing concern about this vital issue.

British Irish RIGHTS WATCH has always worked closely with the two main human rights organisations in Ireland, the Committee on the Administration of Justice and the Irish Council for Civil Liberties. Although this submission is entirely my own, it reflects the views of all of us on the positive role that respect for human rights can - in fact, must - play in the Northern Ireland peace process, if its outcome is to be fair to all parties and is to endure.

PART OF THE PROBLEM

Violations of human rights have been a persistent feature during the past 27 years of conflict in Northern Ireland. They have consistently acted as flashpoints for violence and distrust and have undermined the rule of law, as the controversy surrounding parades and marches has vividly demonstrated. The effects of these violations have also made themselves felt in Britain and in the Republic of Ireland, where the criminal justice systems have been badly distorted by emergency laws.

A GOLDEN OPPORTUNITY

The recent commencement of peace talks provides a golden opportunity to address the human rights deficit that has developed in Northern Ireland and the neighbouring jurisdictions over the years and presents a new perspective on matters such as emergency laws, policing, and the position of prisoners. It creates the space in which it is possible to consider acknowledging past wrongs, making amends, and reconciling differences. If human rights issues were recognised and tackled in parallel with the political process, there could be tremendous benefits in terms of building mutual trust and confidence between formerly divided communities.

Equally, if human rights concerns are not addressed, then the prospects for a just and enduring peace are remote. The failure to make progress on human rights questions undoubtedly contributed to the failure of the first phase of the peace process. Mercifully, we now have a second chance. Failure to grasp the opportunity to redress the human rights deficit this time around will mean an almost inevitable return to violence and to an even more bitter and entrenched conflict.

PART OF THE SOLUTION

Action on human rights issues can play a central role in building confidence across all communities.

Both communities in Northern Ireland have been dreadfully afflicted by violence. Everyone has suffered from the emphasis placed on the role of the police as part of the security forces, to the detriment of ordinary community policing. Miscarriages of justice have arisen across the board because of the lack of due process rights under emergency laws and in the no-jury Diplock courts. Both loyalists and nationalists are concerned about the fate of prisoners who would never have found themselves serving long jail sentences had it not been for the conflict. Although they might differ over its content, there is cross-party support for a Bill of Rights. There is thus considerable scope for creating common ground, and in the course of doing so strengthening the peace process.

An agenda item on human rights has been built into each of the three strands of the peace talks. However, the talks are not a suitable forum for addressing specific violations or drafting legislation. Furthermore, human rights are not bargaining chips to be traded for political concessions. They are standards to which all civilised governments must subscribe and which they must enforce impartially. Progress on human rights need not - indeed, must not - wait until a political settlement has been hammered out. Not only might it be too late by then, but the chances of ever reaching such a settlement could be substantially reduced.

We hope that all parties to the talks will recognise the need for human rights gains such as a Bill of Rights and reform of policing, but these are ultimately the responsibility of the British and Irish governments and must not on any account be allowed to become casualties of any failure to make political progress in the talks.

NECESSARY STEPS

We have already identified various steps towards building common rights and enhancing confidence in the peace process in Northern Ireland. These include:

1. introducing a Bill of Rights ;
2. repealing emergency laws and removing restrictions on the right to remain silent;
3. ensuring that the police are able to deliver an effective community service to everyone and to uphold the rule of law impartially;
4. redressing outstanding miscarriages of justice created by the conflict;
5. extending and strengthening existing anti-discrimination legislation;
6. broadening the base of the judiciary and training judges and lawyers in human rights.

Taken together, these moves would help to create a culture in which accommodation, negotiation and reconciliation can thrive. Everyone in Northern Ireland, regardless of their religion or politics, would benefit from these measures, as would people in Britain and the Republic of Ireland. There would be no losers.

THE REPUBLIC OF IRELAND

The spillover from the conflict into the Republic of Ireland has led to the adoption of emergency measures there. The no-jury Special Criminal Court is still in operation despite the ceasefires in Northern Ireland and the much lower level of paramilitary activity in the Republic for several years past. Special rules of evidence and restrictions on the right of silence also operate, and there have been ongoing allegations of police brutality against paramilitary suspects. As in the north, mechanisms for dealing with complaints against the police are woefully inadequate.

The peace process offers an opportunity to end emergency measures in the Republic as well as in the United Kingdom. Progress in this regard and in strengthening human rights protections in the Republic would enhance the climate for progress in Northern Ireland, and vice versa.

THE NEED FOR AN INCLUSIVE PROCESS

Many ordinary people in Northern Ireland are disillusioned with politics. The failure of the first phase of the peace process has left many people feeling cynical or hopeless. The political talks will not in themselves provide a mechanism for engaging everyone or giving them a sense of ownership of the process. It is essential that a wider debate is established about human rights matters that affect people's daily lives, in order to create the potential for giving everyone a say in their future and a chance to invest in peace.

GOVERNMENTS MUST LEAD THE WAY

However, ultimately, it is governments who are responsible for upholding human rights. Both the British and the Irish governments bear the responsibility for establishing and enforcing human rights protections for everyone in Northern Ireland, Britain and the Republic, and for placing human rights at the heart of the peace process. Whatever the ultimate political solution in Northern Ireland, both communities will need to be reassured that they will not be oppressed or discriminated against under the new arrangements.

The United States government, which has done so much to support and encourage moves towards peace in Northern Ireland, can be of vital assistance by emphasising the positive role that human rights can play in building confidence in the peace process and ensuring a just and enduring settlement.

Human rights were almost completely excluded from the equation the last time round. If this second chance is missed, a third opportunity may be a long time coming and the cost in terms of loss of life in the meantime is too high to contemplate. Integrating human rights into the peace process is not a luxury but a necessity. It cannot be left until last on the premise that nothing can be resolved until everything is resolved. Nor can progress on human rights be allowed to become a casualty of the peace process. There is everything to gain and nothing at all to lose from putting into practice the moral and legal principles to which all civilised governments subscribe.

I thank this honorable Subcommittee for its time and attention.

Jane Winter,
Director,
British Irish RIGHTS WATCH,
October 1997

**MARTIN O'BRIEN, DIRECTOR, COMMITTEE ON THE
ADMINISTRATION OF JUSTICE, BELFAST**

Mr. Chairman thank-you for the invitation to testify to-day before the Sub-Committee. Your continued interest in Northern Ireland is particularly encouraging and is especially important at this point in time. Since our last appearance before the Sub-Committee a new cease-fire has been put in place and multi party negotiations have recently begun. All those involved in bringing the process to this point are to be congratulated and the efforts of Senator Mitchell deserve particular praise.

In order for the process to bear fruit it is essential that the two governments receive all the support and assistance which their friends around the world can offer over the coming period. It is for this reason that the timing of these hearings is particularly opportune.

As my colleagues from Human Rights Watch and British Irish Rights Watch have already pointed out issues of justice and fairness must be tackled if we are to build a lasting peace.

I would therefore suggest that Congress uses its good offices to provide whatever assistance it can to help the two governments and the US administration to make progress in the following areas.

Emergency Law

CAJ has consistently maintained that emergency legislation in Northern Ireland has contributed to the conflict rather than assisting in its resolution. Regardless of the merits of that argument, there can be little doubt that given the continued absence of sustained violence there is now no justification for the maintenance of the PTA and the EPA. International law is clear: once an emergency has ended special measures, adopted to deal with that emergency, should cease. The recent announcement by the Secretary of State that she intends to remove the power to intern people without trial from the statute book is a welcome first step but it does not go far enough. The United Kingdom government is under a legal obligation to scrap emergency laws now. The United Kingdom government continues to derogate from the European Convention on Human Rights and the International Covenant on Civil and Political Rights in relation to its seven day detention powers. The government should immediately withdraw its derogation and should stop holding people for periods which breach the minimum standards set by the European Court. It should also implement the recommendations made by the United Nations Human Rights Committee and the Committee Against Torture to close the infamous Castlereagh detention centre which has given cause to so many complaints from both Protestant and Catholic detainees of police abuse.

Bill of Rights

CAJ has long believed that Northern Ireland requires a Bill of Rights and we therefore welcome the decision of the new Labour government to incorporate the European Convention of Human Rights into domestic law. The need for a Bill of Rights is something which all of the parties agree on and we believe that discussions around the content of a Bill of Rights would be an important step in building a lasting peace. The European Convention is now over 40 years old and its provisions are somewhat dated. Furthermore it will not address some of the difficulties associated with the conflict in Northern Ireland. For instance, the provisions dealing with discrimination are very weak and there is no protection for the rights of groups or minorities. It is therefore imperative that a tailor made Bill of Rights is developed which meets the needs and fears of all sections of the community in Northern Ireland and reassures them that they will be treated fairly in any future arrangements. The adoption of such a Bill of Rights will of course increase the importance of the judiciary. It is therefore essential that consideration be given to the role of the judiciary in the interpretation of any Bill of Rights

and to the extent to which they fully represent the different elements within Northern Irish society.

While these matters will undoubtedly be discussed within the talks process it is essential that the wider society is involved in this debate and that international expertise is brought to bear on the best way to protect rights in Northern Ireland. To this end we suggest that it would be helpful if a group of internationally respected experts were assembled to work alongside the talks process on the preparation of a Bill of Rights and effective mechanisms for its enforcement. This group should also develop an extensive process of public consultation on the contents and shape of any Bill of Rights along the lines of the constructive public debates on this issue which took place in Canada or South Africa.

The two governments should move quickly to establish such a mechanism in order to assist those involved in the talks process and to ensure that rights protections developed are suited to the specific needs of Northern Ireland.

Discrimination

In the field of discrimination the government is already extremely fortunate to have a detailed set of some 156 recommendations for ways to improve and enhance its work to eliminate discrimination and inequality based on religion. These recommendations are the result of an extensive process of research and consultation over a two and a half year period carried out by the government's own Standing Advisory Commission on Human Rights. Given its commitments to establishing justice and fairness in Northern Ireland the new government must move quickly to implement these recommendations for change. Fairness and the visible implementation of mechanism to achieve fairness must be the cornerstone of any peace settlement. In particular the Government should ensure that the Policy Appraisal and Fair Treatment guidelines which are designed to ensure that government's policies do not adversely impact or discriminate against particular groups within society are transformed from advisory guidance to government departments into the legally binding requirements on government departments and policy makers. Such a step would be of immense reassurance to all sections of society.

Miscarriages of Justice

Additionally, those prisoners who continue to assert their innocence should be given a speedy review of their convictions. It may be that the newly established Criminal Cases Review Commission can fulfil this function, but if, as is widely reported, it is inundated with cases, then perhaps a more specific mechanism of a temporary nature needs to be established. Either way it must be recognised that the use of special powers, interrogation procedures and courts have led to innocent individuals from across the community being imprisoned, and this has led to a corresponding decrease in confidence in the administration of justice. This should be a matter of concern for all parties to the talks process, but the governments must ensure that an effective mechanism exists to review such convictions.

Plastic Bullets

When this Committee considered Northern Ireland at its hearings in June serious concerns were expressed about the use of plastic bullets and the need to ensure that they would not be used in the coming marching season. Sadly the 1997 marching season saw similar problems with plastic bullets with some 2500 being fired in a 60 hour period.

In August after considerable local and international pressure the guidelines governing the use of plastic bullets were published. Their publication however highlighted a number of issues. Firstly it emerged that the army and the police operate under different guidelines and that the guidelines in force in Britain where plastic bullets have never been used are much more restrictive than those in force in NI. In NI for example individual officers can decide when to fire plastic bullets whereas in Britain their use must be authorised by a very senior officer. In Britain the bullets can only be used to protect life but in NI they can be used to protect life, property and to affect an arrest.

It also emerged that warnings should be given before their use but CAJ observers have never once heard such a warning. The evidence which we gathered this past summer confirmed earlier conclusions that the guidelines on use are routinely breached with many of those hit receiving head and upper body injuries. The guidelines stipulate that the bullets should only be aimed at the lower body.

It also emerged that another set of bullets had to be recalled from use due to production deficiencies which rendered them potentially even more dangerous. Efforts made by CAJ to secure information from the police on the numbers of bullets used broken down by date and incident have been unsuccessful. We were told that the information was unavailable. This raises profound concerns about the supervision of the use of this lethal weapon which has resulted in the deaths of 17 people more than half of them children.

It remains our firm conclusion that this is an inherently unreliable and lethal weapon which should have no place within the public order armory of a state which claims to respect human rights. We would urge the Labour government to implement its previously stated commitment to withdraw plastic bullets from use.

Policing

It is clear that any solution to Northern Ireland's problems will require new policing arrangements. This will be a long and involved process but action in this area to achieve an accountable, representative police service respecting human rights must begin promptly. Again the government already has some proposals for change which command cross community support. These relate to the need for a truly independent system to investigate complaints against the police. The government should act promptly to implement these proposals in their entirety. Any attempt to dilute their force would be a mistake.

Obviously an independent complaints system is only the first step but it is vitally necessary to give confidence to all sides of the community that they will have some redress against abuses by the police in the interim process

Conclusion

Any effort by Congress to raise these issues is particularly welcome and deserves widespread support. In particular it would be helpful if the concerns of Congress on these and other human rights issues could be raised with the British and Irish governments, Senator Mitchell and with the US administration. It would also be important that these concerns are raised with those compiling the State Dept. Country Reports.

Thank you

STATEMENT
OF
HALYA GOWAN
RESEARCHER
AMNESTY INTERNATIONAL (INTERNATIONAL SECRETARIAT)

Before the
House Committee on International Relations
Subcommittee on International Operations and Human Rights

October 9, 1997

amnesty international

Northern Ireland: Action needed on Human Rights Protection

**Amnesty International's Comments to the House Committee on International Relations
Sub-committee on International Operations and Human Rights, October 1997**

Amnesty International (International Secretariat) welcomes this opportunity to address members of the House International Relations Subcommittee on International Operations and Human Rights on the role of human rights protection in the peace process in Northern Ireland. Amnesty International welcomes the resolution proposed by the Congress which situates the centrality of human rights within the peace process and raises a number of key concerns which are in line with many of our own concerns. The recommendations, if acted upon, would make a significant contribution to developing a lasting peace in Northern Ireland.

Current human rights concerns arise against a background of civil conflict since 1969 during which over 3,400 people have been killed. Republican and Loyalist armed groups are responsible for most of the deaths. Amnesty International has condemned arbitrary and deliberate killings, torture and hostage-taking by paramilitary groups and has repeatedly urged the paramilitary groups to end these human rights abuses.

The continued abrogation of basic human rights in Northern Ireland has played a central role in the conflict in Northern Ireland. Previous UK governments have hidden behind secrecy and internal inquiries to avoid being accountable for the human rights violations by its agents in Northern Ireland. They have ignored the recommendations of many international treaty bodies as well as some of their own internal inquiries. The protection of fundamental human rights has been seen as secondary to the maintenance of a high level of security.

The new government has an opportunity to reassert the primacy of the protection of human rights in Northern Ireland. The incorporation of the European Convention for the Protection of Human Rights and Fundamental Freedoms is a first step towards implementing its

Amnesty International October 1997

international obligations. The government should move swiftly to establish a Human Rights Commission, which would have full and effective powers to strengthen human rights protection.

Amnesty International welcomes the commitments expressed in initial government statements to emphasize issues of fairness and justice in Northern Ireland. The organization believes strongly that the protection of human rights and the strengthening of a human rights culture are central to a lasting peace. However, Amnesty International also believes that a lasting peace has to be built on the basis of full accountability of the security forces for their actions and some measure of justice for the victims of these violations.

Given the large number of human rights violations perpetrated in Northern Ireland, there is a particular need for the new government to review a number of issues, including policing and emergency legislation provisions, with a view to increasing the protection of human rights in Northern Ireland.

One of the striking features about the human rights situation in the UK is the underlying assumption that one can provide less human rights protection to people in Northern Ireland than to people in England. The lower standards of justice have resulted in a lack of accountability and measures need to be taken to ensure that all laws and procedures in the UK conform with international standards. This presentation will focus on just a few issues which blatantly illustrate this disparity.

1. Special Interrogation Centres.

There is no statutory basis for the existence of the special police interrogation centres in Northern Ireland, which are used for the detention of suspects arrested under emergency legislation -- the most notable of all being Castlereagh Holding Centre in Belfast. These centres have been the subject of many allegations of police ill-treatment and torture since the 1970s. Similar centres do not exist in the rest of the UK, and suspects arrested under emergency legislation are held in police stations and interrogated in the presence of their lawyers.

Given the oppressive nature of these centres in Northern Ireland, Amnesty International believes that Castlereagh and the other centres should be closed down and that suspects should be detained in designated police stations. In addition, the following safeguards should apply to such detentions:

- a) the government should withdraw its derogation from the relevant provisions of the ICCPR and the European Convention and provide prompt judicial scrutiny of detentions;
- b) legislation should be introduced giving lawyers immediate access to their clients, as well as allowing lawyers access to interrogations;
- c) further safeguards should be introduced, including the audio and video recording of all interrogations.

Another vital safeguard is the introduction of a system to investigate complaints of police ill-treatment which would ensure that allegations are promptly, thoroughly and independently investigated and that the perpetrators of ill-treatment are brought to justice. The government should urgently implement the recommendations of an independent review of the complaints procedures in Northern Ireland by Dr Maurice Hayes, published in January 1977. Dr Hayes recommended the appointment of a Police Ombudsman whose duty would be to investigate complaints against the police by using his or her own staff of independent investigators.

2. Diplock Courts

"Diplock Courts" were established under emergency legislation in 1973 to deal with serious offences linked to alleged terrorist activities. These single-judge and juryless courts do not exist in England, even though people in England are tried for the same kind of offences. There are a number of people who have been convicted in these courts who claim to be victims of miscarriages of justice. Amnesty International has urged the government to review the functioning of the "Diplock Courts" to ensure that the following specific provisions are brought into conformity with international standards for fair trials:

- * the lower standards for the admissibility of confession evidence;
- * the lack of full disclosure by the prosecution to the defence of crucial evidence;
- * the curtailment of the right of an accused to remain silent during interrogation or trial without negative inferences being drawn.

Amnesty International has monitored many trials over the years because of concerns that the lower standards of admissible evidence have led to unfair trials and wrongful convictions. Recently the organization welcomed the quashing of the conviction of Patrick Kane and continues to campaign for a review of the convictions of Sean Kelly and Michael Timmons, who were given life sentences in March 1990 in connection with the murder of two soldiers, known as the Casement Park cases. The organization also sent an observer to the appeal hearing

of Christopher Sheals in April 1997; he was convicted in 1994 under the doctrine of common purpose in connection with the murder of a Protestant woman. The judgment in his case is still pending.

Most recently Amnesty International has taken action on the case of Colin Duffy. Colin Duffy was arrested on 23 June 1997 and was held on remand for 3 1/2 months until his release on 3 October despite significant evidence, held in police possession from a very early stage, which indicated that he was not involved in the killing of two police officers in Lurgan on 16 July. This evidence included 12 statements supporting his alibi that he was not in the vicinity of the killings; the statement of an eyewitness that Colin Duffy did not match the height or build of the perpetrator; and reliable evidence that the prosecution's key unidentified witness was not at the scene as she claimed to be. Amnesty International wrote to the government, the prosecution and the police to express concerns about Colin Duffy's continued detention; the police's failure to suspend interviews to allow him to obtain legal advice; and the allegations that police officers had made disparaging comments to Colin Duffy and another arrested suspect about the lawyer.

Although Colin Duffy was released last week, Amnesty International believes that the case highlights critical flaws in the criminal justice system, in that there appear to be no checks on the soundness of charges brought by the RUC. The Director of Public Prosecutions told Amnesty International that he had no powers other than to request the RUC to expedite the sending of a preliminary police file on the investigation to him for review. In this case, once the DPP received the file, he dropped the charges on the basis of lack of sufficient evidence.

Colin Duffy had already been the victim of a miscarriage of justice. He was released from a life sentence when his conviction was quashed in July 1996 after the prosecution stated that it could no longer rely on the identification evidence of the key eyewitness. The case of Colin Duffy illustrates that politically motivated arrests and detentions are still being carried out.

3. Inquests

The right to life is a fundamental and non-derogable right. The European Court of Human Rights, in its judgment in the *McCann and Others v. UK*, (the Gibraltar Three) stated:

"A general legal prohibition of arbitrary killing by the agents of the State would be ineffective, in practice, if there existed no procedure for reviewing the lawfulness of the use of lethal force by State authorities. The obligation to protect the right to life

under this provision ... requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force by, *inter alios*, agents of the State."

Amnesty International is concerned that the government is failing to protect the fundamental right to life because it is not meeting its obligation to effectively review the lawfulness of the use of lethal force by State authorities in Northern Ireland. The inquest system in Northern Ireland has been so severely restricted, first through legislation, and then through interpretation of the law and the rules by the courts, that it can no longer fulfill any useful role in determining the full circumstances of a disputed killing. Nor can it inquire into the legality of the actions taken by the security forces. In addition, the systematic use of Public Interest Immunity Certificates blocks the disclosure of crucial evidence and contributes to the lack of accountability of the security forces.

The inquest system in England and Wales is hampered by some restrictions that also apply in Northern Ireland, in particular that the victim's family does not receive legal aid, and that in many instances the lawyers are unable to receive the evidence before the inquest in order to prepare the questioning of witnesses. However, the inquest jury in England and Wales is able to reach a range of verdicts, including unlawful killing. And the persons allegedly involved in the death, be it police officers, soldiers, prison officers, are required to attend the inquest and to give oral testimony.

A number of disputed killings have been of concern to Amnesty International over the last few years, including those of Pearse Jordan, John McNeill et al, Patrick Shanaghan and Liam Thompson. The inquests in all of these cases and in others have failed to examine the full circumstances in which the people died. Amnesty International urges the government to establish a wide-ranging judicial inquiry whose remit would be to recommend the establishment of a different public judicial procedure to examine disputed killings/deaths which would be in conformity with international standards.

4. Plastic Bullets

Amnesty International is concerned about the indiscriminate firing of plastic bullets by security forces, a method of crowd control used only in Northern Ireland. The organization is also concerned that the guidelines regulating the use of such bullets are less rigorous for the RUC than for the British Army and for police forces in the rest of the UK.

Although plastic bullets were introduced in 1973 as a non-lethal method of crowd control, they have led to 14 deaths and hundreds of injuries. In many instances the regulations governing the use of such potentially lethal bullets are not adhered to. The guidelines state that plastic bullets should only be aimed at the lower half of the body and, unless lives are at risk, should not be fired at a range of less than 20 metres. International standards, such as the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, require that law enforcement officials should avoid the use of force in the dispersal of assemblies or, where that is not practicable, should restrict such force to the minimum extent necessary; that the use of force should be in proportion to the seriousness of the offence; and that the deployment of weapons should be evaluated in order to minimize the risk of endangering uninvolved persons.

On 10 June 1997 the government announced that a large percentage of plastic bullets issued from early 1994 had velocities which were over the upper recommended limit. The faulty bullets had been withdrawn in April 1997 and replaced by stocks which did not exceed the stipulations. The higher velocity meant that the bullets would have hit their targets at excessive speed. The government statement did not say how many faulty plastic bullets had been issued, nor how many had actually been fired. However, a total of 7,437 plastic bullets were fired by the RUC and 1,424 by the British Army since the faulty plastic bullets were issued in May 1994. The government stated that 94 alleged injuries have been caused by plastic bullets since the beginning of 1994 and up to June 1997. It was also revealed that the Ministry of Defence had known since early 1996 that "some of the rounds were going marginally faster than the specified velocity, but the tests were not considered conclusive". The long delay in the withdrawal of this batch of faulty bullets has not been adequately explained by the government.

In September it was announced that another batch of plastic bullets had to be withdrawn because they were heavier than they should be. This calls into question the procedures for testing plastic bullets before they are issued.

In 1996 the Chief Inspector of Constabulary revealed that the RUC guidelines regulating the firing of plastic bullets were not consistent with those of ACPO (Association of Chief Police Officers) which apply to other police forces within the UK. He recommended that the RUC guidelines should be changed. The RUC Chief Constable objected to this recommendation; however a review by ACPO, in conjunction with the RUC, is expected to report later this year. Three sets of guidelines, which previously were secret, were made public in August 1997. The RUC guidelines are less rigorous than the guidelines for the British Army or those of ACPO. The ACPO and the British Army guidelines limit the range of circumstances: plastic bullets can only be fired to prevent a serious risk of loss of life, whereas the RUC guidelines allow the

firing of plastic bullets to protect property or in the detection of crime. The ACPO and British Army guidelines require a more senior officer to authorize the use of bullets, whereas the RUC guidelines allow individual officers to use their own judgment.

The use of plastic bullets in Northern Ireland must be reviewed because of the following concerns: the apparent inability to produce batches which are not faulty; the concern expressed that these bullets cannot be properly aimed; the disproportionate firing of such bullets against the nationalist community; and the lack of accountability for the firing of such bullets.

The government must urgently introduce the training of the security forces in methods of public order policing consistent with internationally recognized standards regarding the use of force and firearms.

Dealing with the past

Despite the many serious allegations of human rights violations in the past in Northern Ireland, there has been a marked failure by successive governments to carry out wide-ranging independent investigations into such allegations and to make the findings public. Amnesty International believes that a full investigation of the violations will help instil in the security forces a new sense of accountability to local residents for their actions and a willingness to act within the law. At the same time a fair and effective investigation will help reduce lingering fears amongst people who have long been subjected to a criminal justice system intended to cover up abuses rather than ensuring that perpetrators are brought to justice. There are a number of outstanding issues which have not been either properly investigated or publicly clarified. These include allegations of collusion between the security forces and Loyalist paramilitary groups, allegations of extrajudicial executions by the security forces, the killing of the lawyer Patrick Finucane, and the killing of 13 unarmed people and the wounding of 15 others by British Army soldiers on 31 January 1972, known as "Bloody Sunday".

Action Needed for Human Rights Protection

Amnesty International believes that the following measures need to be taken in order to secure the protection of human rights in Northern Ireland:

*The UK should ensure that everyone has a prompt and effective remedy for the denial of the rights recognized in international treaties and other instruments.

- * The UK should introduce legislation which would specifically regulate the use of lethal force.
- * The government should establish a judicial inquiry with a view to making recommendations for a new mechanism for a public inquiry into disputed killings by the security forces.
- * The government should review the use of plastic bullets.
- * The government should carry out a fundamental review into all aspects of policing.
- * The government should urgently implement an independent system to investigate complaints against the police in Northern Ireland.
- * Castlereagh and the other interrogation centres should be closed down.
- * Safeguards should be introduced for suspects arrested under emergency legislation.
- * The government should ensure that all legislation, including emergency legislation, is in conformity with international standards.
- * The government should withdraw its derogation from international treaties concerning the length of detention under emergency legislation.
- * Reports of police inquiries into allegations of collusion and extrajudicial executions should be published.
- * Prompt, independent and thorough investigations should be carried out into reports of serious human rights violations, including in the past.
- * Paramilitary groups should cease human rights abuses.



**LAWYERS COMMITTEE
FOR HUMAN RIGHTS**

Washington, D.C. Office:
100 Maryland Avenue, N.E., Suite 502
Washington, D.C. 20002

Telephone (202) 547 5692
Facsimile (202) 543 5999
E-mail WDC@lchr.org

Headquarters:
333 Seventh Avenue, 13th Floor
New York, New York 10001-5004

Telephone (212) 845 5200
Facsimile (212) 845 5299
E-mail NYC@lchr.org
http://www.lchr.org

TESTIMONY OF
ELISA C. MASSIMINO
DIRECTOR, WASHINGTON OFFICE
LAWYERS COMMITTEE FOR HUMAN RIGHTS

ON

"HUMAN RIGHTS AND THE PEACE PROCESS IN NORTHERN IRELAND"

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND
HUMAN RIGHTS

October 9, 1997

Board of Directors
Chair Norman Dorsen
President Tom A. Bernstein
Chair Emeritus Marvin E. Frankel

Executive Director Michael Posner

Washington, D.C. Council
Chair Joseph L. Brand

M. Bernard Adinoff
Michael F. Davis
Mitchell F. Dolin
Donald Francis Donovan
A. Whitney Ellsworth

National Council Chair: Talbot D'Alemberte

Patrick J. Carome
Bertram W. Carp
Lynda M. Chiarzo
Mitchell F. Dolin
Father Robert F. Drinan

Kenneth R. Farnberg
R. Scott Gresham
Deborah M. Greenberg
Rita Hauser
Louis Henkin

Joseph Eldridge
Bruce J. Ennis
Kenneth R. Farnberg
William T. Garcia
Daryl Libow

Robert D. Joffe
Lewis B. Kaden
Kerry Kennedy Cuomo
Nancy Kuhn
Philip A. Lacovara

Lorrel Pyke Malson
Ronald H. Meltzer
Frank H. Minaker, Jr.
Thomas H. Ulrich
Joan E. Neal
Diane F. Orenlicher

Jo Backer Laird
R. Todd Lang
Ronald K. Noble
Barbara A. Schatz
Marcia Lynn Sells
Steven R. Shapiro

International Rule of Law Council Co-Chairs: Roberta Karp, George A. Vradenburg, III

C. Larry O'Rourke
Jerold Oshinsky
Raymond Panelky
Susan Rappaport
Margaret Ellen Roggensack
Phil Rudolph

Warren R. Stern
Jay Topkis
Robert Van Lierop
George A. Vradenburg, III
Sigourney V. Saver
William D. Zabel

James C. Snipes
Roxane N. Sokolow
Ralph Steinhart
Donald B. Verrill, Jr.
Philip J. Ward
Burton V. Wildes

I. Introduction

Chairman Smith and Members of the Subcommittee, thank you for inviting the Lawyers Committee to testify today on this timely and important topic. We greatly appreciate the Subcommittee's attention to this complex issue and, in particular, your leadership in examining the human rights situation in Northern Ireland. Your tenure as Chair of the Subcommittee has been marked by strong advocacy on behalf of the human rights of all people and against rights violations, regardless of whether the offending government is a friend, a foe, or even our own.

The Lawyers Committee for Human Rights is an independent, non-governmental organization. Since 1978, the Committee has worked to protect and promote fundamental human rights, holding all governments accountable to the standards contained in the Universal Declaration of Human Rights and related international human rights instruments. In its efforts to provide workable solutions to human rights problems, the Lawyers Committee brings a principled legal focus grounded in international law and principles.

Nearly four months ago when we last gathered in this chamber to address the human rights situation in Northern Ireland, sectarian violence persisted and talk of movement towards a negotiated peace was faltering. Events since that time, including the IRA cease fire and the opening of multiparty negotiations, now present a unique opportunity for progress on human rights in Northern Ireland. The United States can play a critical role in capitalizing on this opportunity by pressing for progress now on a number of significant issues on the human rights agenda. Though some argue that respect for human rights in Northern Ireland will come only after larger political issues are resolved, we believe the opposite is true. If peace and reconciliation in Northern Ireland are to be achieved and take on deep roots, all members of the

community must feel that their rights are being respected. We are deeply concerned that significant violations of well-established rules of international law continue to occur in Northern Ireland and that these violations cannot be justified. We urge the Clinton Administration and members of Congress to focus on these issues and to underscore the importance of significant progress on human rights in its bilateral discussions with United Kingdom officials. We hope that today's hearing will serve as a catalyst to encourage the Clinton Administration and Senator Mitchell to incorporate human rights issues more centrally into their efforts with respect to the Northern Ireland peace process.

As you have heard from us before, Chairman Smith, the Lawyers Committee believes that a transparent and fair justice system is a barometer of the health of a civil society and a strong indication of a government's commitment to human rights and the rule of law. In two reports following extensive fact finding missions, the Lawyers Committee has focused on a number of problems related to the justice system in Northern Ireland that need to be addressed promptly and aggressively.¹ It is on this aspect of the human rights situation in Northern Ireland, and in particular on the challenges facing defense lawyers and on the independence of the judiciary, which I will focus my remarks today.

II. Judges and the Judicial Framework

The judiciary of Northern Ireland confronts a predicament typical of permanent

¹ See Lawyers Committee for Human Rights, *Human Rights and Legal Defense in Northern Ireland: The Intimidation of Defense Lawyers, The Murder of Patrick Finucane*, (1993). See Lawyers Committee for Human Rights, *At the Crossroads: Human Rights and the Northern Ireland Peace Process*, (1995).

“emergency” states. On one hand, judges in Northern Ireland have had to implement the basic guarantees of due process amidst the threat of danger from paramilitary violence. On the other hand, the Northern Ireland judiciary must also do its job in the face of domestic legislation that too often derogates from the standards of fairness that international law charges judges to ensure. The Lawyers Committee believes that even if Parliament has enacted legislation that is contrary to the international human rights principles, or permits the creation of a system such as the Diplock courts, the judiciary nevertheless has leeway to interpret domestic laws as fairly as possible and attempt to ensure an impartial tribunal as stipulated in international law. I would like briefly to list the chief problems we have identified in this regard:

- the absence of jury trials for some crimes listed under the EPA;
- the willingness of the judiciary to admit confessions obtained as a result of abusive police tactics during prolonged detention;
- the willingness of the judiciary to draw inferences of guilt from a defendant’s decision to remain silent;
- the reluctance on the part of the judiciary to question uncorroborated police statements;
- the disparaging comments made by some members of the judiciary in reference to defendants, particularly those who appear before non-jury Diplock Courts;
- the lack of transparency in the process by which members of the judiciary are appointed to the bench;
- the narrow interpretations of ambiguous domestic laws drawn by the judiciary where binding guidance from international conventions exists;

- the reluctance of the judiciary to enforce Article 2 of the European Convention on Human Rights with respect to protection of persons against the unnecessary use of lethal force by the security forces.

The Lawyers Committee recognizes that an independent judiciary functions under considerable stress when subject to chronic political instability, personal threats and the continued suspension of rights by the executive, and that some individual judges have demonstrated patience and courage. However, it is the core function of an independent judiciary to correct swiftly any abuse of authority by the executive and to strive to protect the rights guaranteed to each citizen by national and international law. An independent, fair-minded and impartial judiciary -- and a clear public perception of those qualities -- are key components for Northern Ireland to move beyond civil strife and towards the creation of a more pluralistic and inclusive society.

III. Intimidation of Defense Lawyers

The legal setting in Northern Ireland is one that fosters intimidation of defense lawyers. Together, the Emergency Powers Act and the Prevention of Terrorism Act operate to encourage the security forces to rely on custodial interrogation as the primary means of obtaining convictions. Practices and conditions within the detention centers facilitate this incentive. The overall approach the law establishes makes legal counsel more crucial and therefore more often subject to police hostility. Far from checking this hostility, the law encourages it, often in dangerous ways. Complaints procedures, which might provide a measure of redress, remain ineffectual, prompting the skepticism solicitors accord the complaints process and contributing to their tenuous position in the system itself.

No event came to symbolize the hazards faced by Northern Ireland's defense lawyers more than the murder of Patrick Finucane. A leading defense and civil rights solicitor, Finucane was murdered by loyalist paramilitaries in circumstances which suggest that elements of the security forces colluded in the killing. Despite information suggesting official collusion, the Northern Ireland Director of Public Prosecutions (DPP) chose not to prosecute despite a promising publicly disclosed lead in the case. The Royal Ulster Constabulary's (RUC) own investigation into Finucane's death remains incomplete. To date, none of the government inquiries relating to the Finucane case have been made public. In our 1995 report, we summarized the case, noting that, "unhappily, not only has there been no independent public inquiry, there has been no tangible progress in publicly identifying Finucane's killers, much less bringing them to justice."² The Lawyers Committee and other human rights groups have repeatedly called for an independent and public judicial inquiry into Patrick Finucane's murder. In June, this Subcommittee heard eloquent testimony from Mr. Finucane's son Michael, himself now a lawyer, about the circumstances surrounding his father's murder and urging that the United States press the British government to embark on an independent inquiry. We echo that call again today. An inquiry now would put suspicions of official collusion to rest and provide a key showing of good faith on behalf of the British government.

Ongoing problems relating to the intimidation of defense lawyers include:

- continued threats made by interrogators to detainees with the purpose of interfering with the attorney client relationship and interfering with the accused's

² See Lawyers Committee for Human Rights, *At the Crossroads: Human Rights and the Northern Ireland Peace Process*, *supra* at 107.

choice of counsel;

- failure of the Independent Commission for the Holding Centers to address the problem of threats against solicitors occurring in detention centers;
- failure on the part of UK authorities to provide an effective means of investigating threats against solicitors;
- section 47 of the EPA, permitting police to prevent any person detained under emergency provisions from seeing a solicitor for up to 48 hours after initial arrest, and then for subsequent 48 hour periods until charge or release;
- inability of detainees to access legal advice during interrogation;
- delays by UK authorities in the installation of video cameras in detention centers for purposes of recording interrogations, and their refusal to permit audio recordings;
- failure of the UK to provide an effective means of investigating complaints of police harassment and abuse.

So long as the emergency laws remain on the books they provide a basis for the harassment of defense counsel. As an initial matter, this holds true even for provisions that do not apply to lawyers directly. Such general provisions include measures ensuring prolonged detention, easy admissibility of confessions and the effective elimination of the right to silence. The result is a system that gives the security forces every incentive to rely on confessions obtained in custody and, in turn, to impede solicitors who are often the only significant hurdle to safeguard against improper convictions. The result, not surprisingly, has been repeated miscarriages of justice, which in turn undermine public confidence in the justice system and lead to further erosion

of the rule of law. In light of these ongoing problems, Dato' Param Cumaraswamy, the United Nations' Special Rapporteur on the Independence of Judges and Lawyers, will be conducting a mission to Northern Ireland later this month. We urge the British government and officials in Northern Ireland to provide Mr. Cumaraswamy full cooperation during his mission.

IV. Recommendations

We urge Congress, the Clinton Administration and this Subcommittee to press its concerns about human rights in Northern Ireland with the British and Irish governments and with Senator Mitchell. Specifically, we urge you to convey to the President the importance of raising the following issues, as confidence building measures, in the context of the Northern Ireland peace talks:

- A. With regard to the emergency laws:
- The right to trial by jury should be reinstated for all inhabitants of Northern Ireland, with proper safeguards to protect the integrity of jurors.
 - The right to silence should be reinstated. Neither judges nor juries should be permitted to draw adverse inferences at trial from a defendant's failure to respond to police questioning.
 - The power to intern suspects without trial should be removed in Northern Ireland.
 - The power to issue exclusion orders should be eliminated, in accordance with international legal standards.
- B. With regard to the judiciary:
- The government of the United Kingdom should conduct a new, independent

inquiry into the shooting deaths of 13 unarmed persons by security forces on "Bloody Sunday," in January of 1972. The original government inquiry absolving security forces in the "Bloody Sunday" shootings has been widely discredited and a new inquiry needs to be undertaken.

- The government of the United Kingdom should undertake measures to ensure that the composition of the judiciary broadly reflects the traditions and attitudes of the community at large. The process of appointing judges should be made more transparent and accountable to the public.
 - The Judicial Studies Board for Northern Ireland should be expanded, and should implement training programs on international human rights standards and minority relations.
 - The Northern Ireland judiciary should be encouraged and accorded the resources to meet and consult with judges from other jurisdictions, particularly those facing social transformation.
 - Judges should take every opportunity to demonstrate publicly their commitment to the principles of a transparent and independent judiciary, as a means of overcoming perceptions of the legal order in Northern Ireland.
- C. With regard to the situation of defense lawyers and the rights of detainees to counsel:
- An independent public inquiry should be held into the murder of Patrick Finucane. The RUC should make a public statement regarding the status of its investigation into the Finucane murder.

- United Kingdom authorities should require vigorous and independent investigation of all threats to legal counsel in Northern Ireland. Solicitors who report threats of violence should be accorded effective protection.
- The Independent Commissioner for the Holding Centres should investigate all allegations of official threats and abuse of defense lawyers.
- The right to immediate access to counsel of choice should be respected. Detainees should have access to such legal advice during interrogation.
- Detainees should have regular, constant and confidential access to their solicitors.
- All interrogations should be audio and videotaped. Solicitors representing detainees should have access to such audio and videotapes.
- For as long as the detention centers continue to function, the Lay Visitor Scheme should be extended to them.
- The government should implement the recommendations made by Maurice Hayes to establish an independent ombudsman to investigate police complaints.
- The Law Society should establish formal public complaints procedures for alleging official harassment or threats.

Chairman Smith, thank you for convening this hearing and for your continued leadership on this issue.

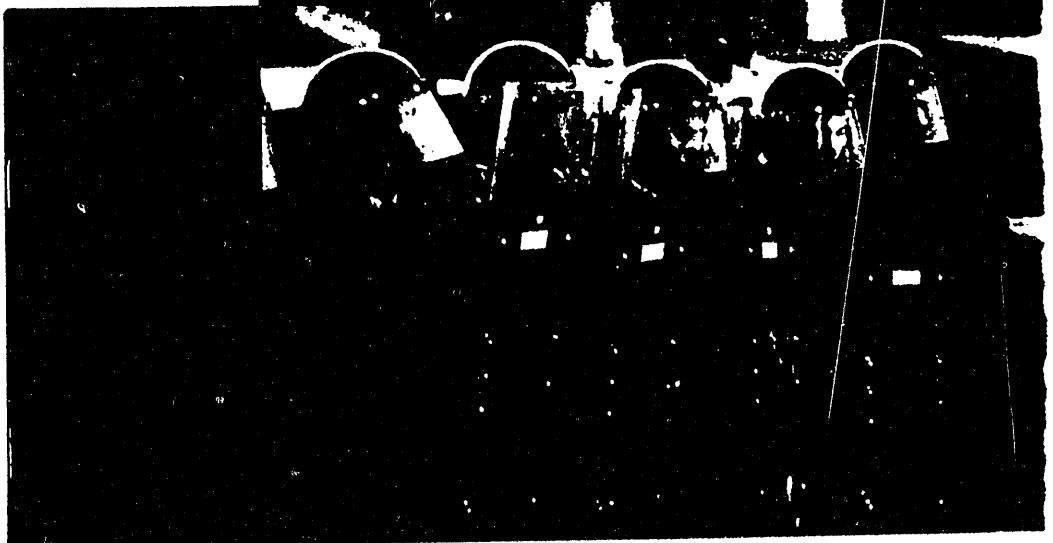
HUMAN
RIGHTS
WATCH

HUMAN RIGHTS WATCH / HELSINKI

To Serve Without Favor

Policing, Human Rights, and

Accountability in Northern Ireland



1. INTRODUCTION

This report is about policing, human rights and accountability in Northern Ireland. Police conduct throughout the long conflict in Northern Ireland has given rise to serious allegations of abuse. A range of such allegations, examined in this report, continue to center on the Royal Ulster Constabulary (RUC), Northern Ireland's police force. The report also examines abuses by the political armed groups operating in Northern Ireland—republican paramilitaries seeking to reunite Northern Ireland with the Republic of Ireland and loyalist paramilitaries seeking to maintain the union of Northern Ireland with the United Kingdom. This report is, in part, an extension of past work by Human Rights Watch on the human rights situation in Northern Ireland and on the treatment of children there.

The report is also a direct response to the final report of the International Body on Arms Decommissioning chaired by former United States Senator George Mitchell. In late 1995, the British and Irish governments tasked an independent international body with providing to the multi-party peace talks an acceptable plan for the full and verifiable decommissioning of paramilitary weapons. Released in January 1996, the report of the International Body on Arms Decommissioning was welcomed in many quarters as a blueprint for progress from preparatory talks to full peace negotiations. Notably, the International Body recognized that success in the peace process could not be achieved solely by focusing on the decommissioning of weapons. To create the necessary trust, it concluded, confidence-building measures would also be necessary, including the normalization of policing, a review of the use of plastic bullets, a more balanced representation on the police force, and the cessation of paramilitary intimidation. All of these issues are addressed in this report.

The recent course of events in Northern Ireland has forced the issue of police reform to the forefront of public discourse. On August 31, 1994, the Irish Republican Army (IRA) announced a unilateral cease-fire. On October 13, 1994, the Combined Loyalist Paramilitary Command (CLMC), the coordinating body representing loyalist paramilitary groups, followed suit and called for a cessation of "all operational hostilities." Questions arose immediately about the need for security policing and the continuation of emergency laws in the absence of political violence. Calls went out for the redress of the profound religious imbalance in the composition of the RUC, which is approximately 90 percent Protestant. Discussions in many quarters during the cease-fire period focused on police accountability and the need for reform of a "security dependent" system that appeared to leave the RUC accountable to virtually no one.

Although the report of the International Body recommended that the process for paramilitary arms decommissioning run parallel to the peace talks and

opined that a total surrender of weapons prior to negotiations was not reasonable, the British government refused to allow Sinn Féin, which is generally viewed as the political arm of the IRA, to participate in the talks until the IRA decommissioned its weapons. In January 1996 the Northern Ireland (Emergency Provisions) Act (EPA) was renewed for another two years even though the cease-fires had held since late 1994. The Prevention of Terrorism (Temporary Provisions) Act (PTA) covering all of the U.K. was also renewed during the cease-fire period. Disagreements over decommissioning, the role of the Irish government in the preparatory talks, and the condition of Irish prisoners in British prisons plagued the multi-party talks. By late January 1996, there appeared to be a loss of confidence in the peace process.

On February 9, 1996, the IRA broke its cease-fire with the explosion of a bomb at Canary Wharf in London, killing two men and injuring more than 100 people. The IRA cease-fire was broken in Northern Ireland in October 1996 with a bombing at British army barracks at Lisburn, County Antrim. One soldier was killed and dozens of people were injured. In a New Year's statement published in *An Phoblacht/Republican News*, the IRA reaffirmed its "steadfast commitment" to reunifying Northern Ireland with the Republic of Ireland. This statement was widely perceived as the IRA's confirmation of the resumption of full-scale military operations in pursuit of this goal.

From December 1996 to April 1997, the IRA claimed responsibility for a number of attacks on RUC stations and police officers. One part-time policewoman was shot and seriously injured. A British soldier was shot and killed by an IRA sniper. As of May 15, 1997, the CLMC claimed that the loyalist paramilitary cease-fire was holding despite a number of bombings and shootings bearing the hallmark of loyalist paramilitary violence. Since December 1996, there has been an intensification in security measures causing many to compare the atmosphere in Northern Ireland to the tension-filled and violent years immediately preceding the cease-fires.

This report focuses on four areas of policing that are of immediate human rights concern: the draconian police powers enjoyed by the RUC under Northern Ireland's emergency regime, the policing of the summer 1996 marching season (when Protestant fraternal orders paraded through towns and city centers), the dramatic rise in paramilitary punishment assaults and expulsions, and the persistent allegations of collusion between members of the security forces and loyalist paramilitary groups.

The British government has responded to the conflict in Northern Ireland by imposing a draconian emergency regime that invests the RUC with expansive police powers to stop, question, search, arrest, detain, and interrogate persons

merely suspected of terrorist activity. For example, people can be stopped, questioned and searched without "reasonable suspicion" of criminal activity; detainees can be held for up to seven days without charge; access to counsel can be deferred for the first forty-eight hours of detention; and the common law right to silence has been effectively abrogated. In holding centers, specially designated places of detention for persons arrested under the emergency legislation, the intimidation and harassment of detainees and lawyers representing them is commonplace. Interrogations are not audio or video taped, and the EPA contains a permissive standard for the admissibility of confession evidence at trial.

In 1991, Human Rights Watch reported that the operation of the emergency legislation in Northern Ireland gave rise to systematic human rights violations and argued for the repeal of emergency laws that unduly infringed civil liberties and were used for harassment and intimidation. We renew that call for repeal in this report. Particularly with the planned resumption of multi-party talks in June 1997, we urge the government of the United Kingdom to recognize that emergency laws such as those in force in Northern Ireland often serve to sustain political violence by creating an environment in which individual human rights are routinely violated. Further inaction on the repeal of the emergency laws will sustain the historic climate of distrust and hostility between the government of the United Kingdom and certain segments of its citizenry. This is hardly a promising context within which to advance the peace.

While the emergency legislation provides the backdrop for routinely abusive police practices, the outbreak of serious violence during the summer 1996 marching season demonstrated how policing failures and the lack of accountability for RUC misconduct contributed to a serious breakdown in the rule of law. The apparent context for the disturbances of the summer of 1996 was the ongoing dispute between Protestant fraternal orders and predominantly Catholic nationalist communities that had organized to oppose Protestant marches through Catholic areas. The fraternal orders portray their processions as traditional marches that give expression to their religious and cultural heritage, and argue that their right to free assembly is unduly infringed by nationalist opposition. Nationalist groups characterize the marches as sectarian parades that often incite hatred by providing the traditionally privileged unionists—Protestants in favor of maintaining the union of Northern Ireland with the United Kingdom—with a forum in which to re-enact historic triumphs of Protestants over Catholics. Nationalists also argue that the heavy police presence accompanying the marches, which is often characterized by intimidating operational tactics, disproportionately disrupts the life of nationalist communities.

However, to cast the summer's events simply as a matter of intercommunal conflict fails to address the responsibility of state authorities in Northern Ireland to maintain the rule of law and to assure both communities the equal protection of their rights. This includes the grievous failure of the police, oversight agencies, and the British government to prevent the collapse of law and order. Despite RUC claims of being caught in the middle of disputes between nationalists and unionists over the "right to march," a series of police actions—sanctioned by the government—exacerbated the conflict. These actions resulted in the effective submission of state authorities to the threat of unionist violence and included the excessive use of force against peaceful demonstrators, the indiscriminate use of plastic bullets against both unionist and nationalist protesters, and a general failure to halt illegal activities such as the blockade of the airport and the establishment of illegal roadblocks.

The serious violence that erupted during the summer of 1996 demonstrated the volatile circumstances in which the people of Northern Ireland negotiate the annual, tension-filled marching season. In addition, both nationalist and unionist communities must daily confront the brutal violence of paramilitary punishment beatings and assaults. Both republican and loyalist paramilitary organizations have assumed a quasi-policing role in their respective communities by meting out "punishments" for perceived or actual offenses, such as drug trafficking, burglary, assault, wife abuse, glue sniffing, public intoxication, joyriding and other "anti-social" activities. These non-political offenses, which would be addressed through routine policing by a traditional police force, have instead been effectively delegated to irregular, paramilitary "law enforcement." Paramilitary punishments take a variety of forms, including summary executions (murders), crippling shootings, and brutal beatings. They are carried out by paramilitary volunteers against members of their own communities. Paramilitary organizations also issue "expulsion orders" to force an alleged perpetrator to leave a particular city or all of Northern Ireland for a designated period under threat of being shot or beaten.

The IRA and loyalist paramilitary groups such as the Ulster Defense Association (UDA) and the Ulster Volunteer Force (UVF) operate parallel unofficial criminal justice systems in the vacuum left by the police. Throughout "the troubles" in Northern Ireland, the police have concentrated their efforts on the suppression of political violence by paramilitary groups. This anti-terrorist campaign has been waged to the exclusion of many traditional policing functions in some areas. For example, in many nationalist communities, routine foot patrols were rare and RUC land rover patrols were often backed up by British military vehicles. Both nationalists and unionists allege that in some areas the RUC does not

respond to calls requesting assistance with ordinary crimes or, if the police do respond, officers often pick up "suspects" only in an attempt to persuade them to serve as political informers while ignoring the reported crime. The expansive police powers enjoyed by the RUC under Northern Ireland's emergency legislation further contributes to the notion that the RUC is not a traditional police force and it need not bother with such quotidian duties as responding to common crime. Research undertaken by Human Rights Watch confirmed that in many communities in Northern Ireland normal policing functions have been abandoned. Moreover, in the post-cease-fire period, many of the policing initiatives cited by the RUC as attempts to "normalize" policing have been sacrificed to intensified anti-terrorism security measures.

In the absence of normal policing, paramilitary organizations act as investigator, prosecutor, judge and jury, and they carry out their own sentences. Warnings are sometimes given before shootings or beatings but even crude due process guarantees are generally dispensed with in favor of summary proceedings. The paramilitaries euphemistically label "community policing" what in fact are brutal punishments applied in an often arbitrary manner.

The final issue addressed in this report is the persistent allegations of collusion between members of the security forces in Northern Ireland and loyalist paramilitary groups. Security forces allegedly engage in such collusion by conspiring directly with loyalist paramilitaries to carry out acts of violence or by facilitating the commission of violent loyalist paramilitary activities. The failure to prevent or deter violent acts for which there is reliable advance intelligence or to investigate rigorously such acts and punish those responsible can also constitute collusion. Those who allege collusion charge that members of the security forces routinely engage in a variety of illegal activities to assist loyalist paramilitary groups to target suspected republican "terrorists" or alleged "terrorist" sympathizers for harassment and assassination. In addition to allegations of direct involvement in the planning and execution of assassinations, security forces have been accused of passing on security information such as photo montages to loyalist paramilitaries who use the information to target suspected republican "terrorists," facilitating the commission of loyalist paramilitary killings by diverting law enforcement resources away from crime scenes immediately prior to and after paramilitary shootings, failing to provide adequate protection to persons warned by the security forces that they are under paramilitary threat because their security files "accidentally" went missing or were "lost," and failing to investigate rigorously loyalist paramilitary killings by overlooking critical and easily accessible forensic evidence.

Human Rights Watch is particularly concerned with allegations of collusion against the police force in Northern Ireland. Because the RUC is invested with primary responsibility for identifying, gathering and securing information on suspected paramilitaries and investigating acts of paramilitary violence, the bulk of the allegations of collusion are made against the RUC. This is particularly true in cases where legitimately collected official information finds its way into the hands of loyalist paramilitaries.

Collusion, by definition, is difficult to prove. Human Rights Watch makes no conclusions regarding the evidence of collusion by the RUC in any of the cases highlighted in this report. However, the factors suggesting the possibility of collusion associated with these cases compel us to call for a variety of immediate official responses to determine whether collusion has occurred. In some cases an independent inquiry with full investigative powers, including the power to subpoena witnesses and documents, is recommended. In other cases, we call on the RUC to take specific steps to ensure that factors suggesting collusion are adequately addressed. General recommendations for the effective redress of possible collusion include: a reassessment of the procedures for the handling of identification information for security breaches; vetting the police force for members with illicit associations to loyalist paramilitary groups; commitment to rigorous investigations of paramilitary killings in conformity with international standards; and a review of inquest procedures in Northern Ireland which at present appear designed to deny families access to information about possible security force involvement in the killing of a family member.

The recent change of government in the United Kingdom may open a new chapter in Northern Ireland's troubled history. Newly appointed Secretary of State Dr. Marjorie Mowlam has promised to join the people of Northern Ireland in confronting the obstacles that remain to achieving a new political settlement. To that end, the new government has promised a number of new initiatives to build confidence throughout Northern Ireland including the expansion and reinforcement of individual rights and the reform of policing. Labour's commitment to confidence-building measures, particularly its express reference to the promotion of human rights, is most welcome. Human Rights Watch seeks to capitalize on the moment by contributing directly to a fuller understanding of how the erosion of human rights and civil liberties has exacerbated the conflict in Northern Ireland.

2. RECOMMENDATIONS

Human Rights Watch makes the following recommendations to the government of the United Kingdom:

The Emergency Regime

- The emergency regime in Northern Ireland should be dismantled, beginning immediately, with the repeal of provisions of the Northern Ireland (Emergency Provisions Act) 1996 (EPA) and the Prevention of Terrorism (Temporary Provisions) Act 1989 (PTA) that unduly infringe civil liberties and are used by the police to harass and intimidate people.
- A "reasonable suspicion" of criminal activity should be required for the police to exercise the powers to stop, question and search people. The U.K. government should take immediate steps to end random street stops and searches and to ensure that all searches are conducted without degrading or harassing measures.
- The EPA's search and entry powers should be repealed. A judicial warrant should be required for house searches and for examining or seizing documents.
- The U.K. government should withdraw its derogation to article 5(3) of the European Convention on Human Rights which allows the police to detain persons arrested under the emergency legislation for up to seven days without charge.
- Detainees should be brought before a court within at least forty-eight hours of arrest.
- Castlereagh Holding Centre should be closed immediately in compliance with the recommendations of the U.N. Human Rights Committee and the U.N. Committee Against Torture. These U.N. bodies and the U.K.-appointed Independent Commissioner for the Holding Centres have found the conditions of detention in Castlereagh "unacceptable" due to tiny cells with no natural light, the absence of exercise areas, lengthy and frequent interrogations, and persistent allegations of intimidation and harassment during interrogations.

- The U.K. should immediately take the following steps to comply with the 1996 decision of the European Court of Human Rights in *Murray v. United Kingdom* which held that the abrogation of the right to silence in combination with restrictions on access to counsel amount to a violation of the fair trial provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR):
 - 1) The Criminal Evidence (Northern Ireland) Order 1988, which permits a court to draw adverse inferences from a suspect's refusal to answer questions asked by police during interrogations and at trial, should be rescinded as an unjustified infringement of the privilege against self-incrimination.
 - 2) Detainees should have prompt and regular access to counsel of their choice and detainees should be allowed to have their lawyers present during interrogations.
- The Independent Commissioner for the Holding Centres' (IHC) proposal for the establishment of a legal advice unit at holding centers, which would modify the present legal aid system in Northern Ireland by granting legal aid only to those detainees arrested under the emergency legislation who choose a government-appointed solicitor from a unit of lawyers associated with the holding centers, should be rejected. Detainees should have prompt access to a lawyer of their choice.
- Detainees should be able to notify family members or friends immediately following arrest.
- The RUC should take immediate effective measures to prevent the physical and psychological ill-treatment of detainees. Officers who carry out such abuses should be disciplined and criminally prosecuted.
- All interrogations should be audio and video taped. Detainees' attorneys should have access to all audio and video tapes of interrogations.
- The permissive EPA standard for admitting at trial confession evidence procured by psychological pressure, deprivation, or other non-violent forms of coercion should be abolished. The standard for admitting

confession evidence should conform to the ordinary criminal law, the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE), which excludes confession evidence that was obtained by oppression or "in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made. . . in consequence thereof."

- The juryless Diplock courts, established to try political violence cases, have caused a loss of confidence in the justice system and should be abolished. The common law right to trial by jury should be restored in Northern Ireland involving, if necessary, measures to protect jurors.

Police Accountability

- The current tripartite structure responsible for policing in Northern Ireland—involving the inter-relationship of the U.K. government, the RUC, and the civilian oversight Police Authority for Northern Ireland—should be reformed to provide for greater public accountability for the RUC. The Police Authority, in practice excluded from participation in the determination of policies related to security policing and the operational aspects of policing in Northern Ireland, should be consulted on security and operational matters and its recommendations taken into consideration.
- The U.K. government should establish an independent unit to investigate complaints against police officers as recommended by Dr. Maurice Hayes, independent reviewer of the police-complaints system appointed by the U.K. government.
- All RUC officers should be required to take instruction in basic human rights guarantees which the force is obliged to respect in compliance with the U.K.'s international obligations, including the International Covenant on Civil and Political Rights (ICCPR), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Convention Against Torture (CAT), the Convention on the Elimination of Racial Discrimination (CERD), and international codes of conduct for law enforcement officials and the use of firearms.

Composition of the RUC

- Progressive measures should commence immediately to rectify the religious imbalance in the RUC. RUC management should develop a strategy for attracting and securing positions on the force for qualified Catholic applicants. The Police Authority for Northern Ireland should be consulted in this process and its recommendations taken into consideration.

Policing Parades and Marches

- An independent body should make determinations concerning conditions on marches and parades.
- Decisions taken by the secretary of state for Northern Ireland to ban marches should be judicially reviewable.
- The police should take measures to ensure that the right to peaceful assembly is protected to the greatest possible extent. Assemblies that pose a threat of violence should be restricted only to the extent necessary in a democratic society in the interest of public safety.
- The police should take measures to ensure that the rights to freedom of movement and privacy in the communities through which marches pass are protected. If restrictions on movement are required, they should be proportionate to the interest advanced by state authorities.
- The use of plastic bullets should be banned because they have killed fourteen people in Northern Ireland, including seven children, and severely injured hundreds of others. Alternative methods of crowd control should be developed and employed.
- Lethal force should be used in Northern Ireland only when necessary to meet an imminent threat to life and only in proportion to the actual danger presented in conformity with international standards.
- Police should be adequately trained to defuse tense situations non-violently.
- Policing of marches and parades should be conducted impartially and professionally. Officers should not use sectarian language in the course

of any police operation. Disciplinary measures should be taken against those who violate these principles.

- The death of Dermot McShane, who was killed after a British army armored personnel carrier ran over him under suspicious circumstances during the summer of 1996 disturbances, should be investigated in conformity with the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

Punishment Shootings, Assaults, and Expulsions

- The IRA and loyalist paramilitary organizations should immediately halt punishment shootings, beatings, and expulsions.
- The RUC should perform normal policing functions in all areas of Northern Ireland. The U.K. government should provide adequate training, resources and protection for police officers carrying out such duties.
- Political parties in Northern Ireland should not support the creation of alternative "justice" systems in communities.

Allegations of Collusion

- The police force should be vetted thoroughly to identify and exclude recruits, officers, and reservists with illicit connections to paramilitary groups.
- Procedures for the handling of security information should be reassessed with a view to eliminating security breaches such as the leaking of photo montages.
- Measures should be taken by the U.K. government to afford persons under threat from paramilitary organizations the greatest possible protection, including the approval of home security grants.
- In areas where paramilitary killings have occurred or killings have been threatened, security measures should be implemented on routes into and out of those communities to ensure that they receive adequate protection from incursions by paramilitaries.

- **The RUC should rigorously investigate paramilitary killings, including by using good forensic practices.**
- **Allegations that detectives conducting interrogations threaten to pass a detainee's security information to paramilitary organizations should be investigated rigorously. Officers found guilty of such an abuse should be punished.**
- **Special efforts should be made to protect lawyers who represent suspects charged under the emergency legislation from interference, harassment, intimidation, or death threats from RUC detectives. Allegations of intimidation of defense lawyers should be investigated, and offending officers should be punished.**
- **An independent, public inquiry into the killing of Catholic criminal defense lawyer Patrick Finucane, with powers to administer oaths and to subpoena witnesses, should be convened.**
- **The U.K. government should permit the discovery of information relevant to the murder of Patrick Finucane for use in Geraldine Finucane's civil action and application to the European Court of Human Rights (ECHR).**
- **The RUC should investigate the murder of Patrick Shanaghan, who suffered years of official harassment and threats before being killed by loyalist paramilitaries, in compliance with the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.**
- **The complaints of Patrick Shanaghan's mother, Mary Shanaghan, to the Independent Commission for Police Complaints (ICPC) should be investigated rigorously and appropriate action should be taken against any officers found to have acted in violation of RUC policy or of British law.**
- **The Coroners' Law and Rules for Northern Ireland should, at a minimum, be brought in line with the law and rules for England and Wales; for example, coroner's juries should have the power to reach a full verdict, such as "unlawful killing by unnamed person(s)."**

-
- **Persons suspected of causing the death at issue should be compelled to testify in person, but should not be required to answer questions that might incriminate them.**
 - **Families of victims and their attorneys should have access to all the evidence to be introduced at an inquest and adequate time to prepare for their interventions.**

✓

amnesty international

UNITED KINGDOM
An Agenda for Human Rights
Protection



June 1997
AI Index: EUR 45/12/97
Distr: SC/CO/GR

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

amnesty international

UNITED KINGDOM An Agenda for Human Rights Protection

June 1997

SUMMARY

AJ INDEX: EUR 48/12/97

DISTR: SC/CO/GR

The new government has an opportunity to make significant moves for the protection of human rights throughout the United Kingdom. Amnesty International welcomes the commitments expressed in initial government statements to place human rights at the centre of diplomatic foreign policy, to emphasize issues of fairness and justice in Northern Ireland, and to address human rights issues in Britain.

In its work on the United Kingdom over the years, Amnesty International has identified laws, procedures and practices of law enforcement officials which have led to violations of the internationally recognized rights to life, to freedom from torture or cruel, inhuman or degrading treatment, to fair trial, and to freedom of expression and assembly. In particular Amnesty International has been seriously concerned about the government's failure to investigate independently and fully serious allegations of human rights violations, to make public the results of internal investigations, and to bring perpetrators of human rights violations to justice.

Amnesty International believes the following key human rights issues should be addressed by the new government as a matter of priority:

* The United Kingdom (UK) should ensure that its laws and practice are consistent with the full range of international and regional human rights law and standards. Amnesty International welcomes the commitment by the new government to incorporate one of these instruments, the European Convention for the Protection of Human Rights and Fundamental Freedoms, into national law as a first step towards implementing its international obligations.

* The government should establish a Human Rights Commission, which would have full and effective powers to strengthen human rights protection.

* The UK should ensure that everyone has a prompt and effective remedy for the denial of the rights recognized in international treaties and other instruments.

* The government should establish a wide-ranging and independent inquiry into the significant numbers of deaths in custody due to alleged violence which have occurred in England in recent years. The inquiry should examine the inadequacies of the inquest system, as presently constituted in England and Wales, in providing a fair and thorough public inquiry into the full circumstances of a disputed death.

* Issues related to disputed shootings and killings by the security forces, particularly in Northern Ireland, must also be examined. Amnesty International urges the government to review the legislation governing the use of lethal force; the procedures used to investigate such killings; the lack of accountability of the security forces, in particular concerning operations of undercover officers and soldiers; the severely restricted nature of the inquest procedure; and the systematic use of Public Interest Immunity Certificates to block the disclosure of crucial evidence.

* All allegations of ill-treatment should be independently investigated and the perpetrators of ill-treatment should be brought to justice. The government should give urgent consideration to the independent review of the complaints procedures in Northern Ireland by Dr Maurice Hayes, published in January 1977.

* The government should review those security measures, implemented within the prison regime, which lead to cruel, inhuman or degrading treatment of prisoners and which may lead to a serious deterioration of prisoners' physical and psychological health, in particular in relation to Category A prisoners held in Special Security Units.

* The government should review the use of plastic bullets.

* The historically recognized right to remain silent both during initial police interviews and during trial should be re-instated.

* Defence lawyers should have full disclosure of all the evidence in criminal proceedings.

* The government should set up a wide-ranging review of the asylum process leading to fair and efficient procedures, minimizing the current unacceptable delays and including an in-country right of appeal. The arbitrary detention of asylum-seekers pending the resolution of their asylum claim should be ended.

Given the large number of human rights violations perpetrated in Northern Ireland, there is a particular need for the government to review other issues not mentioned above:

* Many provisions in the emergency legislation are in breach of international treaties and standards; the government should ensure that all legislation is in conformity with such standards.

* Castlereagh Interrogation Centre should be closed down. Suspects arrested under emergency legislation should be detained in designated police stations, and safeguards need

to be implemented including prompt judicial scrutiny of detentions; attendance of lawyers at interrogations; and audio and video recording of all interrogations.

* The government should review the functioning of the "Diplock Courts" to ensure that provisions are brought into conformity with international standards for fair trials.

* Reports of police inquiries into allegations of collusion and extrajudicial executions should be published.

* The findings of the Widgery Tribunal should be quashed and the government should establish an immediate and full inquiry into the events of "Bloody Sunday" in 1972.

* The organization considers that a fundamental review must be carried out into all aspects of policing and believes that the implementation of Dr Maurice Hayes' recommendations would be one fundamental measure to help build public confidence.

* The UK should ensure its compliance with the provisions of the European Convention on the Transfer of Sentenced Persons.

Amnesty International welcomes the commitment of the government to place human rights at the heart of foreign policy. This should include ensuring a consistent and open approach, with all countries being subjected to similar scrutiny and treatment over human rights. The organization welcomes the government's commitment to working for a permanent international criminal court and urges the government to play a clear, strong, political role in the process to establish a just and fair court. Amnesty International is calling for a revised strategic export control system to include formally developed mechanisms for making human rights assessments in order to identify which types of equipment or services might be used for violating human rights in particular countries.

Amnesty International is seeking a dialogue with the government on these issues.

KEYWORDS: GOVERNMENT CHANGE / RECOMMENDED ACTIONS / LEGISLATION / EXTRAJUDICIAL EXECUTION / TORTURE/ILL-TREATMENT / DEATH IN CUSTODY / PRISON CONDITIONS / TRIALS / IMPUNITY / POLICE / REFUGEES / MEC / MSP / EMERGENCY LEGISLATION / HUMAN RIGHTS INSTRUMENTS / ICC / NATIONAL HUMAN RIGHTS COMMISSION /

This report summarizes a 10-page document (4028 words), UNITED KINGDOM: An Agenda for Human Rights Protection (AI Index: EUR 45/12/97) issued by Amnesty International in June 1997. Anyone wishing further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

amnesty international

UNITED KINGDOM

An Agenda for Human Rights Protection

The new government has an opportunity to make significant moves for the protection of human rights throughout the United Kingdom (UK). Amnesty International welcomes the commitments expressed in initial government statements to place human rights at the centre of diplomatic foreign policy, to emphasize issues of fairness and justice in Northern Ireland, and to address human rights issues in Britain

In its work on the UK over the years, Amnesty International has identified laws, procedures and practices of law enforcement officials which have led to violations of the internationally recognized rights to life, to freedom from torture or cruel, inhuman or degrading treatment, to fair trial, and to freedom of expression and assembly. In particular Amnesty International has been seriously concerned about the government's failure to investigate independently and fully serious allegations of human rights violations, to make public the results of internal investigations, and to bring perpetrators of human rights violations to justice.

Amnesty International believes the following key human rights issues should be addressed by the new government as a matter of priority:

Incorporation of international and regional treaties and standards

Amnesty International believes that the UK should ensure that its laws and practice are consistent with the full range of international and regional human rights law and standards. These include not only its legally binding obligations under international treaties, such as the International Covenant on Civil and Political Rights (ICCPR), the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), the UN Convention relating to the Status of Refugees and its 1967 Protocol, and the 1949 Geneva Conventions, but also regional human rights treaties, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) and its Protocols.

The UK should also ratify and implement other international human rights treaties, such as the Optional Protocol to the ICCPR, permitting the filing of individual complaints;

the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty; Protocols 4 (freedom of movement) (which is signed, but not ratified), 6 (abolition of the death penalty) and 7 (rights of aliens facing expulsion and certain fair trial rights) to the European Convention; and the two Additional Protocols to the 1949 Geneva Conventions, which the previous government promised to ratify by October 1995. The UK should also make declarations under Articles 21 and 22 of the UN Convention against Torture permitting state and individual complaints under that treaty and withdraw its reservations to human rights and humanitarian law treaties.

Amnesty International welcomes the commitment by the new government to incorporate one of these instruments, the European Convention, into national law as a first step to implementing its international obligations. However, the European Convention, adopted in 1950, fails to guarantee many rights which today are internationally recognized as essential, or recognizes them to a lesser extent, and permits them to be derogated from in a time of emergency. For example, the European Convention fails to include important rights which are essential components of the right to fair trial, such as the right not to be compelled to testify against oneself or to confess guilt, the right to appeal (included only in Article 2 of Protocol 7), the prohibition against double jeopardy (included only in Article 4 of Protocol 7) and specific provisions protecting the rights of juveniles in criminal proceedings (as in Article 14 (4) of the ICCPR). The European Court of Human Rights has interpreted the rights to silence and to prompt access to a lawyer under the European Convention in a way that falls short of guarantees in other international law and instruments. Moreover, the European Convention permits the derogation of essential rights such as the rights to prompt access to families and lawyers, to habeas corpus and to a fair trial during a state of emergency, when the need to guarantee such rights is at its greatest.

In addition to undertaking treaty commitments, the UK has played an important role in the establishment of a broad framework of international human rights standards concerning law enforcement, detention and the judicial system. These UN standards include the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Basic Principles on the Independence of the Judiciary, the Guidelines on the Role of Prosecutors, the Basic Principles on the Role of Lawyers, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and the Statutes and Rules of Procedure and Evidence of the International Criminal Tribunals for the former Yugoslavia and Rwanda. Moreover, the Council of Europe has adopted the European Prison Rules, which update and strengthen the UN Standard Minimum Rules for the Treatment of Prisoners.

Amnesty International has documented since it was established in 1961 how UK law and practice have fallen short of these obligations, including legislation on the permissible use of lethal force, the inquest procedure, the investigatory procedures in relation to disputed deaths and allegations of ill-treatment, and various aspects of the criminal justice system. It is essential that international obligations are implemented not only in law, but also in practice and that the UK promptly and fully implement the recommendations of human rights treaty bodies, such as the Human Rights Committee and the Committee against Torture, and the judgments of the European Court of Human Rights. In particular, the UK has failed to implement new legislation as a result of the *Murray v. UK* and the *Chahal v. UK* judgments.

Human Rights Commission

Amnesty International urges the government to establish a Human Rights Commission, which would have full and effective powers and resources to strengthen human rights protection, including:

- * to monitor and report on compliance with and implementation of relevant international and regional human rights treaties and standards.
- * to review the effectiveness of existing and new legislation in protecting human rights and to make recommendations for amendments or proposed new legislation;
- * to initiate investigations into cases and patterns of human rights violations and to conduct wide-ranging national inquiries on human rights concerns.

The Commission should have powers and objectives which are consistent with international standards for human rights commissions and investigatory bodies, such as the UN Principles Relating to the Status of National Institutions, adopted by the UN Commission on Human Rights in Resolution 1992/54 on 3 March 1992.

Ensuring a prompt and effective remedy for violations of human rights

The UK should ensure that everyone has a prompt and effective remedy for the denial of the rights recognized in international treaties and other instruments. The UK is obligated under Article 2 of the ICCPR and Article 13 of the European Convention to ensure that everyone whose rights under these treaties have been violated has an effective remedy before the national authorities. Article 2 (3) (b) of the ICCPR requires the UK

“[t]o ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.”

Although the ICCPR and the European Convention give states parties a degree of flexibility in devising a remedy, the requirement that the remedy be effective is absolute. To be effective, the remedy must be prompt and, in some cases, such as during a criminal trial or in the face of certain planned executive, administrative, legislative or judicial action, immediate. Therefore, it will be essential to ensure that whatever remedies are devised are appropriate to the type of violation and grant the person whose rights have been violated with a prompt and effective remedy.

Inquests and disputed deaths in custody and disputed killings

Amnesty International urges the government to establish a wide-ranging and independent inquiry into the significant numbers of deaths in custody due to alleged violence which have occurred in England in recent years. The inquiry would need to investigate a wide range of issues including why a disproportionate number of deaths have occurred of people from black and ethnic minorities; the types of equipment used for law enforcement and the controls on the use of such equipment; the training of police and prison officers in the use of methods of restraint and the medical risks of some of the methods. At the same time, the inquiry should examine the procedures used to investigate such deaths and the inadequacies of the inquest system, as presently constituted in England and Wales, to provide a fair and thorough public inquiry into the full circumstances of a disputed death.

Issues related to disputed shootings and killings by the security forces, particularly in Northern Ireland, must also be examined. Amnesty International urges the government to review the legislation governing the use of lethal force; the procedures used to investigate such killings; the lack of accountability of the security forces, in particular concerning operations of undercover officers and soldiers; the severely restricted nature of the inquest procedure which is prevented, through legislation, from carrying out a proper and public inquiry into the full circumstances of a disputed killing; and the systematic use of Public Interest Immunity Certificates to block the disclosure of crucial evidence.

The inquest procedure in England and Wales needs to be urgently reviewed and changed in order for the procedure to be fairer; in particular, the families of the deceased and their lawyers should have full advance disclosure of the evidence and access to legal aid. In Northern Ireland, the inquest procedure requires a complete overhaul in order for it to comply with international standards which require an independent, thorough and public inquiry into the circumstances of a disputed killing or death.

Allegations of ill-treatment and cruel, inhuman or degrading treatment

Amnesty International believes that all allegations of ill-treatment should be promptly, thoroughly and independently investigated and that the perpetrators of ill-treatment should be brought to justice. Despite the many court damages awarded to plaintiffs for assault and

the many out-of-court settlements there have been very few prosecutions of or disciplinary sanctions against officers allegedly involved in ill-treatment. The organization has also been concerned about allegations that detainees have been subjected to racist abuse. Amnesty International considers that the government should give urgent consideration to the independent review of the complaints procedures in Northern Ireland by Dr Maurice Hayes, published in January 1977. Dr Hayes recommended the appointment of a Police Ombudsman whose duty would be to investigate complaints against the police by using his or her own staff of independent investigators.

Amnesty International urges the government to carry out a review of the security measures which have been implemented within the prison regime, in order to ensure that such measures do not amount to cruel, inhuman or degrading treatment of prisoners. The organization would draw the government's attention to independent medical reports that indicate that measures pertaining to Category A prisoners lead to a serious deterioration of prisoners' physical and psychological health, in particular in relation to prisoners held in Special Security Units.

Amnesty International is concerned about the indiscriminate firing of plastic bullets by security forces, a method of crowd control used only in Northern Ireland. Although plastic bullets were introduced in 1973 as a non-lethal method of crowd control, they have led to 14 deaths and hundreds of injuries. In many instances the regulations governing the use of such potentially lethal bullets are not adhered to. Amnesty International urges the government to review the use of plastic bullets. International standards, such as the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, require that law enforcement officials should avoid the use of force in the dispersal of assemblies or, where that is not practicable, should restrict such force to the minimum extent necessary; that the use of force should be in proportion to the seriousness of the offence; and that the deployment of weapons should be evaluated in order to minimize the risk of endangering uninvolved persons.

Fair trial concerns

Amnesty International believes that the historically recognized right to remain silent both during initial police interviews and during trial should be re-instated. The organization believes that the curtailment of the right of silence violates ICCPR Article 14 (3) (g) which guarantees the right not to be compelled to testify against oneself or confess guilt.

New legislation, the Criminal Procedure and Investigations Act 1996, reduces defence lawyers' access to information, held by the prosecution, about all the potential evidence in a case and how it was collected. Recent miscarriages of justice, including the Bridgewater Four and the Guildford Four, have shown the importance of allowing the defence to have full disclosure of all the evidence. The lack of full disclosure may violate

the international fair trial principle of equality of arms to both sides in criminal proceedings. The withholding of information by the prosecution from the defence is contrary to international standards such as the UN Guidelines on the Role of Prosecutors and the UN Basic Principles on the Role of Lawyers.

As a result of the judgment by the European Court of Human Rights in the case of *Chahal v. UK*, new legislation will be required on procedures and appeal rights for people who are issued with a deportation order on the grounds of being a threat to national security. Amnesty International urges the government to ensure that the new legislation will guarantee that no one will be deported to a country where there is a risk that the person would face serious human rights violations, irrespective of national security considerations. To ensure that the legislation is fully consistent with the UK's international treaty obligations, the following rights should also be guaranteed: the right to independent judicial scrutiny of the reasons for detention pending deportation; the right of appeal to an independent judicial body concerning the reasons for deportation; the right of the appellant, accused of being a security risk, to be given the full particulars for the deportation order; and the right of the appellant to participate fully, with legal representation, at appeal hearings. The decisions of the appeal body should be binding on the Secretary of State.

Asylum

Amnesty International is concerned that the opportunities for those genuinely fleeing persecution to seek and obtain protection in the UK are limited. The organization urges the government to set up a wide-ranging review of the asylum process leading to fair and efficient procedures, minimizing the current unacceptable delays and including an in-country right of appeal. The organization also seeks assurances that the "white list" of countries, from which it was assumed that asylum claims were unfounded, will no longer be operated. It further calls for an end to the arbitrary detention of asylum-seekers pending the resolution of their asylum claim, and an amendment of the existing social security regulations concerning the eligibility of asylum seekers to claim benefits.

Foreign Policy

Amnesty International welcomes the commitment of the new government to place human rights at the heart of foreign policy and looks forward to seeing strong political interest and leadership in these matters, both in the UK's bilateral relations and also within the fora of inter-governmental organizations such as the UN and the Commonwealth Heads of Government Meeting. The organization believes that this central role given to human rights should include ensuring a consistent and open approach, with all countries being subjected to similar scrutiny and treatment over human rights. The UK has a particularly important role in relation to Hong Kong and Amnesty International hopes that, as part of its responsibilities under the 1984 Joint Agreement, the UK will continue to monitor - and

facilitate international monitoring of - human rights developments there. The organization also urges consistent practice concerning human rights between government departments, in particular between the Foreign and Commonwealth Office and the Department of Trade and Industry. Developing trade links abroad should not stand in the way of promoting and protecting human rights; and UK businesses should be encouraged to play a positive role in promoting good practice and human rights in the countries with which they deal.

International Criminal Court

Amnesty International is campaigning for the establishment of a permanent international criminal court to bring to justice those suspected of genocide, other crimes against humanity and serious violations of humanitarian law. Impunity allows sporadic violations of human rights to develop into patterns of abuse, and the cycles of violence and impunity may continue for decades. Although states have the primary duty to bring those responsible for these grave crimes to justice in their own courts, they often fail or are unable to do so. The organization welcomes the new government's commitment to working for a permanent international criminal court and urges the government to play a clear, strong, political role in the process to establish a just and fair court, with an independent prosecutor able to initiate investigations and prosecutions on his or her own initiative. The court must be an effective complement to national jurisdictions when they are unable or unwilling to fulfil their duty to bring those responsible for the worst crimes in the world to justice.

Export of military, security and police equipment

Although Amnesty International takes no position on the arms trade *per se*, the organization opposes the export of military, security and police equipment unless it can be reasonably demonstrated in each case that such a transfer will not contribute to human rights violations. The organization welcomes the government's commitment that it will not issue export licences to governments that might use them for internal repression. However, Amnesty International is calling for a revised strategic export control system to include formally developed mechanisms for making human rights assessments in order to identify which types of equipment or services might be used for violating human rights in particular countries. The government's manifesto commitment to increased transparency in this area should be realized through the introduction of a public register of proposed exports, which would allow parliamentary scrutiny before any licences are granted. Immediate measures should also be taken to close loopholes that allow the brokering of transfers and the production of equipment abroad under licence.

NORTHERN IRELAND

Given the large number of human rights violations perpetrated in Northern Ireland, there is a particular need for the government to review a number of issues, including policing and emergency legislation provisions, with a view to increasing the protection of human rights in Northern Ireland. The protection of human rights and the creation of a human rights culture are central to a lasting peace.

Emergency Legislation

Amnesty International considers that many provisions in the emergency legislation are in breach of international treaties and standards and urges the government to ensure that all legislation is in conformity with such standards.

The special police interrogation centres, which are used for the detention of suspects arrested under emergency legislation -- the most notable of all being Castlereagh Holding Centre in Belfast, have been the subject of many allegations of police misconduct since the 1970s. Despite the allegations, there continue to be inadequate safeguards for the protection of suspects detained in these special centres. Although the number of complaints of ill-treatment have decreased, in 1995 there were 80 formal complaints of assault lodged against the interrogating officers. The organization also continued to receive complaints of verbal and psychological abuse, threats of violence, as well as complaints that detectives made derogatory comments about the suspects' lawyers. In many instances people have alleged that they were forced into making an involuntary or untrue confession because of ill-treatment or under duress.

Amnesty International urges the government to implement the recommendation made by the Human Rights Committee in July 1995 and the Independent Commissioner for the Holding Centres to close down Castlereagh Interrogation Centre. The government should also consider detaining suspects arrested under emergency legislation in designated police stations. The following safeguards should apply to such detentions:

- a) the government should withdraw its derogation from the relevant provisions of the ICCPR and the European Convention and provide prompt judicial scrutiny of detentions;
- b) legislation should be introduced giving lawyers immediate access to their clients, as well as allowing lawyers access to interrogations;
- c) further safeguards should be introduced, including the audio and video recording of all interrogations. Although the government committed itself to introducing legislation in June 1996 for the video recording of interviews, legislation has still not been introduced.

"Diplock Courts" were established under emergency legislation in 1973 to deal with serious offences linked to alleged terrorist activities. There are a number of people who have been convicted in these courts who claim to be victims of miscarriages of justice. Amnesty International urges the government to review the functioning of the "Diplock Courts" to ensure that the following specific provisions are brought into conformity with international standards for fair trials:

- * the lower standards for the admissibility of confession evidence;
- * the lack of full disclosure by the prosecution to the defence of crucial evidence;
- * the curtailment of the right of an accused to remain silent during interrogation or trial without negative inferences being drawn.

Dealing with the past

Despite the many serious allegations of human rights violations in the past in Northern Ireland, there has been a marked failure by previous governments to carry out wide-ranging independent investigations into such allegations and to make the findings public. International standards require authorities to carry out prompt, thorough and impartial investigations and to publish the findings. On two of the crucial issues, that of killings by the security forces and of collusion between the security forces and Loyalist paramilitary groups, there were internal limited inquiries and the reports of senior police officers John Stalker, Colin Sampson and John Stevens, were never published. These reports should be published because issues arising from those reports remain outstanding as, for example, the investigation into the death of the lawyer Patrick Finucane, and the role of intelligence agent Brian Nelson and his army handlers. In addition, the organization urges the government to quash the findings of the Widgery Tribunal and to establish an immediate and full inquiry into the events of "Bloody Sunday" in 1972, in order that the full circumstances of the killings be known.

Policing

Amnesty International has been concerned by the authorities' failure to ensure that policing is carried out in an evenhanded manner. The organization has raised these concerns in relation to allegations of collusion between the security forces and Loyalist paramilitary groups. More recently, the organization expressed concern about the disproportionate number of plastic bullets fired at Catholic protestors as opposed to Protestant protestors during the summer parades of 1996. This apparently disproportionate use of plastic bullets gave rise to concerns about the impartiality of policing. According to police figures, 662 plastic bullets were fired during the unionist protests at Drumcree from 7 to 11 July, and over 5,000 plastic bullets were fired during nationalist protests from 11 to 14 July. However, these were based on the RUC initial figures of 6,002 plastic bullets fired during that week; revised figures were given in March 1997 that 6,921 plastic bullets were fired. The

organization considers that a fundamental review must be carried out into all aspects of policing. Amnesty International welcomes the Northern Ireland Secretary of State's commitment to introduce measures to increase police accountability and public confidence, and believes that the implementation of Dr Maurice Hayes' recommendations would be one fundamental measure to help build public confidence.

Prisoner transfers

The UK should ensure its compliance with the provisions of the European Convention on the Transfer of Sentenced Persons and approve further transfers of prisoners from England to Ireland or Northern Ireland, so that prisoners can serve their sentences closer to their families.

Hamill killing

On Sunday 27 this year Portadown Catholic Robert Hamill and three friends were set upon and savagely beaten by a gang of loyalists in the centre of the town. The assailants jumped up and down on Mr. Hamill's head as he lay on the ground unable to defend himself. Twenty-five year old Hamill died 12 days later in hospital. He never regained consciousness.

The attack which lasted up to 20 minutes was witnessed by the crew of an RUC land rover that was parked yards away from the incident and directly across the street. The RUC did not act to prevent this serious assault from happening.

In the days immediately after the incident the RUC issued statements that were completely at odds with accounts given by the other Catholics who were beaten and indeed as time went on the RUC contradicted their initial statements.

The RUC members in the land rover witnessed a merciless sectarian attack being carried out on four defenceless Catholics by a gang of up to 20 loyalists and did nothing to stop the attack. The RUC failed to assist in any way those beaten even after the assailants had fled from the scene.

The Hamill family have called for an independent inquiry into the attack that left their son dead.

A number of people have since been charged with killing Mr. Hamill however a few weeks ago three of the six charged had their charges withdrawn and there is speculation that those still charged will have those charges reduced.

This killing goes to the heart of the policing problem in the six counties. A group of RUC men stood idly by and watched a Catholic being kicked to death. They were not asked to identify any of those involved in the attack yet they were yards away from the incident. This is all the more relevant when it is considered that the reason given by the Crown Prosecution for the dropping of charges against three of the accused was due to a lack of identification evidence.

There is clearly a conspiracy of silence among the RUC men at the scene of this killing. It is reminiscent of the same silence that greeted a British government inquiry into the killing by the RUC of Derry man Samuel Devenney in the summer of 1969. Both incidents reflect the sectarian attitude of the RUC to the Catholic population in the six counties.

The Hamill killing is but one in a long list of failures by the RUC to carry out thorough investigations into the killing of Catholics either by the RUC themselves or other members of the Crown forces or loyalists.

8 CONRAD 55

Congress of the United States

Washington, DC 20515

June 27, 1997

The Rt. Hon. Dr. Marjorie Mowlam
Secretary of State for Northern Ireland
Northern Ireland Office
Stormont Castle, Stormont Estate
Belfast BT4-3ST
Northern Ireland

(Fax: 1232-528-201)

Dear Dr. Mowlam:

We are writing to urge an immediate ban on the use of plastic baton rounds in Northern Ireland. We know that our call for the ban joins similar requests issued by many respected human rights monitors and international organizations such as the United Nations Committee Against Torture and the European Parliament, as well as British and American media. With just days to go before the full marching season gets underway, it is our hope that you will put a ban in place so that the violence of last summer is not repeated.

This week the House of Representatives' International Operations and Human Rights subcommittee heard moving testimony from the United Campaign to Ban Plastic Bullets' representative, Brenda Downs, the widow of John Downs -- just one of the several hundred innocent people who have been killed or permanently maimed by plastic bullets. We also received compelling testimony from human rights experts from Amnesty International, Human Rights Watch, The Committee for the Administration of Justice, and The Lawyers Committee for Human Rights, all of whom argued that the use of plastic bullets is excessive, indiscriminate and lethal.

We understand, for instance that during the controversial marches last summer plastic bullets were used sometimes against completely innocent people coming out of restaurants and discos. We're told that more than 6,000 plastic bullets were fired by the security forces in the space of a week even though the average number for a year is 1,000. Obviously, this excessive use of the bullets led to numerous injuries, many of a them critical in nature.

In view of the testimony provided to our subcommittee, the questions that have surfaced regarding the sectarian use of plastic bullets, and in light of the recent admission of the Ministry of Defense with regard to the unreliability of these deadly "plastic bombs" we hope you will agree that the Labour Party cannot wait a moment longer to make good on its promise, while it was opposition, to ban the bullets.

Dr. Mowlam
June 27, 1997
Page Two

Please do not hesitate to contact us if we may be of assistance in this matter. We thank you for your time and consideration.

Sincerely,





International Relations Committee

June, 9, 1997

To: Mr. Gilman

From: John Mackey

Re: Chronological listing of riots and firebombs in England and Scotland

Following is a chronological listing of riots in England and Scotland where petrol or firebombs were reportedly thrown. After a number of riots in 1981 British police were reportedly authorized by then Prime Minister Margaret Thatcher to use plastic bullets, like those already in use in Ireland, against rioters. However, no reported incidents of their use occurred on British citizens in Great Britain. For example:

May 17, 1997- gangs of youth "armed with petrol bombs" throw missiles at police. Incident reportedly stemmed from anti drug operation. No plastic bullets were reportedly used on rioters. (Agence France Presse, Leeds England)

November 21, 1996- Crowds built in the street "with petrol bombs being hurled." Incident reportedly stemmed from cultural division between Asians and Whites. No plastic bullets were reportedly used on rioters. (Xinhua News, Bradford England)

July 11, 1995- 150 Youths "went on a rampage" with police coming under attack "from petrol bombs and stones." Incident reportedly related to police search of housing. No plastic bullets were reportedly used on rioters. (Reuters, Leeds England)

June 15, 1995- "A mob of about 300 Asian youths... rioted" looting stores, firebombing cars and hurling objects at police. Incident reportedly related to attempted arrest by police. No plastic bullets were reportedly used by police on rioters. (Facts on File World News Digest, Bradford England)

June 12, 1995- "police in the Manningham district were bombarded with petrol bombs" when 400 youths rioted in Asian community. No reason reported for the cause of the incident. No plastic bullets reportedly used by police on rioters. (Irish Times, Bradford England)

July 24, 1992- "police were pelted with stones and petrol bombs" as youths torch cars and loot shops. No reason reported for the incident. No plastic bullets reportedly used by police on rioters. (Press Association News File, Yorkshire England)

July 23, 1992- 500 youths "attacked police in riot gear and fire officers with rocks and petrol bombs." Incidents reportedly related disputes with police. No plastic bullets were used by police on rioters. (Reuters, Blackburn and Burnley England)

July 18, 1992- "200 rioting youths torch shops and hurled petrol bombs at police." Incident reportedly related to a dispute with police. No plastic bullets were used by police on rioters. (Reuters, Bristol England)

September 23, 1991- "Hundreds of youths hurled bricks and firebombs at police." No reason reported for the incident. No plastic bullets reportedly used by police. (Macleans, Newcastle and other cities)

September 12, 1991- "Hundreds of youths attacked police with bricks and firebombs." No plastic bullets reportedly used by police. (Reuters, Newcastle England)

November 22, 1984- "Striking coal miners threw firebombs" as miners quit in walkout. Labor dispute due to layoffs. No plastic bullets reportedly used by police. (New York Times, Yorkshire England)

July 27, 1981- String of riots throughout England including youths throwing firebombs at police in Dundee Scotland. Police were authorized to use plastic bullets on rioters by Margaret Thatcher, however no incidents of their use were reported. (Newsweek)¹

¹Although Margaret Thatcher authorized the use of plastic bullets on rioting crowds within England and Scotland, to this date they are still *only* used in Northern Ireland to protect property and life as far as the media indicates.

INEZ McOORMACK
Biographical Information

Inez McCormack was born in Belfast and has lived and worked there all her life. She played an active role in the Civil Rights Movement in the middle and late sixties. She subsequently was a social worker in West Belfast when the armed conflict broke out, an experience she describes as deepening her political awareness of the effects of deprivation and inequality on women and their families.

She has been involved in the Women's Movement for over twenty years. She regards this as a most important aspect of her life and work and has used methods of women's organisation to build her union in Northern Ireland.

She has been a full time organiser for NUPE (now UNISON)* since 1976. In 1993 she became Northern Ireland Regional Secretary of the new union, UNISON. UNISON organises in the health and other public services. It has over 30,000 members in Northern Ireland, mostly poorly paid women, from both religious communities. She has spent these twenty years developing union organisation amongst the most 'forgotten' workers in the public sector - school cleaners, hospital cleaners and homehelps as well and the entire range of public sector employees. In doing so she has also forged strong links between grass roots community organisations and the union.

She was appointed Northern Ireland Regional Organiser for NUPE in 1980, the first woman to be appointed to this position. She was subsequently elected to the Northern Ireland Committee of the Irish Congress of Trade Unions, the first woman so elected, and then to the Executive Council of the Irish Congress of Trade Unions, the first woman from Northern Ireland ever to be elected to an executive seat. She currently chairs the ICTU committee on North-South Economic Development. She was unanimously elected as Vice President of the Irish Congress of Trade Unions in July 1997.

In 1976 she became a founder member of the Equal Opportunities Commission for Northern Ireland, and was Deputy Chair with responsibility for legal enforcement. She was instrumental in bringing pressure to bear on government to have the EOC restructured. At the same time she became a founder member of the Fair Employment Agency, set up under the 1976 Fair Employment Act. She left the FEA in 1981 because of its ineffectiveness.

She became a signatory of the Seam MacBride Principles in 1984, and gave evidence to the Massachusetts legislature when it became the first state to adopt the Principles in 1985. She was broadcast and written about fair employment and other human rights issues in Ireland, North and South as well as in the US and Canada.

Most recently contributed a chapter, 'Out of Work: A view from the North' to the book on Developing Ireland's Island economy "Border Crossings" (1995). She is also one of the editors of the recently published book 'Learning to Disagree' (1996) which examines the potential for partnerships structures to be models of good governance and participation.

*UNISON is a merger of NUPE, COHSE and NALGO. It is the largest union in the UK and the largest public sector union in Europe.

STATEMENT FROM INEZ McCORMACK ON AIMS AND GOALS OF US VISIT - OCTOBER 1997**US Initiatives**

Many politicians and commentators are currently expressing optimism in regard to progress towards peace in Northern Ireland. *It is of the utmost importance that people in the US are aware of the positive affect of a number of important social and economic initiatives which have been underway since the ceasefire of 1994 and which have continued to develop during the period between the ceasefires during a time of a less promising political progress.*

These initiatives particularly surround issues of economic and social participation and equality which have a crucial bearing upon the ultimate success of building confidence between the communities in Northern Ireland and securing a sustainable peace by emphasizing equality, dialogue and inclusion. In most instances they arise from the transformation of the possibilities for change afforded by the ceasefires.

Such initiatives have been encouraged and supported by the US Administration. The late Secretary of State for Commerce Ron Brown emphasized the importance of fair employment practices when he spoke in Belfast at the Economic Development Conference hosted by the then Prime Minister John Major in 1994. The late Assistant Secretary Charles Melasner also indicated the need for equal economic opportunity to underpin the peace process when he addressed the Forum for Peace and Reconciliation in Dublin; and Equal Opportunities constituted one of the key discussion themes of President Clinton's Conference on economic development in Washington in 1995 which was addressed by Northern Ireland church leaders and trade unionists including Inez McCormack who has a long record of campaigning for economic and social justice in Northern Ireland.

In order to assist the US economic initiative to target areas and groups of greatest need Inez McCormack facilitated the earliest meetings of community representatives from the Falls and the Shankill with the US Department of Commerce.

The encouragement and practical support given to such groups by the US Department of Commerce since 1994 has had clear and measurable effect. These groups have jointly hosted receptions for the US Trade Missions. They have worked together in developing practical and effective support measures to attract inward investment into their communities. The ongoing work of the US Department of Commerce in enabling such groups to meet and work with community development corporations in the US has strengthened their ability to engage with investors and to develop local economic and social development plans.

This solid work has set a very concrete and practical example of how to underpin the peace process by giving communities who have suffered the most the opportunity to participate in developing their future. This participation has given them the opportunity to show their ready acceptance of responsibility and their capacity to work together for a common purpose.

This concern with equal economic opportunity at the level of the US Administration reflects a similar concern which has been expressed by the American trade union movement as well as local politicians anxious to contribute constructively to a resolution of the Northern Ireland conflict.

A conference held in New York City in December 1994 and organized by Comptroller Alan Hevesi addressed a number of human rights concerns in Northern Ireland, including equality and the need for British Government policy to target areas of greatest social and economic need and to put equality issues at the heart of the decision making process. Inez McCormack was the keynote speaker at the Conference. This conference brought together representatives of both loyalist and nationalist community groups. These representatives, while asserting their differences frankly, agreed fundamentally in relation to fairness and the necessity for economic policies which would produce significant improvement in economic and social disadvantage suffered by both communities. Many of those who took part in the conference have continued to work together in a number of organizations and committees to extend and produce concrete programs to put fairness and participation into action in Northern Ireland.

North South Initiatives

There has been significant discussion on the economic rationale for increased cross border trade and for greater economic co-operation between Belfast, Dublin, London, Europe and the US. The case for developing an island economy to bring new opportunities for higher living standards for both parts of Ireland in a rapidly changing international market, and thus helping to consolidate the peace was part of the US presentation to the Forum for Peace and Reconciliation.

A book (Title: *Border Crossings*, published by Gill and Macmillan) containing contributions from mainly business perspectives on developing Ireland's island economy was published in 1995. Inez McCormack contributed an essay on how business can both "do well and do good." The ideas within this book have contributed to the debate on how to integrate inclusion with effective economic growth. The trade union UNISON, which organizes largely low paid workers in Northern Ireland, collaborated with their counterparts in the Republic of Ireland - IMPACT - to hold a conference on the theme of partnership. The conference was held in February 1996, just two days after the Canary Wharf bombing which signaled the end of the republican ceasefire. In spite of this, participants expressed their determination to pursue the goal of increasing fairness and co-operation through partnership, irrespective of difficulties. It was a unique conference for Northern Ireland since it brought together potential partners from business, government, employee and community sectors, to discuss co-operation at a number of levels: inter-community, cross-border and worker-employer. The conference was opened by the then President of the Republic of Ireland, Mary Robinson, and participants included the heads of both civil services, senior business and trade union representatives, women's groups, community groups and ex-prisoners groups.

European Initiatives

The conference was addressed by Colin Wolfe, coordinator of the European Social Fund with responsibility for the European Peace and Reconciliation Fund for Northern Ireland and the Border Counties. He told the conference that when the European Peace

Program was first conceived, it emphasized the economic development aspects. *"Their input from trade unions, community groups and voluntary groups injected the importance of social inclusion as a central objective in itself, rather than a by-product of economic development. The idea of social inclusion began to inform the whole philosophy of the program in a way that was not the case before. It became the single biggest philosophic influence in this program".*

The report of the conference was published several months later in a book "Learning to Disagree" with a foreword by President Robinson. The ideas and suggestions in the book have been commended by the European Commission as a significant contribution to the debate on how to develop social dialogue in the context of achieving effective economic growth and social inclusion. Inez McCormack is one of the editors of the book.

In pursuit of the practical implementation at ground level of this philosophy of social inclusion as integral to effective economic growth Inez McCormack represents the trade union movement on the Monitoring Committee and the Northern Ireland Partnership Board of the European Peace Initiative. These bodies are responsible for implementing the program and ensuring that criteria of fairness and social inclusion are met by targeting areas and groups of greatest social need

Their brief is to determine that the European Program and the special funds allocated to it are used to ensure that those who have suffered most in Northern Ireland from economic disadvantage, whether Catholic or Protestant, should be able to see tangible improvement in their lives and should themselves be participants in initiatives designed for that purpose. During the most difficult times *all* political parties were represented on these partnerships. Further, they are cross sectoral, representing business, community and political interests, as well as being inclusive in having women and long-term unemployed represented. These developments have the potential to produce a new inclusion and participatory democracy in Northern Ireland. They change the way things are done, not only by giving the disadvantaged a stake in a sense of co-ownership of decisions, but also by producing change in the thinking of business, government and the civil service in relation to their practice.

Equality

Closely related to these developments has been a campaign to encourage government in Northern Ireland to give greater priority to putting fairness into action. The government has been persuaded that "Equality and equity are central issues which must condition and influence policy-making in all spheres and all levels of government activity." A government initiative, Policy Appraisal and Fair Treatment, intended to further this principle, was introduced in 1993. However, independent research has shown its implementation to be disappointing. Therefore, UNISON commissioned a discussion document from equality expert Dr. Christopher McCrudden, and this was published in December 1996 as "Mainstreaming Fairness". The purpose of the report is to examine legislative and administrative measures to ensure fair treatment and participation and "to make fairness and equity part of the social mainstream in which we all swim". Northern Ireland's main human rights group, the Committee on the Administration of Justice, has carried out extensive consultation with a view to finding out from groups at whom the policy is directed, how best they believe the policy should be taken forward

The discussion document was sent out to over 500 individual addressees. The circulation ranged over government departments, Statutory bodies, trade unions, business, the voluntary and community sector and individuals and organizations representing the various interest groups. As well as requesting written submissions, a number of discussion sessions were organized. There has been an energetic engagement in the consultation process. Submissions have been received from both governments, the main statutory bodies, trade unions, business and from such groups as the Chinese Welfare Association and the community based Women's Support Network. It is clear that there is a growing consensus around the potential of this work to contribute to greater fairness for everyone within our society - especially to those within society who need change the most and who crucially need to be involved in decisions about such change.

The consultation exercise has been completed and Dr. McCrudden is due to publish final legislative proposals based upon it. This work will then be presented to the governments as a contribution on how they can implement a culture of change and fairness.

Report by the UK Government Advisory Body on Equality

The Standing Advisory Committee on Human Rights (SACHR) has recently published a report with over 160 recommendations for institutional change in public decision making in Northern Ireland. These recommendations are specific, moderate and reasonable. They are capable of immediate implementation. It is essential that government embarks on this process of change as a clear signal and example to others by accepting its own responsibility to support a culture of change and thus a successful peace process. (See attached notes on SACHR report.)

Women's Initiative

The European Commission has given financial support to an initiative to enable women in areas and groups of greatest need to develop their capacities and skills in decision-making. Another purpose of the project is to bring forward recommendations to equality proof decision-making processes. Inez McCormack is one of the joint coordinators of this innovative cross-border project. Local forums have taken place throughout Northern Ireland and the border counties to give training and information on these issues. The US Ambassador has given consistent encouragement to the women, North and South involved in this project. Over 200 women's groups have participated to date.

Conclusion

As detailed above, the US has been involved in encouraging many of these developments aimed at practical ways of making participation possible and deepening and broadening democratic processes based upon accepted concepts of rights and justice. These have been linked to developing business opportunities and sustainable employment. The initiatives are now embedded in partnership processes which have broad sectoral and cross-community support. The combination of US and EU support for them is a powerful impetus in asserting these as essential elements in any democratic settlement.

It is important that people in the US are aware of these practical and positive developments which have taken place in a very short space of time. An hour's initiatives from the US are complementing each other in solid groundwork for new forms of relationships and economic opportunities. It is important that people in the US have the opportunity to consider how they can contribute to encouraging and developing them. This is the main purpose of Inez McCormack's visit to the US at this time.

POINTS IN RELATION TO SACHR REVIEW

1. The issue is change

The issue is, as it always has been, change: what is required to get it, and within what time scale. While the review accepts that some change has been made in the last five years, it also indicates that the core of economic inequality remains untouched. In recommending strengthening of the legislation as well as policy it follows critics of the 1989 legislation as well as a number of submissions made to it by, for example CAJ and ICTU. The review clearly accepts the analysis of the 1987 review which led to the 1989 act, although many of its recommendations were not included in it; it reiterates many of the points made in it; and repeats some of the recommendations made then which were not implemented. It accepts, for example, the need for Government itself to adopt goals and timetables for change. It also in some respects goes beyond the 1987 report by building upon the experience of the five years of the 1989 legislation. It accepts that the unemployment differential between Catholics and Protestants needs to be addressed. It states that legislation by itself cannot produce the necessary change, but needs to be complemented by policies such as PAFT and TSN, properly implemented and resourced. It recognises the potential role of these two policies in relation to ensuring equality of opportunity on the basis of religion alongside legislation and complementary to it, rather than as a substitute for it. It is highly critical of the operation of the two policies to date, and makes a number of recommendations to ensure implementation of them and to make it possible to monitor and measure their impact. Specifically, it calls for PAFT to be placed upon a statutory basis, and to include all groups presently covered.

2. The issue is one of human rights

The review firmly identifies the issue as one of economic and social rights, rather than a community relations problem. This means that in tackling it Government needs to place equality at the heart of its policy, which requires that policy be directed by clear equality disciplines and criteria with specific outcomes indicated. The review recommends that Government adopt publicly stated goals and timetables particularly in relation to the unemployment differential.

3. Amendments to the legislation

The report recognises that the current legislation needs to be strengthened if progress is to be maintained and the necessary change brought about. It recommends :

- extension of the legislation to cover the provision of goods and services
- extension of affirmative action to cover unemployment and long term unemployment
- that the FEC be given a role in promoting affirmative action by Government and employers in recruiting from the long-term unemployed
- that the 1989 Act be amended to extend the scope of contract compliance.

4. Policy Appraisal and Fair Treatment

The review recognises that legislation alone cannot deal with the many socioeconomic factors causing long term unemployment and the differential between Catholics and Protestants in unemployment. While its research recognised the importance of PAFT, it pointed to serious shortcomings in implementation. It concludes that implementation of PAFT thus far has been patchy, and there is conflicting positions on the status of the present guidelines. Recommends:

- government should develop a clear policy to ensure systematic monitoring of PAFT for all groups
- policy on PAFT be strengthened by having legislative form, with a duty on the Secretary of State to promote full equality for all groups in relation to

divisive one to recognising the need for change. Research for the SACHR review indicated that views of the political parties indicated "points of convergence among the parties... which transcend communal divisions." In particular it found a compelling level of agreement on the centrality of affirmative action to fair employment policy; virtual unanimity on the need for more concerted and strategic efforts to implement area-based positive action measures via TSN and on the proposal to place PAFT on a statutory basis. Much of what appeared radical, contentious and controversial a decade ago has now become part of the political landscape, and there is a broad consensus for actions to mainstream fairness.

Third, all actions must be outcome oriented, and the expected outcomes explicitly stated. Hence the importance of the Government itself adopting goals and timetables, and making the resources available to deal with them. Fourth, Government should co-operate with the international community in the United States and Europe by ensuring that investment is subject to equality disciplines.

Fifth, political will has been lacking in the past at the level both of Government and the Civil Service. While it may take some time to implement the recommendations, Government needs to make a clear commitment immediately to accepting the SACHR Review, recognising that more needs to be done, that it expects to see change, that it will give the issue of equality a central role in social and economic decision making, and it will provide the financial, political and legislative resources needed to effect change.

policy and administration; a unit, such as CCRU, appropriately staffed and funded, to implement the new statutory duty

- such new legislation to apply to all potential areas of discrimination

5. Targeting Social Need

Targeting social need and social disadvantage is another area that has a very specific potential for reducing inequalities, and where SACHR's research has identified potential as yet unfulfilled. The Commission identifies confusion about departmental responsibility for TSN, particularly between DFP and CCRU; and regards current information bases as inadequate. Recommends:

- departments should set progressively more ambitious targets for future spending and achievements in TSN areas
- adoption of consistent definition of TSN areas
- new monitoring systems to enable profiles of TSN groups and areas to be drawn up

6. The role of Government, past and future.

From the review, the research it has carried out, and our experience, it is possible to identify a number of reasons why Government has failed in the past to deal adequately with the problem, and what it is now required to do to produce necessary change,

First, Government responses to the issue of religious inequality in the past have been timid and cautious. The most "controversial" aspects of the 1989 legislation, such as monitoring and compulsory affirmative action, have now been accepted as necessary elements of change.

Second, religious inequality should be firmly located as an issue of economic and social rights, rather than a community relations problem. Broad acceptance of the 1989 legislation indicates that there is a willingness to accept the rights approach, moving beyond a view that the issue itself is a

The Legislature of Rockland County



George O. Darden
Chairman

Richard Menocker
Clerk

January 23, 1998

The Hon. Benjamin Gilman
United States Congressman
26th Congressional District
2185 Rayburn House Office Building
Washington, D.C. 20515

Re: Resolution No. 694 of 1997
Endorsing a Peaceful Settlement of the
Northern Ireland Conflict

Dear Congressman Gilman:

Attached please find a certified copy of the above referenced resolution, which was approved at the December 30, 1997, meeting of the Rockland County Legislature.

We would appreciate it if you would use your good offices to implement said resolution.

Very truly yours,


RICHARD MENOCKER
Clerk to the Legislature

Attachment
RM/1a

STATE OF NEW YORK)
) SS.:
COUNTY OF ROCKLAND)

I, the undersigned, Clerk to the Legislature of the County of Rockland DO HEREBY CERTIFY that the attached is an original resolution of such Legislature, duly adopted on the 30th day of December, 1997, by a majority of the members elected to the Legislature while such Legislature was in regular session with a duly constituted quorum of members present and voting.

I FURTHER CERTIFY that at the time said resolution was adopted, said Legislature was comprised of twenty-one members.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Legislature this 31st day of December, 1997.

Copy sent to the
County Executive December 31, 1997

Catherine McDargall
Clerk, Rockland County Legislature

Scott Vanderhoef
Certified or Approved
SCOTT VANDERHOEF
County Executive, County of Rockland

1/9/98
((date))

RES. NO. 694 OF 1997

Introduced by:
Hon. Thomas P. Morahan

NEW BUSINESS
Referral No. 8176
December 30, 1997

**RESOLUTION NO. 694 OF 1997
ENDORING A PEACEFUL SETTLEMENT OF THE
NORTHERN IRELAND CONFLICT**

MORONEY/LAWLESS: UNANIMOUS

WHEREAS, as we begin a new year, there is a rare moment of hope in Ireland; and

WHEREAS, all Americans of good will want to see the peace talks in Belfast, under the chairmanship of an American Special Envoy, bring about a just and lasting peace; and

WHEREAS, people in Northern Ireland, who for years have been leading peaceful resistance to sectarian bigotry, after reflecting on what changes and guarantees of rights are needed for all citizens, nationalists and unionists alike, to be able to build a future as equals, have designed the Charter for Change; and

WHEREAS, the Charter corresponds to the basic ideas of equality and liberty, and democracy and civil rights enshrined in sacred documents, such as the American Bill of Rights, in domestic and international law, and simple fair play; and

WHEREAS, the denial of equality and full rights for all has been the root cause of the conflict in Northern Ireland; and

WHEREAS, all people everywhere should have these rights and so should people in the North of Ireland no matter what governance structures are negotiated by the parties and the government by May 1998; and

WHEREAS, the American role in the Irish peace process arose because Americans, Irish and non-Irish alike, demanded it, and President Clinton wisely, and courageously offered to bring U.S. encouragement to bear; now therefore be it

RESOLVED, that the Legislature of Rockland County warmly welcomes and endorses the Charter for Change as a democratic idea which points the way to peace, justice and reconciliation in Ireland; and be it further

RESOLVED, that the Clerk to the Legislature be and is hereby authorized and directed to send a certified copy of this resolution to President Bill Clinton; the Hon. Daniel Patrick Moynihan and Hon. Alfonse D'Amato, United States Senator; the Hon. Benjamin Gilman, United States Representative; the President Pro Tem of the United States Senate; the Speaker of

Referral No. 8176
December 30, 1997

the House of Representatives; the Majority and Minority Leaders of the Senate and the House of Representatives; the American Ireland Education Foundation - P.E.C. and to such other persons as the Clerk, in her discretion, may feel proper in order to effectuate the purpose of this resolution.

DW/es
LG694
12/29/97

