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On

The Implementation of OSCE commitments in the human dimension : The Case of Northern Ireland

From

The Committee on the Administration of Justice
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Introduction

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is opposed to the use of violence for political ends. Its membership is drawn from across the whole community,

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, the Lawyers Committee for Human Rights and Human Rights Watch, and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of interest are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill of Rights.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award.

CAJ is convinced that the abuse of human rights has fed and fuelled the conflict in Northern Ireland and that respect and protection for the human rights of everyone must be at the heart of any lasting solution. We believe that a significant opportunity existed during the last two years for the government to address issues of human rights but that, despite criticism and calls for change from international human rights fora, the government did little to improve the human rights situation on the ground.

We believe that a more generous response on the part of the government in changing its law and practise in order to comply with its international human rights obligations could well have resulted in a consolidation of the peace process. Unfortunately, we have now seen a breakdown in the IRA cease-fire and a number of bombings in Britain and, recently, in Northern Ireland resulting in a number of deaths.

The Rule of Law

The summer of 1996 saw one of the most serious episodes of unrest in Northern Ireland in recent years. The gravity of the events, associated with the annual marching season in Northern Ireland, lies not only in the number of deaths or injuries, nor in the damage to property and the disruption to people's lives, but particularly in the damage done to the rule of law.

The primary responsibility of government is to provide security to all those living within its jurisdiction. The single most reliable principle by which democratic societies can ensure security of person and property is that of the rule of law. CAJ believes that it is a pre-requisite of a democratic state that the rule of law and respect for human rights operate as the defining dynamic in the relationship between the government and the governed. No-one should be above the law, everyone should be equal before the law, the law itself should be clear, fair and comply with international human rights standards. Law enforcement officials should apply the law impartially. An independent judiciary should enforce that law without fear or favour.

The Universal Declaration of Human Rights affirms this clearly when it states in Article 7 that: *"All are equal before the law and are entitled without any discrimination to equal protection of the law."*

Equally, the importance of the rule of law has been recognised by the OSCE which, in the Copenhagen document states that the participating states are **"determined to support and advance those principles of justice which form the basis of the rule of law. They consider that the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression."**

The adoption of this principle and its application by states is a defining element of any democratic society. It provides citizens with the security necessary to lead their lives in a peaceful and productive fashion. It is axiomatic that the rule of law must be enforced by an accountable and representative police service and by an independent judiciary. If this principle is violated it undermines respect for the administration of justice and the integrity of the law, and democracy itself is questioned. Its continued violation leads to a loss of faith in notions such as respect for the law. Instability and conflict often result.

Consistently in Northern Ireland, the law has failed to guarantee equal and adequate protection for the rights and liberties of every person. This failure, coupled with the abuse of human rights, has fed and fuelled the conflict here. A whole series of events over the summer of 1996 have exacerbated the situation. For example: the decision to succumb to the threat of violence from unionist protesters who wished to march through a nationalist area at Drumcree, Co Armagh and who had been allowed to replenish their numbers throughout the stand-off and bring a stolen fortified vehicle to their aid; the use of force against peaceful demonstrators; the huge difference in the numbers of plastic bullets fired against unionist and nationalist protesters; the failure to intervene when unionist protesters closed the international airport and major thoroughfares across Northern Ireland; the indiscriminate use of plastic bullets in Derry resulting in hundreds of injuries; and the deaths of Dermot McShane killed in a riot situation by the British Army, and Diarmuid O'Neill who was recently shot dead in controversial circumstances by the police in England, have all contributed to significant sections of Northern Ireland society questioning whether the state and its agencies are able or willing to give concrete expression to the rule of law.

It is our belief that it is the responsibility of the civil and legal authorities in Northern Ireland to create and maintain a framework of the rule of law which protects the rights of all. Such a framework cannot await the resolution of the communal and other tensions which exist in all democratic societies. It is a necessary prerequisite to any such resolution.

Policing

The issues above concern the operation of the security forces in general i.e. the army and the police, and the state's responsibility to uphold the rule of law. In the ongoing peace process, the establishment of an effective police service is of central importance to the development of a society in which everyone feels secure and there is respect for the rule of law. The United Nations Code of Conduct for Law Enforcement Officials stresses the importance of police services being, accountable, representative of and responsive to the community they serve (UN 1979). The Declaration on the Police passed by the Parliamentary Assembly of the Council of Europe also provides some helpful guidance on the necessary standards for policing (Council of Europe 1992). The OSCE has also been vocal in this regard calling, in the Copenhagen concluding document for the police and military to be accountable to the civil authorities. The RUC does not, in our view, and the opinion of many other internationally respected human rights organisations such as Amnesty International and the Lawyers Committee for Human Rights, meet these criteria of minimum international standards for policing.

The current police force is almost exclusively male, white and drawn from the Protestant community. Significant sections of the community have little or no confidence in it and many question its very legitimacy. Indeed, in some communities people have resorted to informal "justice systems", often with quite appalling results. It is difficult to see how the entire community can move to a situation where it feels secure and where the rule of law holds sway unless there are significant changes in the make-up, structure, culture and powers of the police.

Key elements of this change must be the repeal of emergency legislation, the creation of an independent system to investigate complaints, extensive education of police officers to ensure respect for human rights and a move away from a military style police force to an unarmed police service. This call for change is echoed in the concluding document of the Moscow CSCE meeting at 21.1 and 21.2 which commits the participating states to:

"-take all necessary measures to ensure that law enforcement personnel, when enforcing public order, will act in the public interest, respond to a specific need and pursue a legitimate aim, as well as use ways and means commensurate with the circumstances, which will not exceed the needs of enforcement;

-ensure that law enforcement acts are subject to judicial control, that law enforcement personnel are held accountable for such acts, and that due compensation may be sought, according to domestic law, by the victims of acts found to be in violation of the above commitment."

At para 22 the participating States undertake to take all **"appropriate measures to ensure that education and information regarding the prohibition of excess force by law enforcement personnel as well as relevant international and domestic codes of conduct are included in the training of such personnel."**

Regrettably, the government and the police themselves do not appear to be sufficiently responsive to these obligations. Indeed calls for radical change are often dismissed and interpreted as hostility. While this may be understandable given the sustained attacks on the police during the conflict and the appalling deaths and injuries sustained by its members such an uncritical approach is unlikely to establish a lasting peace.

The history of the police force in Northern Ireland is littered with example after example of its failure to respect the rule of law. From the death in 1969 of Samuel Devenney after being assaulted by the police to much more recent concerns about collusion with loyalist paramilitaries, the use of lethal force, and the ill-treatment of detainees, the authorities have consistently failed to hold police officers accountable for wrongdoing. For example the official statistics show that no complaint of assault during detention under emergency legislation has been substantiated over the last six years. This is in spite of the substantial damages paid to detainees as a result of civil actions arising out of their treatment during detention.

The United Kingdom government has been condemned by the United Nations Committee Against Torture and by the European Committee for the Prevention of Torture (ECPT), the European Court of Human Rights and an extensive range of non-governmental organisations for its failure to adequately protect detainees held under emergency legislation from abuse. The ECPT report on its 1993 visit to Northern Ireland stated that it had been *"led to conclude that persons arrested under the Prevention of Terrorism Act run a significant risk of psychological forms of ill-treatment during their detention at the holding centres and that on occasion, resort may be had by detective officers to forms of physical ill-treatment."* (ECPT 1994). The abuse that detainees have suffered and continue to suffer clearly conflicts with the UK's obligations under the Moscow concluding document which obliges all the participating states to treat all those deprived of their liberty with **"humanity and respect for the inherent dignity of the human person,"** and to **"respect the internationally recognised standards that relate to the administration of justice and the human rights of detainees."**

Even in the wake of the cease-fires, albeit in decreasing numbers, we continue to receive complaints from detainees about psychological and physical abuse during detention under emergency legislation. In 1995, the United Nations Human Rights Committee and the United Nations Committee Against Torture both called for the closure of the Castlereagh Detention Centre and the repeal of emergency legislation. The United Kingdom government has refused to act despite this strong international censure and maintains its derogation from the International Covenant on Civil and Political Rights and the European Convention on Human Rights. Indeed in the parliamentary debate on the Human Rights Committee report on 26th October 1995 the government indicated cavalier contempt for the findings of the United Nations Human Rights Committee (see below). If the United Kingdom government continues to flagrantly disregard its responsibilities under its binding treaty obligations then the establishment of the rule of law and a lasting peace will elude us.

Plastic Bullets

During the controversial events of the summer the police and army engaged in massive and, frequently indiscriminate use of plastic bullets. CAJ has always been opposed to the deployment and use of plastic bullets as a form of crowd control in Northern Ireland. Our opposition derives from a number of considerations:

- this is a lethal weapon which, of its very nature, results in serious injury and death: to date there have been 17 deaths in Northern Ireland, 8 of whom have been children;
- the guidelines for its deployment are not in the public domain and therefore the use or abuse of the weapon is not readily subject to public scrutiny;
- on occasion, the deployment of plastic bullet guns would appear to be in situations where their primary purpose is to intimidate people;
- serious and documented reports of its misuse do not generally appear to have led either to disciplinary action or charges being brought against those responsible, nor indeed to any major review of alternative methods of crowd control;
- other forms of crowd control have proved sufficient in Britain where there have been very serious public order problems - the distinctiveness of Northern Ireland in this regard has not been effectively argued;
- in many instances, the use of plastic bullets has clearly proved counter-productive and has led to an escalation of civil unrest rather than to a defusing of tension.

Official figures show that since 1982 the annual average of bullets fired is just over 1000. For all the reasons mentioned above, this number is already far too high. However, the fact that RUC statistics[1] report that 6002 were fired between the 7th and the 14th July 1996 alone, highlights the dramatic increase in the use made of the weapon in this recent period.

A particular concern arising from the RUC statistics is the breakdown in usage over the week. Plastic bullets, in our opinion, are totally unacceptable. We have no doubt, however, that even people who would argue that they be maintained within the armoury of weapons available to the police, would not attempt to justify the deployment of plastic bullets in a sectarian or biased way. It is therefore imperative that the state explain why it was considered necessary to discharge 662 plastic bullets in the period between 7th and 11th July (the period of unionist protests), and more than eight times as many (5340) between the 11th and 14th July (the period of nationalist protests)[2].

While the authorities may argue that there was an increase in the number of violent incidents or the level of risk that police officers were facing during the nationalist protests, this is not immediately borne out by figures given by the police. The RUC

[1] RUC statement to the press dated 19 July 1996
[2] Belfast Telegraph 13 July 1996; Irish News, 16 July 1996; RUC Statement 19 July 1996

reported that between 7th and 11th July, they recorded 758 attacks on the police. Given that the total number of attacks on the police for the whole period was 1277, there were presumably some 519 attacks during the nationalist protests. This appears to cast doubt on any attempt to justify the disparities in the number of plastic bullets fired as between the two time periods under examination.

The police, as well as the public, should be very concerned at the numerous serious allegations relating to plastic bullets. CAJ observed at first hand, and has extensive written and, in many instances also, video evidence to confirm, that:

- many individuals uninvolved in rioting were hit with plastic bullets
- many injuries from plastic bullets occurred to the head and upper body;
- plastic bullets were fired at such speed and in such numbers that direct targeting of clearly identified rioters seems highly unlikely;
- plastic bullets hit a first floor window which could not have been targeted at people's lower limbs;

Emergency Law

The UK government has employed emergency laws in Northern Ireland since the foundation of the state. CAJ has opposed the use of such powers on the grounds that they contributed to the conflict rather than to its resolution and that they violated international human rights standards. In the wake of the cease-fires called by the main paramilitary groups in 1994 we called on the government to immediately withdraw the emergency legislation, contained in the Emergency Provisions Act, which applies only to Northern Ireland, and the Prevention of Terrorism Act, which extends to both Northern Ireland and Britain.

We believe that it is a clear and recognised principle of international law that the use of emergency laws must be strictly proportionate to the exigencies of the situation and must end as soon as the emergency ends.

The European Convention of Human Rights, at Article 15, makes clear that any derogation from the Convention can only be justified if there is an emergency "*threatening the life of the nation.*" Any derogation measures must be strictly proportionate to the exigencies of the situation. The UK entered a derogation from the Convention following a decision of the European Court of Human Rights that its powers of extended detention under the Prevention of Terrorism Act were in breach of Article 5 of the Convention which guarantees the right to liberty.[3] The UK has also derogated in similar terms from Article 9 of the International Covenant On Civil and Political Rights, Article 4 of which echoes Article 15 of the ECHR.

The Document of the Copenhagen Meeting on the Human Dimension of the CSCE also addressed this issue and restated basic principles of international law when it said :

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[3]Brogan et al v UK A 145-B (1988)

"The participating States confirm that any derogations from obligations relating to human rights and fundamental freedoms during a state of public emergency must remain strictly within the limits provided for by international law, in particular the relevant international instruments by which they are bound, especially with respect to rights from which there can be no derogation. They also reaffirm that
---measures derogating from such obligations must be taken in strict conformity with the procedural requirements laid down in those instruments;
---the imposition of a state of public emergency must be proclaimed officially, publicly, and in accordance with the provisions laid down by law;
---measures derogating from obligations will be limited to the extent strictly required by the exigencies of the situation;
---such measures will not discriminate solely on the grounds of race, colour, sex, language, religion, social origin or of belonging to a minority."

The concern of the CSCE with the issue of states of emergency is emphasised in the Moscow Document which states that **"the participating States reaffirm that a state of public emergency is justified only by the most exceptional and grave circumstances, consistent with the State's international obligations and CSCE commitments."**

Para 28.3 makes clear that **"the state of public emergency will be lifted as soon as possible and will not remain in force longer than strictly required by the exigencies of the situation."** Para 28.4 states that a **"de facto imposition or continuation of a state of public emergency not in accordance with the provisions laid down by law is not permissible."**

The only step which the government has taken in response to the lessening in political violence is to institute a review of the emergency laws to be carried out by two High Court judges, one English and one from Northern Ireland. The terms of reference of this review immediately call into question its conformity with international law in that the review is to consider the need for emergency legislation if the cessation of terrorism in Northern Ireland "leads to a lasting peace." In other words it appears clear that an end of emergency laws is contingent, not on a cessation, but on a political settlement.

We are convinced that the maintenance by the UK government of emergency legislation is in direct contravention of the above. We are not aware of an official proclamation of a state of emergency and we believe that the arrest and detention powers in the Prevention of Terrorism Act (PTA) in particular, breach para 5.15 of the Copenhagen Document which guarantees the right of someone arrested or detained to be brought promptly before a judicial officer to have the lawfulness of his or her detention tested. Under the PTA a suspect can be arrested and held incommunicado without access to a lawyer for 48 hours. His or her detention can then be extended for up to five days on the decision of a government minister. There is no judicial input into the decision.

Detainees under the PTA in Northern Ireland are not permitted to have their lawyer present during questioning by the police and adverse inferences can subsequently be drawn from a detainee's silence. The European Court of Human Rights recently found

that these practises combined, violated fair trial provisions of the Convention[4]. Despite the fact that the decision of the European Court of Human Rights was published in February of this year, the offending provisions of the emergency legislation were renewed and came into force in August for a further two years. They were not brought into line with the Convention.

We believe they similarly violate 5.16, 17 and 19 of the Copenhagen Document which state at 5.16 that **"in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone will be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."**

5.17 - any person prosecuted will have the right to defend himself in person or through prompt legal assistance of his own choosing or, if he does not have sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

5.19 - everyone will be presumed innocent until proved guilty according to law;

Position of Defence Lawyers

CAJ are concerned at continued allegations that lawyers representing those detained under the emergency legislation have had their lives threatened and their professional integrity questioned by police officers in the detention centres. Many of these alleged threats contain references to the murder in 1989 of prominent defence lawyer, Patrick Finucane, who represented many individuals accused of paramilitary offences. Mr Finucane was killed by loyalist paramilitaries and there is evidence of official collusion in his death. This emerged during the trial of Brian Nelson, an agent for British military intelligence, who was also a senior member of a loyalist paramilitary group.

The police investigation into the death of Patrick Finucane has not resulted in anyone being charged with the murder. Indeed the police have not seen fit to interview members of Mr Finucane's law firm or members of his family who were present when Mr Finucane was killed.

The Lawyers Committee for Human Rights, which carried out an investigation into these issues, conclude that there should be an independent public inquiry into allegations of official threats and abuse of defence solicitors and that there should be an independent judicial public inquiry into the death of Mr Finucane. No-one has been charged with the murder of Mr Fiunucane.

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[4]Murray v UK, February 8th 1996.

Lethal Force

Since the beginning of the Northern Ireland conflict on-duty agents of the state have been responsible for approximately 359 deaths, in excess of 10% of all conflict related deaths. Two of these deaths have occurred in recent months. The first was the death of Dermot McShane who was killed in the early hours of 13th July 1996 in a riot situation in Derry when a British Army vehicle advanced at speed towards a piece of hoarding which Mr McShane was sheltering behind, knocking him over and then driving over him, fatally injuring him.

The second death occurred on 23rd September when police in London raided premises in which Diarmuid O'Neill, a subsequently acknowledged member of the IRA was staying. During the course of the raid Mr O'Neill was shot dead in controversial circumstances. Initial reports suggested that a shoot-out had occurred but these proved to be false. Mr O'Neill and his companions, who were later charged with paramilitary offences, were all unarmed.

The lack of an effective remedy for the families of those killed in such circumstances continues to be of concern to human rights groups. The 359 deaths caused by members of the security forces during the conflict have led to only seven convictions (arising out of five incidents in which 7 people died). Four of these convictions were for murder, 1 for attempted murder and the remaining two for manslaughter, when it was found that there was no deliberate intention to take life. Two of the soldiers convicted of murder were subsequently released after serving very short periods of their life sentences. This leaves many families who have contacted CAJ feeling that they have had no proper redress.

This feeling is compounded by the inquest system in Northern Ireland which, in light of the above figures on prosecutions, is the only effectively available mechanism to uncover the truth of what happened in a killing by the security forces. In many such cases, the inquest does not take place until many years after the death. In one case held last year, concerning an incident in which eight IRA members and a civilian were killed, the incident had occurred in 1987. In that case, as in all others, the families were not given access to the case papers in advance of the hearing as the lawyers for the army and police were. They were not entitled to legal aid. The soldiers who had carried out the killings were not compellable witnesses and so did not attend the hearing. The jury were not allowed to reach a verdict but could only come to a finding as to where, when and how the deceased came to his death. The Northern Ireland court of Appeal has said that, in interpreting the word "how" the focus should be on "by what means" as opposed to "in what circumstances" which might allow a broader inquiry into the circumstances of the death. Such was the family's loss of faith in the inquest system, that they instructed their lawyers to withdraw from the hearing.

A similar outcome arose when the inquest opened earlier this year into the death of a man who had been killed by loyalist paramilitaries in 1991. The family believed that the police had colluded in his death and wished to bring evidence to the inquest supporting allegations that the police had threatened the deceased with death and that the police

investigation had been inadequate. The coroner allowed the family's application but the police applied to the Northern Ireland High Court who overruled the coroner's decision.

These two cases illustrate the problems facing the families of all those killed by the security forces in Northern Ireland who try to use the inquest system to uncover the truth. We believe that the inquest system clearly violates international standards including those set out in the Concluding Document of the Vienna Meeting in 1989 at 13.9 which states that the participating States will undertake to:

"ensure that effective remedies as well as full information about them are available to those who claim that their human rights and fundamental freedoms have been violated; they will, inter alia, effectively apply the following remedies:

- the right to a fair and public hearing a reasonable time before as independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one's choice."

Government Compliance with Obligations under International Law

The tenth principle of the Helsinki Principles Guiding Relationships Between States notes that " **the participating States will fulfil in good faith their obligations under international law, both those obligations arising from the generally recognised principles and rules of international law and those obligations arising from treaties or other agreements, in conformity with international law, to which they are parties."**

Unfortunately, in the last two years, the government of the United Kingdom has not only not complied with its obligations under international law but has taken steps directly contravening such obligations.

In July 1995 the UK appeared before the Human Rights Committee under the periodic reporting procedure of the International Covenant on Civil and Political Rights.

In its final comments the Human Rights Committee expressed its concern at a number of matters which had been raised at the hearing. The Human Rights Committee noted that the *"continuation of emergency legislation presents difficulties affecting the full implementation of the Covenant."* It described the powers under the emergency legislation which include the power of extended detention without charge or access to legal advisors, entry into private property without judicial warrant, imposition of exclusion orders within the United Kingdom, etc., as *"excessive."*

The Committee called upon the government to take *"concrete steps"* to permit the early withdrawal of the derogation and urged the government to keep under the closest review whether a situation of "public emergency" within the terms of Article 4, paragraph 1 of the Covenant still existed given the *"significant diminution of terrorist violence in the United Kingdom since the cease-fire came into effect in Northern Ireland."* In this context

the government was also asked to dismantle the apparatus of laws infringing civil liberties which were designed for periods of emergency.

CAJ and the other civil liberties groups which attended the Committee's hearings were encouraged by these comments and hoped that they would help persuade the United Kingdom government to begin to bring its criminal justice system into line with its human rights commitments and take the steps which we consider are necessary to secure peace in Northern Ireland.

We were convinced that if the steps were in fact taken, that confidence in the administration of justice in Northern Ireland would begin to grow. Indeed this was one of the matters referred to by the Committee during the hearing. We believe this to be crucial in the search for a lasting and just political settlement in Northern Ireland.

Unfortunately, none of the measures which the Committee requested the government to take have been adopted. In particular, Castlereagh detention centre remains open and continues to be used despite the government's own admission that conditions there are unacceptable.

In addition, it seems that the government does not intend to introduce any of the measures suggested by the Human Rights Committee. This apparent disregard for the advice of the Committee is reinforced by the parliamentary answer given by Baroness Blatch, Home Office Minister of State in the upper house of the United Kingdom Parliament on 26 October 1995. When asked if any action had been taken in consequence of the Human Rights Committee's comments she replied *"We do not plan any specific changes in our arrangements for the protection of human rights in the United Kingdom in light of the committee's views....The Government regret that the* [Human Rights] *committee does not appear to have taken into account our long-standing cultural traditions and other particular circumstances which determine the way in which human rights are protected in this country nor the fact that the protection provided in the United Kingdom in relation to human rights is among the best in the world."*

Since those comments were made the government has renewed and indeed strengthened the emergency legislation. It appears to us that by doing so, the government is not simply ignoring the advice and recommendations of the Human Rights Committee and the dictates of international human rights law, but is actively taking steps which directly contravene it.

This apparent disdain on the part of the government to respected international human rights fora is reinforced when one examines their attitude to other external critiques of their compliance with human rights obligations in international law.

The Government of the United Kingdom reported to the Committee Against Torture under the reporting procedure provided for in Article 19 of the Convention against Torture in November 1995.

The Committee Against Torture noted that in Northern Ireland *"the maintenance of the emergency legislation and of separate detention in holding centres will inevitably*

continue to create conditions leading to breach of the Convention." It further voiced concern at the renewal of emergency powers relating to Northern Ireland and the *"vigorous"* interrogation of detainees under the emergency powers which may sometimes breach the Convention.

The Committee called upon the government to abolish detention centres and to repeal the emergency legislation in Northern Ireland. They also called upon the government to introduce the taping of interviews of suspects arrested under the emergency powers and to permit lawyers to be present at interrogations in all cases.

Unfortunately, none of the measures which the Committee requested the government to take have been adopted.

This manifest disregard and disrespect on the part of the government for its obligations under international human rights law is not confined to the ICCPR or the Convention on Torture but extends to the European Convention. In September 1995 in response to a decision by the European Court of Human Rights in the "Gibraltar" case[5] , that the UK had violated the most important right of all those protected by the Convention, the right to life, the Deputy Prime Minister, Mr Michael Heseltine, said in an interview given to the BBC radio's World at One programme on 27th September 1995 that the judgement was "incomprehensible" and "ludicrous" and, when asked what the government intended to do about it replied, "absolutely nothing."

Despite the fact that the case found that three citizens had been unlawfully killed by the UK, there has, to our knowledge, been no examination of the case in order to determine whether criminal or disciplinary charges should be made, or if changes should be made to procedures for dealing with such cases in future. Indeed, Mr Heseltine has said that, faced with the same set of circumstances again, the state would act in the same way.

This reaction to the decision of the European Court of Human Rights, coupled with the inaction of the government in the face of the Murray judgement which was mentioned above, confirms the seeming reluctance of the UK government to respond constructively to legitimate international criticism of its human rights record. We hope that this report will enable the government, through the processes of the OSCE to engage positively with such criticism. We believe it is imperative, that in order to achieve a just and lasting peace in Northern Ireland, the government act in accordance with the international human rights standards that it has helped set, including those of the OSCE.

October 1996

[5]McCann, Farrell and Savage v UK, 27th September 1995 (17/1994/464/545).