

UNITED KINGDOM

Policing in Northern Ireland: A New Beginning?

Amnesty International's initial comments on the Police (Northern Ireland) Bill

The draft legislation, the Police (NI) Bill 2000, has come out of an in-depth review of policing in Northern Ireland, carried out in 1998-1999 by the Independent Commission on Policing for Northern Ireland and led by Christopher Patten. The Independent Commission's report, entitled "A New Beginning: Policing in Northern Ireland", was ground-breaking in terms of its attempt to build a new policing service on a fundamental basis of protecting human rights. Although Amnesty International identified shortcomings in the Patten Report, in particular in ensuring that the policing service would be more accountable and transparent, the organization believed that "the full implementation of the proposals would lead to a fundamental change in policing and could mark a major advance towards establishing a regime acceptable to all sections of the community and conforming to international human rights standards" (see Amnesty International, *Response to "A New Beginning: policing in Northern Ireland"*, AI Index: EUR 45/48/99). Thus Amnesty International is greatly disappointed that human rights protection is not at the heart of the draft legislation. The organization is also concerned that the legislation does not develop the Patten Report's recommendations for increased accountability. The proposed legislation undermines many of the good recommendations made in the Report, and indeed, weakens the central tenet of the Patten Report which states, "Accountability should run through the bloodstream of the whole body of a police service". The proposed legislation repeats the mistakes of the past by placing too much power into the hands of the Secretary of State and the Chief Constable and raises doubts that the new policing service would be truly accountable to the law and to the community it would serve.

Human Rights Ethos

Amnesty International welcomed the Patten Report's various statements on the centrality of human rights: "the fundamental purpose of policing should be, in the words of the Agreement, the protection and vindication of human rights of all"; "human rights are not an impediment to effective policing but, on the contrary, vital to its achievement", and "upholding human rights and upholding the law should be one and the same thing".

Central to the development of a human rights ethos in policing was the Patten Report's recommendation that all police officers should take a new oath of office: "there should be a new oath, taken individually by all new and existing police officers, expressing an explicit commitment to upholding human rights". The Report also stated that the oath should include a commitment to respect "all traditions and beliefs".

Amnesty International is concerned that the Bill states that the new oath would only apply to new recruits, and that it does not mention the need to include a commitment to respect all traditions and beliefs.

Existing members of the policing service would sign up to a new code of ethics, which the Patten Report recommended should be decided by the Policing Board. The Bill proposes that the Chief Constable should draw up the new code of ethics and in so doing he is obliged to consult the Police Federation and the Secretary of State.

Legal Accountability: the Ombudsperson

The Patten Report recognized the need for a fully independent Ombudsperson as an effective mechanism for holding the police accountable to the law. The Patten Report proposed that the powers of the Ombudsperson should be increased in order that the Ombudsperson be enabled to initiate investigations even if no specific complaint had been made, and to investigate and draw conclusions from patterns of complaints. The report also recommended that the Ombudsperson should have access to all past investigation reports on the RUC.

The legislation has significantly curtailed the powers recommended in the Report: the Ombudsperson would be restricted to investigating specific complaints; and would not be able to initiate investigations into clearly identified patterns of human rights violations such as ill-treatment at interrogation centres, for example. This is a worrying signal that the Bill does not reflect the Patten Report's clear intention to introduce mechanisms of accountability to deal with patterns of abuse. The Bill also allows the Chief Constable to deny a request from the Ombudsperson to receive information if it is thought to be "unreasonable". Public confidence in police accountability through the independent and thorough investigation of allegations of police misconduct will only be regained if the Ombudsperson has unfettered access to any information which is considered necessary and has unfettered powers to be able to initiate investigations into any pattern of abuse which is causing concern.

Although the Patten Report did not deal with the legacy of human rights violations from the past, the Report recommended provisions to ensure that the Ombudsperson would have access to all past investigations into police misconduct. Thus, the organization is very concerned that the Ombudsperson's existing power to investigate "old" cases is explicitly curtailed. The Bill gives the Secretary of State power to prescribe a period before which any individual complaint, or any pattern of behaviour, may NOT be investigated. The same "prescribed period" could allow the Secretary of State to be able to deny the Ombudsperson access to past reports (for example, the Stalker/Sampson report into killings by undercover officers, or John Stevens' report into collusion).

Democratic Accountability: the Policing Board

The Patten Report recommended that the Policing Board could establish an investigation or request other agencies to carry out inquiries into any aspect of police conduct as necessary; and that the Board could require the Chief Constable to provide responses to queries on matters of concern.

The proposed legislation limits the Board's ability to establish an investigation by allowing the Secretary of State to decide who would lead such an inquiry. The Bill also allows the Secretary of State to halt such an inquiry, on request from the Chief Constable if the Chief Constable argues that such an inquiry could have a prejudicial effect on policing operations or the administration of justice. Moreover, the Board would not be able to inquire into issues which were being inquired into by other public bodies (for example, an internal police investigation).

As in relation to the Ombudsperson, the Bill also allows the Chief Constable to refuse to comply with the Board's request for information, if it is thought to "prejudice the good administration of justice" or other reasons.

The functioning of the Policing Board would be set out in Codes of Practice which would be issued by the Secretary of State.

Covert operations

One of the areas which has been of serious concern to Amnesty International throughout the years has been covert policing, and those units involved in covert operations. One of the areas of the Patten Report which the organization considered to be the weakest was precisely that of covert operations. In its submission to the consultation on the Report, Amnesty International stated: "Special Branch, referred to in the report as a 'force within a force', in particular has been involved in many incidents of human rights violations, and has operated with virtual impunity throughout the years. The incidents of reported abuses are countless. Thus the report's recommendation that Special Branch and the Criminal Investigation Department should be brought together under the command of a single Assistant Chief Constable does not go far enough in dealing with those branches which were responsible for the more serious human rights violations." (Amnesty International, *Response to "A New Beginning"*, AI Index: EUR 45/48/99)

This recommendation by the Patten Report has been left, in the Implementation Report, to the Chief Constable to review by the summer of 2001.

The challenge facing Parliament now is to ensure that legislation will provide for a policing service in Northern Ireland which will fulfil the law enforcement responsibilities fairly, which will be fully accountable for its actions, and which will have the confidence of all sides of the community. The Bill, as it currently stands, does not meet this challenge.

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