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Ireland: Human rights under UN scrutiny

Amnesty International is urging the UN Human Rights Committee to scrutinize emergency legislation, fair trial issues and police investigations during the examination of the second periodic report of Ireland on 13 July in Geneva. Amnesty International draws the Committee's attention to various provisions and practices which are in contravention of the internationally recognized rights to life, to fair trial, to liberty, and to freedom from torture and cruel, inhuman or degrading treatment.

In its comments to the Human Rights Committee, Amnesty International raises the cases of John Morris, Ronan MacLochlainn, and John Carthy. In the wake of their killings by the Garda [police] Emergency Response Unit in recent years, Amnesty International believes the government should establish mechanisms to ensure independent and impartial investigations of disputed killings by law enforcement officers, and that inquests into deaths in custody should provide an effective public scrutiny of the legality of actions taken by officers.

The inquest system, as presently constituted, severely disadvantages the victims' families in their attempts to shed light on the full circumstances of a disputed killing. Lawyers for the victims' families are not provided with full autopsy statements, full forensic evidence and complete witness statements in advance of the inquest which hampers the victim's family from effectively challenging the official version.

The need for a mechanism to ensure independent investigation of alleged police misconduct also arises from complaints that current police investigations into ill-treatment are not independent and impartial.

Amnesty International welcomes the recommendation by the European Committee for the Prevention of Torture in 1998 to reform the complaints procedure to ensure its independence and impartiality. Other safeguards to deter police officers from ill-treating people include provisions against incommunicado detention, effective legal advice and legal presence during questioning.

Amnesty International made a detailed submission to the Review of the Offences Against the State Act(s) which was set up by the Irish Government in 1999; the report of the Review is still pending. In its submission Amnesty International recommended:

- the disestablishment of the Special Criminal Court, because the government has not demonstrated that special courts are essential in the current circumstances and because those courts are also being used for cases not obviously related to offences against the state;
- the repeal of provisions which allow internment without charge or trial;
- the repeal of provisions which allow for detention for extended periods without charge and without access to a solicitor during questioning;
- the introduction of legal aid for lawyers to attend police stations and provide legal assistance;
- the presence of lawyers during police interviews with suspects;
- a repeal of the Offences against the State (Amendment) Act 1998, which, among others, curtails a suspect's exercise of the right to remain silent during police questioning. This curtailment, coupled with the restrictions on a suspect's rights to legal assistance may be in violation of the right to a fair trial because it impermissibly shifts the burden of proof onto the accused and violates the presumption of innocence and the right not to be compelled to testify against oneself.

Amnesty International also continues to press for the implementation of a statutory framework for the asylum determination procedure. Appointees to the Refugee Advisory Board and Refugee Appeals Tribunal should be independent and trained in international refugee and human rights law. Effective and accessible legal advice should be made available.

The organization is also concerned with the lack of safeguards surrounding the proposed detention of unsuccessful asylum-seekers: detention may be imposed when it is not necessary and on an arbitrary basis, without judicial supervision and without appeal.

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