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# amnesty international

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## 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.