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UNITED KINGDOM: Recommendations to Strengthen the proposed Northern Ireland Human Rights Commission

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Amnesty International is concerned that current provisions of the Northern Ireland Bill establishing a Human Rights Commission for Northern Ireland, which will be considered by the House of Lords on 5 October 1998, fall short of what is required to create a legal framework for the establishment of a strong, effective and independent human rights commission. The organization has noted that the provisions of the Northern Ireland Bill establishing the Commission fall short of principles adopted by the UN Commission on Human Rights in 1992 and endorsed by the UN General Assembly in 1993. The UN Principles Relating to the Status of National Institutions, known as the Paris Principles, establish the **minimum** requirements for the effective functioning of national human rights institutions.

Reinforce Inclusive Definition of Human Rights

Amnesty International welcomes the clarification provided by the Minister of State of the Northern Ireland Office during the debate in the House of Commons on 27 July 1998 that the Northern Ireland Human Rights Commission will be given "the greatest possible freedom to determine for itself the standards of human rights protection against which

laws and practices should be judged." In this context, the mention in the Northern Ireland Bill of the rights set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) as falling within the Commission's scope is deemed to be *inclusive* rather than exclusive.

The organization urges the House of Lords to reinforce the importance of this point, underscoring that the definition of human rights includes the full range of human rights enshrined in international standards, including but not limited to those regional and international treaties to which the United Kingdom is a party.

Establish Powers of Investigation and Litigation

Amnesty International joins the UN High Commissioner for Human Rights in urging that the Government and legislators in the United Kingdom ensure that statute creating the Northern Ireland Human Rights Commission vest the body with the powers to investigate individual cases and patterns of alleged human rights abuse at the request of any person, organisation or body or on its own initiative and be vested with the powers to compel and obtain evidence.

The Paris Principles envisage that

"within the framework of its operation, the national [human rights] institution shall..hear any person and obtain any information and any documents necessary for assessing situations falling within its competence".

The current provisions of the Northern Ireland Bill fail to clearly vest the Northern Ireland Human Rights Commission with power to carry out investigations into individual cases and patterns of alleged abuses at the request of any person, organisation or body or on its own initiative.

In addition, the current text of the Northern Ireland Bill fails to vest the Northern Ireland Human Rights Commission with power to compel people, including experts and representatives of government agencies, to attend hearings and provide information; power to compel production of documents and other evidence; free access to all documents, including public records, which the Commission believes are necessary for the investigation; freedom to conduct on-site investigations including to jails, prisons and other places of detention and power to refer any person for prosecution who, without lawful excuse, obstructs the Commission in the performance of its functions.

Amnesty International also notes that although the Multi Party Agreement provided for the Northern Ireland Human Rights Commission to have the power to initiate litigation in its own name where it considers that there is evidence of human rights violations, this power has not been included in the provisions of the Bill currently being considered.

Amnesty International recommends that these omissions be addressed.

Strengthen Powers to Review Legislation

The current provisions of the Northern Ireland Bill vest the Northern Ireland Human Rights Commission with powers to advise the Northern Ireland Assembly (the Assembly) on whether draft legislation is compatible with human rights and to advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to protect human rights, on request or on its own initiative.

In order to secure the independence of the Commission, Amnesty International believes these provisions should be amended to ensure that **all** proposed legislation be referred to the Northern Ireland Human Rights Commission by the Northern Ireland Assembly and that the decision on whether to comment rest solely with the Commission.

The statute should expressly set out the powers of the Commission to recommend enactment of legislation or regulations, to recommend that draft legislation or regulations be amended, and to recommend that existing legislation or regulations be repealed or amended in accordance with international human rights standards.

In order to ensure that the Commission's recommendations are taken into consideration, the statute should require that the appropriate legislative or regulatory body formally reply to the Commission's recommendations.

Safeguard Independence and Effectiveness: Ensure Adequate Financial and Human Resources

In order to ensure that the Northern Ireland Human Rights Commission is strong, independent and effective, it must have adequate and secure funding and sufficient and qualified members and personnel, who are representative of the civil society of Northern Ireland and are selected in a manner which reinforces independence, to enable it to carry out all of its functions.

To these ends, the Paris Principles recommend that such a commission should be given adequate funding to enable it to have its own staff and premises, in order to be independent from Government and not be subject to financial control which might affect its independence.

Amnesty International urges that the Northern Ireland Human Rights Commission be allocated a budget which will enable it to be fully operational to carry out *all* of its functions. The organization joins others in expressing concern that the budget of £750,000 currently contemplated may be insufficient to fund all of the functions of the Commission including to ensure adequate levels of qualified staff to engage in consultations on a Bill of Rights, assist in individual cases, advise on the compatibility with human rights principles of draft and existing legislation, promote human rights

understanding and awareness in Northern Ireland and carry out research, and conduct investigations into human rights abuses.

In order to safeguard its independence the Commission alone must be given power to allocate its budget to accomplish its varied functions in accordance with the priorities which the Commission itself sets. In addition, the method of appointment of members, who are fully representative of civil society, must involve elements which reinforce independence.

Conclusion

The Northern Ireland Human Rights Commission contemplated by the Multi-Party Agreement could play a pivotal role in protecting human rights and promoting and fostering the emerging human rights culture based on the universality, interdependence and indivisibility of all human rights for all people in Northern Ireland. To achieve these goals, however, the Commission's legal mandate must ensure that it is truly independent; its members and staff are fully representative of civil society; it is vested with clear powers to serve advisory, educational, promotional and impartial investigatory functions; and it is provided with sufficient resources to carry out the full range of its mandate in accordance with its own priorities.

As the first human rights commission in the United Kingdom, it will also likely serve as a model for the other commissions planned to be established in other parts of the country and in other countries. Amnesty International therefore urges the House of Lords to make the amendments to the Northern Ireland Bill described above. These proposed amendments are consistent with the minimum standards set out in the Paris Principles and are aimed at ensuring that Northern Ireland's Human Rights Commission fulfills its function as an independent body which effectively promotes and protects human rights of all people in Northern Ireland and enjoys credibility and the widest possible support.