Examination of the 6th Report by the United Kingdom under the International Covenant on Civil and Political Rights

List of Issues: Submission by the Northern Ireland Human Rights Commission

1. The Northern Ireland Human Rights Commission (‘the Commission’) is accredited with ‘A’ status by the International Co-ordinating Committee of National Human Rights Institutions, and is at present the only accredited NHRI in the United Kingdom. Since its creation in 1999 (by the UK Parliament, through the Northern Ireland Act 1998) the Commission has engaged extensively with United Nations and regional treaty monitoring processes, and has submitted parallel reports under all UN human rights treaties to which the United Kingdom is party.

2. The Commission is grateful to the UN Human Rights Committee for the opportunity to contribute its views for consideration in formulating the List of Issues in preparation for the examination of the United Kingdom’s Sixth Periodic Report under the International Covenant on Civil and Political Rights. The Commission expects to furnish a parallel report in due course and this is likely to add some details to matters included in the present preliminary submission, and raise various additional matters.

3. Below, the Committee will find a number of questions that we would ask the Committee to put to the UK Government. We also list a number of recommendations that we would like to see made following the examination of the report.
List of Questions

4. In relation to the reporting process, the Committee should ask the United Kingdom about the procedures guiding the preparation of State report; the process by which information is gathered from different UK jurisdictions and how such information is utilised in the preparation of the final State report. The Committee should ask why the state has again neglected its obligation to furnish accurate and up-to-date information on Northern Ireland for all sections of the current report to the same standard as for other UK jurisdictions. There is a general lack of comparable statistical data on Northern Ireland, some of the information was seriously out of date when the Report was submitted, and even some positive aspects, such as the region’s specific anti-discrimination provisions which are more advanced than those applying in the rest of the state, are omitted from the Report.

5. The Committee should ask the United Kingdom to account for its failure to provide the Northern Ireland Human Rights Commission with adequate powers to match its functions as a broad-based human rights institution. In enacting the Justice and Security (Northern Ireland) Act 2007, the government imposed restrictions on the use of evidential powers (including a prohibition on investigating ‘national security’ matters); restrictions fettering access to places of detention; and a time limit on the use of new powers, effectively preventing the Commission from investigating any matters relating to the past conflict.

6. Even in the absence of the appropriate statutory powers, the Commission has built up a substantial body of work on the human rights issues around places of detention. However, at the time of writing it appears that the UK Government has decided to exclude the Commission from the list of bodies forming the UK National Preventive Mechanism (NPM) under the Optional Protocol to the Convention Against Torture. The UK should be asked whether it intends to review its decision, what would be a timeline for such a review and how it will be reviewed.

7. As a matter affecting the protection of human rights in all jurisdictions in the United Kingdom, the Committee should enquire as to what actions will be taken to broaden the definition of ‘public authority’ under the Human Rights Act
8. The Committee should ask the United Kingdom what measures it will take to ensure the protection of human rights in the context of counter-terrorism legislation. The state has since 2000 introduced four major pieces of anti-terrorism legislation, and is currently consulting on additional measures. All of the existing laws – the Terrorism Act 2000; the Anti-terrorism, Crime and Security Act 2001; the Prevention of Terrorism Act 2005 and the Terrorism Act 2006 – led to significant erosion in the protection of human rights. Some provisions – such as the indefinite detention of foreign nationals under ATCSA 2001 or the use of control orders under PTA 2005 – have been successfully challenged in the courts, but the majority of the measures have taken a firm place in the legal system, widening police powers and limiting the rights of suspects in the criminal justice process.

9. The Committee should ask the United Kingdom to provide details of any cases of extradition or deportation subject to receipt of diplomatic assurances or guarantees, and to which countries; and how many people have been so removed, to which countries, when the receiving countries refused to sign any assurances or agree monitoring systems. The United Kingdom should be asked how it can account for the protection of the human rights of any persons removed with or without diplomatic assurances.

10. The United Kingdom should be asked to explain what procedures it uses to assess the safety in countries to which it returns persons whose asylum applications have failed. The Committee should also ask what arrangements, if any, exist for verifying the safety of persons so removed upon their arrival at the destination country. The same should be asked of the Government in relation to removals to “safe third
11. The Committee should ask the United Kingdom what assurances it can give that the co-operation of all relevant State authorities and their agents will be forthcoming to the inquiries into the deaths of Rosemary Nelson, Robert Hamill and Billy Wright. It should ask what the state’s position is in relation to disclosure of information to any future public inquiries, truth commission or other initiative to establish the facts surrounding incidents relating to the conflict in Northern Ireland, with particular reference to collusion between state agents and armed groups.

12. The United Kingdom has largely ceased the use of prison for the detention of asylum seekers and suspected immigration offenders in Northern Ireland (contrary to what is stated in the UK Report), but instead removes them from that jurisdiction to detention or removal centres in Great Britain. The Committee should ask how many asylum applicants or others have been removed from Northern Ireland to be detained in Great Britain, and what arrangements exist for access to legal advice prior to removal from Northern Ireland, and for the continuing legal representation of persons so removed.

13. The Committee should ask the United Kingdom how it plans to address recommendations made by the Northern Ireland Human Rights Commission in relation to the imprisonment of women in Northern Ireland.

Recommendations

14. The Committee should recommend that the United Kingdom cease deportations on the basis of diplomatic assurances to states where individuals may be at risk of torture or inhuman or degrading treatment.

15. The Committee should recommend that a full independent public inquiry, compliant with human rights standards of investigations of deaths, be established into the death of the solicitor Patrick Finucane. The Committee should also recommend that the UK Government publish reports in full on the findings of the inquiries into the Finucane, Nelson, Hamill and Wright killings.
16. The Committee should recommend that persons awaiting decision on their asylum application in the UK should not ordinarily be deprived of their liberty, and that detention should be used only as a last resort.

17. The Committee should recommend that an independent public inquiry be held into the imprisonment of women in Maghaberry Prison from 2002-04, and that a separate discrete prison facility for women be provided in Northern Ireland as a matter of urgency.

18. The Northern Ireland Human Rights Commission is willing to provide the Committee, or individual members, with additional comments and documentation on any of the matters raised. We thank the Committee for its consideration.