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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on Prevention of  
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Agenda items 10(b) and 11

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY

INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY, JURORS  
AND ASSESSORS AND THE INDEPENDENCE OF LAWYERS

Written statement submitted by the International Federation of Human Rights, a  
non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which  
is distributed in accordance with Economic and Social Council  
resolution 1296 (XLIV).

[6 August 1993]

HUMAN RIGHTS, STATES OF EMERGENCY AND THE PROTECTION OF LAWYERS

The case of the United Kingdom of Great Britain and Northern Ireland

1. The International Federation of Human Rights (IFHR) wishes to express its appreciation and support of the method which has been followed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the reports on states of emergency and the independence of the judiciary and of lawyers. This consists in evaluating, on a case-by-case basis, human rights situations against specific human rights standards. The method offers a pragmatic framework within which to analyse complex phenomena.

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prohibiting the use of those firearms and ammunition that cause unwarranted injury or present unwarranted risk;

(c) Allegations that there is a practice, if not actually a policy of extrajudicial executions. The killing of three unarmed Irish Republican Army (IRA) members by soldiers in Gibraltar in March 1988 and of three unarmed people involved in a robbery by undercover soldiers on the Whiterock Road in Belfast in January 1989 are among a number of incidents where significant doubts exist over whether people could have been arrested rather than shot. No criminal prosecutions have arisen out of these, no public inquiry has been undertaken. When an internal police inquiry was undertaken in 1986 into the deaths of six unarmed people at the hands of the police in County Armagh in November 1983 the officer conducting the inquiry, Mr. John Stalker, was removed before its completion, his full report was never published and the then Attorney-General, Sir Patrick Mayhew, decided not to act on recommendations to prosecute police officers for perverting the course of justice on the grounds that this was "not in the public interest". Political assassinations are specifically prohibited under the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Furthermore, the Principles state: "Exceptional circumstances including a state of War, ... internal political instability or any other public emergency may not be invoked as a justification of such executions";

(d) IFHR and CAJ are concerned that investigations into State killings are characterized by a lack of independence, unreasonable delays and the hindering of immediate access by investigators to suspects and evidence. The United Nations Principles require Governments to conduct thorough, prompt and impartial investigations into State killings. Despite an undertaking in 1988 that it would ask police forces from outside Northern Ireland to investigate shooting incidents by the Royal Ulster Constabulary, this has not happened;

(e) IFHR and CAJ have monitored the evidence of collusion between elements within the police and army and loyalist paramilitary groups (who use political violence to maintain the link between Northern Ireland and the United Kingdom) and the failure on the part of Government to address this matter. This collusion involves either the passing of security information or more active participation in illegal activities. An inquiry into the former was instituted by the police in September 1989 though the full results were never made public. Furthermore, since the inquiry a number of other leakages of information have come to light. One of those arrested, however, was Mr. Brian Nelson. At his trial it emerged that he was working as a double agent for army intelligence and had infiltrated a loyalist paramilitary group. During that time he was involved in targeting a number of individuals who were subsequently killed. Mr. Nelson has claimed that on several occasions his army handlers were aware that these people were likely to be killed but did nothing to prevent their deaths. In spite of this no action has as yet been taken against those responsible for supervising Mr. Nelson and murder charges were dropped against him before his trial. IFHR and CAJ are deeply concerned that the United Kingdom Government has refused calls for an independent inquiry into the Nelson case.

complaint made by detainees in the last five years about ill-treatment during detention in the holding centres has been upheld. The United Kingdom Government remains reluctant to arrange that interrogations be video- and audio-recorded. This would provide concrete evidence of what takes place during interrogations and thereby protect detainees from ill-treatment and police officers from false allegations. The expert of the Sub-Commission from the United Kingdom called for such recordings last year, as did the United Nations Committee against Torture;

(e) The right to silence is no longer protected in Northern Ireland and the standards governing the admissibility of confession evidence have been lowered to make it easier to admit such evidence under emergency legislation. The overall thrust of these changes appears contrary to article 14(3)(g) of the International Covenant on Civil and Political Rights.

7. In conclusion, IFHR and CAJ respectfully request the Sub-Commission and the special rapporteurs concerned to take all appropriate measures to ensure that United Kingdom legislation and practice be brought into conformity with international standards.

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