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FROM: SODERBERG

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THE WHITE HOUSE

WASHINGTON

August 24, 1995

Dear Martin:

Thank you for your recent letter regarding the President's upcoming trip to Northern Ireland.

I appreciate your thoughtful recommendations for the President's trip. We are still in the process of developing his schedule and will certainly keep your suggestions for specific events in mind. Regarding the substantive goals for the trip, I have passed your ideas on to Mary Ann Peters, our Director for European Affairs, for further review.

I would be happy to see you when you are in Washington. Give my office a call, 202-456-9471, when you arrive to set up a meeting.

Sincerely,


Nancy E. Soderberg
Deputy Assistant to the President
for National Security Affairs

Mr. Martin O'Brien
Committee on the Administration
of Justice
45/47 Donegall Street
Belfast BT1 2FG
Northern Ireland

**COMMITTEE
ON THE
ADMINISTRATION OF JUSTICE**

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Nancy Soderberg
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Washington D.C.
U.S.A.

*Brooke
I sent a
copy to
Mary Anne
Glen 8/23*

*Ireland
POTUS trip*

23rd August 1995

Dear Nancy,

It was good to see you in Belfast at the Europa conference. I think it was a very useful event. I am writing now with some thoughts in relation to the President's forthcoming visit to Northern Ireland. As you will know from our discussions with you last December in Washington, and in correspondence since, the Committee on the Administration of Justice (CAJ) is convinced that improvements in the human rights situation must have a high priority if the peace process is to succeed. We are also of the view that international interest in and commitment to greater human rights protection in Northern Ireland is enormously influential on the ground here. An example of this is the recent comments by the United Nations Human Rights Committee which deal with human rights and the peace process in Northern Ireland. (see enclosed copy) In our view the President's visit provides an important opportunity to make real progress towards concrete protection for the human rights of everyone in Northern Ireland.

In particular we should very much welcome any comments which the President could make which would highlight the importance which the U.S. administration attaches to the protection of everyone's human rights in Northern Ireland. Related to this is our concern that basic human rights should not be used as bargaining chips by any of the parties to the dispute, and that the securing of justice and fairness for all can, and should, be portrayed as a unifying and not a divisive strategy.

In this respect we were extremely encouraged by the President's comments at the Washington conference in the context of the economy: "If growth is accompanied by an end to discrimination, by fair and non-sectarian employment practices and encouraging investment in areas in greatest need, then both Catholics and Protestants will feel that they have a stake in their society and its peaceful future. When both communities feel the benefits of peace and see that they are distributed fairly, despair will lose its hold, and all

*pl send to MAP
+ put in my Ireland
book. pls draft
general response
on ideas
say ill be
glad to
see him wh.
we cover*

will have the chance they deserve to fulfil their God-given potential." Similarly the Honourable John Shattuck, when speaking at our human rights conference in Belfast in March of this year, said:"Guaranteed human rights do not simply balance communities off against each other; they make it possible for communities to develop a broadly-shared allegiance to justice that enables them to work out their inevitable differences." These kinds of statements bear constant repetition here in Northern Ireland since they are a recognition of the centrality of human rights to securing a lasting peace. We are strongly of the view that it would be very helpful if these principles could inform some of the President's comments during his visit to Northern Ireland.

We further feel that it would be useful if the President could acknowledge the importance of a number of specific measures to move the process forward and to ensure justice and fairness for everyone in Northern Ireland. These include:

- support for the adoption of a Bill of Rights. This has the endorsement of all NI political parties, and discussion around it would encourage broad public debate within and across communities about their rights and the rights of others. The UN Human Rights Committee (UNHRC) has also called for this in the last few weeks;
- empathy for all the victims of the conflict, whether they be victims of paramilitary or state abuses;
- support for the repeal of emergency legislation (the UNHRC has also recently called for this);
- support for measures to improve confidence in the administration of justice;
- support for the efforts of human rights groups which are seeking to create consensus around a "human rights agenda for change" (we can send you this full text in a few weeks - it derives from the conference and seminar we organised earlier this year);
- recognition of the importance of social and economic participation as a human right;
- a promise that the US Administration will be looking closely at the recommendations submitted to the Fair Employment review being undertaken by the Standing Advisory Commission on Human Rights and the extent to which these will deliver the level of change which is urgently required;
- a request for attractive incentive packages to draw US investors to the most disadvantaged areas and sectors, in line with the British government's stated policy of targeting areas of greatest need;
- a promise that US government representatives will be asked to monitor carefully the impact of US investment on securing change on the ground, in terms of fair as well as full employment;
- concern that there should be movement in relation to the early release of prisoners;
- support for the need to put in place a police service which commands the respect of the entire community and in particular for the need for independent investigations into police complaints;

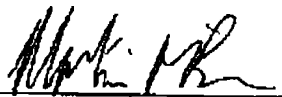
- a promise that US government representatives will be pushing human rights concerns with all the parties to the conflict.

Last but not least, is the issue of where the President goes during his visit to Belfast and Dublin, and not merely what he says. We would be delighted if he could give concrete expression to the centrality of human rights to the peace process by agreeing to meet representatives of the human rights community from Britain and Ireland and those international human rights groups who have been active on the issue of Northern Ireland. If that were at all feasible, we could give some more thought as to how this might be appropriately organised, but obviously much depends on the time he has available.

We assume that he will be meeting with community activists, and we would urge that such meetings- in their location, participation and agenda - seek to concentrate on the issue of tackling the problems in areas and with groups of greatest need particularly through supporting direct access and participation for the representatives of such groups. We recognise that there is also a need for his visit to stress community reconciliation and bridge building, and that these objectives may be difficult to achieve simultaneously - the balance may have to be struck in the visit overall, rather than in each and every meeting.

We hope that you have no objection to us coming to you again for your help and support. You well understand the significance of this period of the peace process, and the important contribution President Clinton has already made and can continue to make. Sometimes the direct political actors here are engaged in the immediacy of political manoeuvrings and negotiations, and need to be reminded of the longer term perspective in which peace can only come about when justice and fairness is guaranteed for all. We earnestly hope that President Clinton will make this a central focus of his visit. If we can in any way contribute to him doing so even more effectively, please do not hesitate to contact us. I will be in Washington on 20th-22nd September and would very much welcome the opportunity to meet with you if it is at all possible given your busy schedule.

Yours sincerely



Martin O'Brien

INTERNATIONAL COVENANT ON
CIVIL AND POLITICAL RIGHTS

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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

United Kingdom of Great Britain and Northern Ireland

1. The Committee considered the fourth periodic report of the United Kingdom of Great Britain and Northern Ireland (CCPR/C/95/Add. 3) at its 1432nd, 1433rd and 1434th meetings (see CCPR/C/SR.1432 to 1434), on 20 and 21 July 1995 and adopted¹ the following comments :

A. Introduction

2. The Committee expresses its appreciation to the State party for its detailed and exhaustive report which largely complies with the Committee's guidelines, though regret is expressed concerning the failure to address adequately issues properly arising under article 26 of the Covenant. The high competence of the delegation which presented the report is to be acknowledged as is their willingness to offer thorough and helpful answers to the wide range of questions put by members. The Committee particularly appreciates the frank acknowledgement by the delegation of those legal issues regarding which the Government of the United Kingdom is still in disagreement with views of the Committee, and for their willingness to engage in dialogue with regard to those issues. In this context, the delegation indicated that it would present written observations setting out the view of the Government on the Committee's General Comment No.24(52) on issues relating to reservations made upon ratification or accession to the Covenant or to the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant². It is the view of the Committee that the exchange of views with the State party has been particularly fruitful and constructive.

¹ At the 1442nd meeting (fifty-fourth session), held on 27 July 1995.

² The written observations setting out the view of the Government on the Committee's General Comment No.24(52) were submitted to the Chairman of the Committee on 21 July 1995.

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(2)

3. The detailed information submitted by a wide range of non-governmental organisations has not only greatly assisted the Committee but is also a tribute to the democratic nature of United Kingdom society. These organisations play an essential role in furthering protection of human rights in the country.

B. Factors and difficulties affecting the implementation of the Covenant.

4. With regard to all parts of the United Kingdom other than Northern Ireland, the Committee finds that there are no significant factors or other difficulties which should prevent the effective implementation of the Covenant by the Government. With regard to Northern Ireland, the Committee notes that despite the recent cease-fire and political negotiations, lack of final political solution and continuation of emergency legislation present difficulties affecting the full implementation of the Covenant.

C. Positive aspects

5. The Committee warmly welcomes and encourages the initiation of the peace process in Northern Ireland. It acknowledges the historic significance of the recent initiatives and of their importance for the promotion and protection of the human rights, including the right of self-determination.

6. While the Committee does not agree with some of the positions of the State party concerning the implementation of the Covenant, it acknowledges the vibrant climate of debate in the United Kingdom which ensures that issues of human rights are comprehensively discussed, and in which it is clear that all points of view are seriously considered.

7. The Committee acknowledges the efforts of the State party to combat racial and ethnic discrimination. The programmes to promote the position of racial and ethnic minorities in society are welcomed, including relevant changes to the entry examination system for the police force, proposed similar changes for the prison service, the activities of the Commission for Racial Equality, and the attention paid to race and ethnic sensitivity training in the training programmes for the judiciary.

8. Improvements in the prison system are welcomed. The Committee welcomes the improvements in prison sanitation conditions and the steps taken in addressing problems of overcrowding within prisons. The Government is to be commended for introducing a system whereby participation by prisoners in programmes of education is remunerated in the same way as engagement in prison labour. The statement by the delegation that accommodation of prisoners in cells at police stations has ceased from June of this year is also to be welcomed. The appointment of a Prisons Ombudsman by the Government in April 1994 is highly appreciated.

D. Principal subjects of concern

9. The Committee notes that the legal system of the United Kingdom does not ensure fully that an effective remedy is provided for all violations of the rights contained in the Covenant. The Committee is concerned by the extent to which implementation of the Covenant is impeded by the combined effects of the non-incorporation of the Covenant into domestic law, the failure to accede to the first Optional Protocol and the absence of a constitutional Bill of Rights.

(3)

10. The Committee also regrets the decision of the State party not to withdraw any of its reservations under the Covenant.

11. It is the view of the Committee that the powers under the provisions permitting infringements of civil liberties, such as of extended periods of detention without charge or access to legal advisors, entry into private property without judicial warrant, imposition of exclusion orders within the United Kingdom, etc., are excessive. Note is taken of the government's own admission that conditions at the Castlereagh detention centre in Northern Ireland are unacceptable and concern is therefore expressed at the Government's admission that it has not decided definitively to close the facility. The Committee is also disturbed by reports of the continuation of the practice of strip searching male and female prisoners in the context of the low security risk that now exists or the existence of adequate alternative search techniques.

12. Despite the recent improvements in prison conditions in the United Kingdom, the Committee is still disturbed by the high number of suicides of prisoners, especially among juveniles.

13. The Committee is concerned that, notwithstanding establishment in the United Kingdom of mechanisms for external supervision of investigations of incidents in which the police or military are allegedly involved, especially incidents that result in death or wounding of persons, as the investigations are still carried out by the police, they lack sufficient credibility.

14. The Committee notes with concern that members of some ethnic minorities including Africans and Afro-Caribbeans are often disproportionately subjected to stop and search practices that may raise doubts under the non-discriminatory provisions of the Covenant, particularly its articles 3 and 26.

15. The treatment of illegal immigrants, asylum-seekers and those ordered to be deported gives cause for concern. The Committee observes that the incarceration of persons ordered to be deported and particularly the length of their detention may not be necessary in every case and it is gravely concerned at incidences of the use of excessive force in the execution of deportation orders. The Committee also notes with concern that adequate legal representation is not available for asylum-seekers effectively to challenge administrative decisions.

16. The Committee is concerned that the practice of the State party in contracting out to the private commercial sector core State activities which involve the use of force and the detention of persons weakens the protection of rights under the Covenant. The Committee stresses that the State party remains responsible in all circumstances for adherence to all articles of the Covenant.

17. The Committee notes with concern that the provisions of the Criminal Justice and Public Order Act of 1994, which extended the legislation originally applicable in Northern Ireland, whereby inferences may be drawn from the silence of persons accused of crimes, violates various provisions in article 14 of the Covenant, despite the range of safeguards built into the legislation and the rules enacted thereunder.

18. The Committee is concerned at the levels of support offered for the protection of cultural and ethnic diversity within the United Kingdom. The Committee further notes with concern that many persons belonging to minorities frequently feel that acts of racial harassment are not pursued by the competent authorities with sufficient rigor and efficiency. The Committee also regrets the lack of success in adequate recruitment of ethnic minorities into the police. It further believes that much remains to be done to effect changes in public attitudes and to combat and overcome racism.

19. The Committee regrets that corporal punishment may still be permitted in certain circumstances in independent schools.

F. Suggestions and recommendations

20. The Committee strongly recommends that the State party take urgent steps to ensure that its legal machinery allows for the full implementation of the Covenant. Accordingly it is urged to examine the need to incorporate the Covenant into domestic law or introducing a Bill of Rights under which legislative or executive encroachment on Covenant rights could be reviewed by the courts. It should also reconsider its current position as to the accession to the first Optional Protocol.

21. The State party is recommended to review the reservations which it has made to the Covenant.

22. In the context of the elaboration of a peace settlement for Northern Ireland, the Committee recommends that further concrete steps be taken so as to permit the early withdrawal of the derogation made pursuant to article 4 and to dismantle the apparatus of laws infringing civil liberties which were designed for periods of emergency. It is also recommended that specific efforts be made to enhance in Northern Ireland, confidence in the administration of justice by resolving outstanding cases and by putting in place transparently fair procedures for independent investigation of complaints. The Committee further recommends that the Castlereagh detention centre be closed as a matter of urgency.

23. Given the significant diminution of terrorist violence in the United Kingdom since the cease-fire came into effect in Northern Ireland and the peace process was initiated, the Committee urges the Government to keep under the closest review whether a situation of "public emergency" within the terms of article 4, paragraph 1, of the Covenant still exists and whether it would be appropriate for the United Kingdom to withdraw the notice of derogation, in accordance with article 4 of the Covenant, which it issued on 17 May 1976.

24. The State party should ensure that all those who are involved in the detention of prisoners be made fully aware of the international obligations on the State party concerning the treatment of detainees, including the United Nations Standard Minimum Rules for the Treatment of Prisoners.

25. The Committee recommends that the Criminal Justice and Public Order Act of 1994 and the equivalent legislation in Northern Ireland be reviewed in order to ensure that the provisions which allow inferences to be drawn from the silence of accused persons do not compromise the implementation of various provisions in article 14 of the Covenant.

26. The State party is urged to take further action to tackle remaining problems of racial and ethnic discrimination and of social exclusion. A concerted campaign is called for which would address issues of research, juvenile and adult education, recruitment policies for the public and private sectors, legislative initiative and law enforcement. Similarly forceful action is needed to ensure that women play an equal role in society and that they enjoy the full protection of the law. Law enforcement officers, the judiciary and the legal profession should receive information and education to ensure that laws which protect women from violence are fully enforced and that the interpretation of laws, such as those relating to the doctrine of provocation, does not unfairly discriminate against women. All public officials should be made fully cognisant of the

programmes of action and receive guidance to ensure that their actions always serve to support and promote the stated aims.

27. The Committee recommends that corporal punishment administered to privately funded pupils in independent schools be abolished.

28. The Committee recommends that the State party give wide publicity to the Covenant, to its report and the reporting procedure. It recommends that these Comments and information about the dialogue with the Committee be distributed to interested non-governmental groups and the public at large.