

**RESPONSE OF THE  
NORTHERN IRELAND HUMAN RIGHTS COMMISSION TO THE  
INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY REPORT**

***ENDS AND MEANS:  
HUMAN RIGHTS APPROACHES TO ARMED GROUPS***

***March 2000***

1. The NIHRC welcomes this report as a constructive contribution to the debate on the difficult issues it addresses. Since its formation in March 1999 the NIHRC has itself been debating how, if at all, to work in relation to armed groups (defined in the report as groups which are armed and use force to achieve their objectives but which are not under state control).
2. The NIHRC acknowledges the report's starting point (as set out in para. 15) that armed groups *do* commit abuses and that these should not be ignored merely because international human rights standards and the machinery for developing them were developed for states. We accept, moreover, as does para. 25, that it is not always easy to distinguish clearly between a genuinely autonomous armed group and a paramilitary force that enjoys implicit state support. Allegations of collusion between paramilitary and state forces in Northern Ireland abound.
3. The NIHRC also acknowledges that there are difficulties in deducing from international human rights law and international humanitarian law the types of conduct or practices that clearly qualify as "human rights abuses", but we accept that the list of abuses included in para. 33 of the report is a sensible starting point, viz.:
  - arbitrary deprivation of the right to life;
  - disregard for the protection owed to civilians caught up in conflict;
  - interference with freedom of movement;
  - interference with freedom of expression, assembly and association;
  - torture and ill-treatment;
  - abuses against children;
  - abuses against women;
  - arbitrary deprivation of liberty and due process.

4. The NIHRC accepts the statements made in Chapter II of the draft report to the effect that the traditional focus of human rights advocacy is changing. We would also accept that, as a human rights institution established by statute to promote and protect "human rights" (defined in our governing legislation as merely *including* the rights contained in the European Convention on Human Rights), we are at liberty to take account of this shifting focus. It is arguable that, entrusted as we are with ensuring that the human rights of everyone in Northern Ireland are fully guaranteed, we should be undertaking work on human rights abuses committed by non-state actors as well as those committed by state actors. We are conscious, moreover, that the line between state and non-state actors is increasingly difficult to draw in an era of privatisation and globalisation.
5. We note the kinds of actions that can be undertaken to encourage armed groups to respect human rights (para. 45 of the draft report). We would add that an additional method is to raise awareness of the plight of *victims* of such abuses. We have ourselves concluded that the first engagement of the NIHRC with human rights abuses committed by armed groups should be an examination of the rights of victims of such groups. We accept that this requires focusing on what the state is doing to help such victims but we believe that the effect will also be to highlight the NIHRC's condemnation of the actions of armed groups as human rights abuses. We are at present unable to devise means of engaging with the armed groups directly, although we are exploring the possibility of becoming involved (very indirectly) in various restorative justice projects which are run by local community groups that wish to see the elimination of violent attacks perpetrated by members of paramilitary organisations on persons who are supposedly responsible for non-violent anti-social behaviour such as burglaries, car theft and drug abuse.
6. In undertaking work on victims' rights, as in its other work, the NIHRC will be relying upon internationally accepted rules and principles for the protection of human rights. We are particularly interested in the United Nations' Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) and in recent Resolutions of the UN Commission on Human Rights on human rights and terrorism (*e.g.* 1998/47 and 1999/27) and on the right to restitution, compensation and rehabilitation (*e.g.* 1999/33). There is also the UN Convention International Convention for the Suppression of Terrorist Bombings. It may be that the final version of your report should make reference to such international documents.
7. The NIHRC is conscious that in choosing to undertake work on victims of non-state actors its is broadening its remit to cover not just the actions of armed groups but also, for example, the actions of violent partners and of child abusers. We would find it difficult to justify working on armed groups whenever, for example, the rate of death as a result of domestic violence is

8. In the draft report's section on "Conflict Resolution and Campaigning for Peace" (paras. 222 to 231) the point is well made that national human rights organisations often have a difficult job to do in promoting the people's desire for peace, as expressed by a peace agreement, while at the same time seeking to uphold human rights standards. The NIHRC, for instance, has chosen not to take a position on the system put in place in Northern Ireland for the early release of some prisoners as a result of the Good Friday Agreement of 1998; we may have to review this stance after July 2000 if it transpires that the investigating and prosecuting authorities are *de facto* not pursuing alleged human rights abuses (whoever is alleged to have committed them). This is a matter, though, that the Commission has not yet debated and no-one in civil or political society has been pressing us to do so. We have been occasionally pressed to make our position known on the need for decommissioning of weapons held by armed groups, but here too we have taken the view that the terms of the Good Friday Agreement should be left to govern the issue.
9. The NIHRC meets from time to time with a variety of local, national and international non-governmental organisations. At some of these meetings, for instance with Amnesty International, the issues surrounding abuses by armed groups have been raised, but not in any great detail. To that extent we have been aware of, and indeed part of, the clear trend identified in para. 261 of the draft report whereby human rights organisations are trying to work out how armed groups can be made to respect human rights. As part of our work on victims' rights, mentioned in para. 5 above, we will probably be considering whether, and if so how, to *monitor* abuses by armed groups, especially those affecting particularly vulnerable persons such as children.
10. In conclusion, the NIHRC complements the International Council on the clarity of the analysis in the draft report. The report performs a very useful function in considering what types of action are likely to be successful in causing armed groups to respect human rights and in examining what factors make types of action more or less appropriate. We would endorse the factors listed in the Table in para. 263 but we would add that other such factors, grouped perhaps under the rubric "Context", could be included. Obviously it is important to bear in mind the overall state of peace discussions which may be on-going in the state in question, the adequacy of state policing arrangements, the precise character of the community balance, etc. The details will differ depending on the society in question, but some commonly recurring factors could doubtless be highlighted.