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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The government of the United Kingdom of Great Britain and Northern Ireland and Northern Ireland executive must take immediate steps to address concerns of UN Special Rapporteur on promotion of truth, justice, reparation and guarantees of non-recurrence

At its 34th regular session, the UN Human Rights Council (HRC) will have before it the report of the Special Rapporteur on promotion of truth, justice, reparation and guarantees of non-recurrence on his visit to the United Kingdom of Great Britain and Northern Ireland from 10 to 18 November 2015, where he visited London and various locations in Northern Ireland.¹

Amnesty International welcomes the findings of the Special Rapporteur and commends his efforts in positively engaging with a wide range of civil society actors in Northern Ireland.

In his report the Special Rapporteur highlights the absence of a comprehensive approach to dealing with the past in Northern Ireland to redress the legacies of violations and abuse that arose during the decades of political violence that took place. He notes that this failure is felt at the individual level by the continued dissatisfaction of victims and families, the societal level because of the social fractures that continue to exist, the political level that continues to be deeply polarized, and the institutional level with huge burdens being placed on a range of institutions and their relations with people in Northern Ireland. In light of this, the Special Rapporteur calls for an approach to dealing with the past in Northern Ireland, where the principles of truth, justice, reparations, and guarantees of non-recurrence are understood as parts of a comprehensive policy to redress the negative legacy of violations and abuse, something which will only work if these principles are grounded in human rights.

The Special Rapporteur's findings reflect Amnesty International's own research which concluded that the patchwork system of investigation of past human rights violations and abuses that had been established in Northern Ireland was inadequate for the task of comprehensively and systematically addressing the past.² This approach has left many victims and families waiting for truth and justice and exacerbated the lack of any shared public understanding and recognition of the abuses committed by all sides during the decades of violence.

The day before the Special Rapporteur's press conference, on 18 November 2015 in London, to present his preliminary findings of his visit, the Northern Ireland Secretary of State confirmed that – for the time being - talks on how to deal with the past in Northern Ireland had been abandoned. At the press conference, the Special Rapporteur emphasized that indefinitely postponing the legacy issues would serve no one's purposes, a view Amnesty International shares. Since February 2016, both the UK government and Northern Ireland Executive have failed to support and fund proposals tabled by the Lord Chief Justice for a new legacy inquests process, which is supported by bereaved family members awaiting inquests. In January 2017, the Northern Ireland Executive government collapsed, in part, it seems, as a result of the still on-going failure to agree a process for dealing with past violations and abuses. The issue will return to the political agenda with talks to follow the March 2 election. Meanwhile, victims, some of whom have waited more than 40 years to see their rights violations redressed, have once again been asked to continue waiting.

Amnesty International has been calling on the government of the United Kingdom and the Northern Ireland Executive for talks to urgently restart and progress be made to establish human rights-compliant mechanisms to investigate past

¹ Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on his mission to the United Kingdom of Great Britain and Northern Ireland, 17 November 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/257/49/PDF/G1625749.pdf?OpenElement>

² Northern Ireland: Time to Deal with the Past, 12 September 2013, Index number: EUR 45/004/2013.

human rights violations and abuses. When these talks begin again, which they must, the recommendations of the Special Rapporteur as to the shape of future arrangements for dealing with past must be taken seriously. Amnesty International takes this opportunity to highlight some of the Special Rapporteur's recommendations which relate to its areas of concern.

Firstly, the Special Rapporteur emphasizes that any future mechanisms to investigate past human rights violations and abuses must incorporate procedures to guarantee both the appearance and reality of independence and impartiality. Amnesty International believes this is crucial, particularly as one of the current stumbling blocks in making progress on establishing mechanisms to investigate past human rights abuses and violations appears to be the UK government's insistence on retaining a national security veto to prevent onward disclosure of information to families and victims. Whilst acknowledging the significance of national security concerns, the Special Rapporteur rightly emphasizes the danger of 'national security' becoming a blanket term to restrict disclosure of information.

Amnesty International strongly believes that the only way to make real progress on this issue is if human rights are placed at the heart of negotiations to guide the establishment of mechanisms to address the past. In this regard international human rights law and standards are clear: where material concerns evidence of human rights abuses and violations, it should be disclosed. This is an inherent element of a victim's right to an effective remedy and reparation. Furthermore, decisions as to what material can be legitimately withheld must be made independently. For the UK government to argue it should retain that right fatally undermines the independence of mechanisms entrusted with investigating the past and will mean that they does not enjoy the trust of many families and victims.

Secondly, the Special Rapporteur calls for greater attention to be paid to how mechanisms or instruments could better investigate the more structural and systemic dimensions of the violence and rights violations that characterized the context in Northern Ireland. This is something that must be viewed as an addition to, not a substitute for, mechanisms that might bring satisfaction to victims in terms of truth and justice. Amnesty International fully supports this recommendation, as the Special Rapporteur says the political violence in Northern Ireland was not simply the aggregate of totally isolated events - there are patterns, structures, institutions, organizations, chains of command, policies, and so forth that must be also investigated for there to be meaningful accountability for past human rights violations and abuses.

Thirdly, the Special Rapporteur's findings also include a critical call for the gender-related impact of the violations and abuses stemming from 'the Troubles' to be given more sustained and thorough analysis, and be integrated into policy-making, something which has been sorely absent to-date. The gendered gaps in victims' access to truth, justice, and reparations has been highlighted by Northern Irish civil society. A Northern Ireland-based Legacy Gender Integration Group has produced Gender Principles for Dealing with the Past that should be incorporated into future talks at the political level.³

Fourthly, the findings emphasise lack of attention to the full spectrum of human rights abuses and violations, ranging from illegal detentions to injury, severe harm, and torture that took place. This is a significant gap in the mechanisms that have been established in Northern Ireland to date which have focused primarily on deaths and is something that urgently needs to be addressed.

In light of the Special Rapporteur's preliminary findings, Amnesty International urges the Human Rights Council, its Members and Observer States to call on the United Kingdom government and the Northern Ireland Executive to:

- Constructively engage with the Special Rapporteur and act on his recommendations without delay;
- Urgently restart talks on dealing with past in Northern Ireland following the collapse of talks concerning the implementation of the 2014 Stormont House Agreement;

³ Gender Principles for Dealing with the Legacy of the Past, Legacy Gender Integration Group Belfast, September 2015, accessible here: http://www.caj.org.uk/files/2015/09/16/Gender_Principle_Report_Sept_2015_Final_Version1.pdf

- Commit to establishing mechanisms to investigate past human rights abuses and violations that genuinely comply with human rights law and standards. These mechanisms must be capable of ensuring that all allegations of human rights violations and abuses committed in the past are investigated in a prompt, impartial, independent, thorough and effective manner, as well as be able to investigate overall patterns of abuse, policy and practice of state and non-state actors, identify those responsible at all levels and issue recommendations aimed at securing victims' right to an effective remedy, including full reparation.
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