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HR/08

**FROM: Heather Stevens
Human Rights Unit**

DATE: June, 2001

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**NORTHERN IRELAND HUMAN RIGHTS COMMISSION -
REPORT ON PARADES, PROTESTS AND POLICING**

SUMMARY

Issue: The Northern Ireland Human Rights Commission has published a report examining the guidance to be drawn from international standards on the parades issue.

Timing: Routine.

Recommendation: That Ministers note the publication of the attached document.

BACKGROUND

1. A report entitled "Parades, Protests and Policing": A Human Rights Framework" has been published by the Northern Ireland Human Rights Commission in March 2001. The report was co-authored by Dominic Bryan, Michael Hamilton and Neil Jarman and was commissioned as advice to the Northern Ireland Human Rights Commission on the international standards governing parades, protests and policing. The purpose in commissioning this report was to contribute to the information

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available to the general public on the relevant legal principles affecting the rights of individuals in relation to parades in Northern Ireland.

2. The report focuses on a range of areas, eg:

- Parades and related protests: a rights framework;
- Freedom of assembly and expression;
- A right to a fair hearing;
- Effects on individuals and communities;
- Policing in relating to rights, public order, and freedom of assembly, protests and the use of force.

ADVICE

3. The report deals with an area of extreme sensitivity in Northern Ireland.

It provides an analysis of the issues from a rights perspective and emphasises that these issues can only be resolved in the context of each case. However, the report does draw a number of general conclusions from the case-law and these are listed in the attached Annex.

4. Ministers are therefore invited to note the production of the attached report, together with the summary of conclusions in the Annex.

H A STEVENS (MRS)

Ext 23118

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ANNEX

- Decisions taken by the European Court have often given a wide 'margin of appreciation' to national governments over freedom of assembly.
- Freedom of assembly covers not only static meetings, but also public processions.
- There is no absolute right to assemble or parade.
- Route restrictions have been held to be an infringement of the right to peaceful assembly.
- The likelihood of public disorder at an event has been a central issue for the European Court.
- A policy of communal consent, whereby marches through residential areas would be permitted only if the march organiser had obtained the consent of the residents, has no basis in international human rights law.
- The rights of individuals and communities affected by parades may include the right to respect for private and family life, the right to respect for one's freedom of thought, conscience and religion, and the right to peaceful enjoyment of one's possessions.

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- The police have a dual role to protect people's rights and to adjudicate between those rights.
- The police have the authority to prevent or to disperse any assemblies that might create unreasonable disruption, that threatens to disturb public order or that have the potential to provoke violence from others because it interferes with their rights and freedoms.
- In dispersing assemblies the police should always attempt to use peaceful means in the first instance.
- The police also have a positive obligation to protect life and they have a responsibility to ensure that all operations are prepared and planned with this in mind.
- In relation to the procedure of making determinations on the right to peaceful assembly account should be taken of the right to fair hearing.
- In relation to policing peaceful assembly account should be taken of the right not to be subjected to inhuman or degrading treatment or punishment.
- Issues over the protection of minority rights remain problematic in Northern Ireland.