



Mr Powell

Amateurs of
law

16 July, 1984

Dear Jim.

DEROGATIONS FROM INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Thank you for sending me a copy of your letter to the Home Secretary containing your response to the report prepared by an interdepartmental Working Group of officials on the issue of derogations from the UN Covenant on Civil and Political Rights (CCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

I have studied the Working Group's Report and am content with the conclusions. I am also in agreement with your recommendation that we should withdraw the notices of derogation and leave s.14(2) of the EPA as it is. There is however clearly a risk that we would be found to be in breach of Article 9(2) of the CCPR and Article 5(2) of the ECHR. I therefore very much support your recommendation that we should aim to reduce our exposure to the risk by expediting the consideration of Sir George Baker's recommendations on this point. It would also be highly desirable, in my view, to discontinue section 14(2) and/or introduce new operational instructions for soldiers which would make any breach of the Convention or Covenant unlikely.

I think we may need to look carefully at the presentation of the withdrawal of our notices of derogation. I have some doubts as to the wisdom of proclaiming publicly the comfort we derive from the Strasbourg jurisprudence on Article 5 in relation to the PTA. The cases under that Article failed on somewhat technical grounds. It might invite further challenges if we were to make too much of this jurisprudence (see paragraph 24 of the Working Group's Report).

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I am copying this letter to the Prime Minister, Geoffrey Howe, Leon Brittan, Michael Heseltine, George Younger, Quintin Hailsham, Kenneth Cameron and Sir Robert Armstrong.

Yours ever,
Michael.

The Rt Hon James Prior MP
Secretary of State for Northern Ireland
Northern Ireland Office
Whitehall
London, SW1A 2AZ

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Euro POL: Human Rights: Nov 8.

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