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Mr [REDACTED]	REL	

From: [REDACTED] RID
Date: 12 March 1998

cc: Mr [REDACTED]
Mr Steele
Mr Leach
Mr [REDACTED]
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Mr [REDACTED] HRPD
Mr [REDACTED]
Mr [REDACTED], News Dept

UN SPECIAL RAPPORTEUR CUMARASWAMY

1. We shall be sending you a draft guidance telegram later today on the Cumaraswamy report. I hope we can issue it to posts tomorrow. It draws on material from REL and our Human Rights Policy Department.

2. I am concerned that in our public response to Cumaraswamy we are being pulled in two directions and risk failing to make the points we want to in respect of any of our possible audiences. I understand the need to defend the RUC's reputation against unfair attack; and that this is an acutely sensitive time for confidence eroding allegations to be made. But we must also take account of the UK's wider standing on human rights, which the Foreign Secretary has repeatedly emphasised is at the heart of our foreign policy. This includes giving solid support to the international human rights machinery. In practice, part of this support has taken the form of backing Cumaraswamy personally as he has run into difficulties with authoritarian regimes (including in his own country, Malaysia). It would weaken our standing in the field of human rights worldwide, and with the UN human rights machinery in particular, if we attacked that machinery when it throws up awkward questions for us. Our Private Office has asked us to let them have an update on the position for our Secretary of State's weekend box.

3. Our objectives of defending Northern Ireland's human rights image and of upholding the UN's human rights machinery are not incompatible. On the contrary, we would risk looking uncaring about Cumaraswamy's allegations and tarnishing our human rights record if we were seen to knock the special rapporteur. In the eyes of the world, we shall lose any confrontation with Cumaraswamy, even if we think we might win on some points of detail.

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4. The central points to get over are:

- our strong support for the freedom of lawyers to go about their business;
- our abhorrence at unnecessary restrictions on this freedom;
- our strong support for Cumaraswamy's important work in this area;
- our respect for his report on the UK, including Northern Ireland.
- our intention to take this report seriously and to act upon the special rapporteur's recommendations as far as possible and as quickly as possible;
- we share Cumaraswamy's view that the specific emergency legislation for Northern Ireland should go as quickly as possible. (Reviews have been undertaken to see how much of it remains necessary; and incorporation of the ECHR brings in further safeguards.) But a security threat remains. Non-jury courts are used in most countries in Europe and elsewhere to deal with terrorist offences - and in Northern Ireland they have had a remarkable record of avoiding miscarriages of justice. Nonetheless we look forward to their becoming unnecessary;
- on Finucane, we have already had an extensive inquiry, independent from the RUC, which found no evidence of allegations of collusion.

4. On the related matter of the allegations of RUC intimidation in Cumaraswamy's letter of 5 March to our Permanent Representative in Geneva, I would favour a measured response. His allegations are serious. If we are to take Cumaraswamy seriously, we should not leave these unanswered. Nor we should we get into an argument, particularly if it were to become public. Our line should be that we are concerned that he believes the allegations that the threat to lawyers from the RUC could be well founded. In the Finucane case, no evidence of security force involvement has emerged, despite an independent inquiry. There have, on the other hand, been a series of attacks on lawyers in addition to Finucane by terrorists ([REDACTED] etc). It would defy common sense, as well as human rights, for policemen to be acting in this way against lawyers - especially now, with the main terrorist groups observing ceasefires and a better prospect of an end to terrorism than there has been for many years. But, if there are such allegations, we do take them seriously. Those who believed such threats to have been made should file complaints, which will be investigated by the independent police

complaints commission - or in future by the police ombudsman, whose creation Cumaraswamy has welcomed.

5. In the late 1970s we managed to respond to Amnesty allegations of torture at Castleragh in a way that had us depicted as anti-Amnesty and by implication pro-torture. We should make it our first priority to show clearly that we are with Cumaraswamy in being against harrassment and intimidation of lawyers.



Republic of Ireland Department