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P4 - NORTHERN IRELAND AMNESTY REPORT

IN THE HOUSE OF COMMONS TODAY & JUNE 1978 MR GERARD FITT ASKED THE SECRETARY OF STATE FOR NORTHERN IRELAND, WHETHER HE WOULD MAKE A STATEMENT ON THE REPORT OF AMNESTY INTERNATIONAL WHICH INQUIRED INTO ALLEGATIONS OF POLICE BRUTALITY AT CASTLEREAGH HOLDING CENTRE, A COPY OF WHICH WAS SENT TO THE GOVERNMENT.

MR MASON : YES. THE FOLLOWING IS THE TEXT OF THE GOVERNMENT'S RESPONSE TO THE REPORT BY AMNESTY INTERNATIONAL:

AMNESTY INTERNATIONAL REPORT:

STATEMENT BY HER MAJESTY'S GOVERNMENT

1. WHEN AMNESTY INTERNATIONAL'S RESEARCH MISSION VISITED NORTHERN IRELAND TOWARDS THE END OF 1977. THE AUTHORITIES CO-OPERATED TO THE FULLEST POSSIBLE EXTENT WITH THE MISSION TO ENSURE THAT THEY WERE PROPERLY INFORMED ABOUT CURRENT PRACTICES AND PROCEDURES.

2. AMNESTY INTERNATIONAL SENT THE RESEARCH MISSION'S REPORT TO HER MAJESTY'S GOVERNMENT NON 2 MAY. THE REPORT RECOMMENDS:

(1) THE ESTABLISHMENT OF A PUBLIC INQUIRY WHICH WOULD INVESTIGATE THE ALLEGATIONS OF MALTREATMENT MADE TO THE MISSION AND WOULD HAVE ACCESS TO ALL RELEVANT DATE ON INDIVIDUAL CASES OF ALLEGED MALTREATMENT.,

(11) THAT THE TERMS OF REFERENCE OF THIS INQUIRY SHOULD INCLUDE CONSIDERATION OF THE RULES RELATING TO INTERROGATION AND DETENTION, ADMISSIBILITY OF STATEMENTS, AND THE EFFECTIVENESS OF MACHINERY FOR INVESTIGATING COMPLAINTS AGAINST THE POLICE OF ASSAULT DURING INTERVIEW.,

(111) THAT PENDING THE REPORT OF SUCH AN INQUIRY, IMMEDIATE STEPS BE TAKEN TO ENSURE THAT SUSPECTS BEING INTERVIEWED BY THE ROYAL ULSTER CONSTABULARY ON SUSPICION OF TERRORISM ARE PROTECTED AGAINST POSSIBLE MALTREATMENT, INCLUDING ACCESS TO LAWYERS AT AN EARLY STAGE OF DETENTION.

3. HER MAJESTY'S GOVERNMENT HAVE CAREFULLY CONSIDERED THE REPORT AND THE RECOMMENDATIONS. IN DOING SO THEY HAVE BEEN CONSCIOUS OF THEIR FULL COMMITMENT TO THE FOLLOWING PRINCIPLES:

A. HER MAJESTY'S GOVERNMENT ARE ACUTELY AWARE THAT TERRORISM CAN PRESENT A GRAVE DILEMMA FOR DEMOCRATIC GOVERNMENTS, INVOLVING THE STRIKING OF A DIFFICULT BALANCE BETWEEN EFFECTIVELY COMBATTING SUCH CRIMINAL ACTIVITY AND MAINTAINING THE CIVIL LIBERTIES OF A FREE SOCIETY. THE GOVERNMENT ARE DETERMINED TO UPHOLD THE LAW BY ALL MEANS IN THEIR POWER AND TO DEAL BY DUE LEGAL PROCESS WITH THOSE WHO OFFEND AGAINST IT.

B. THE GOVERNMENT DO NOT AUTHORISE, AND WILL NOT CONDONE, THE ILL-TREATMENT OF PERSONS HELD IN CUSTODY. AS FAR AS THE ROYAL ULSTER CONSTABULARY ARE CONCERNED, THE CHIEF CONSTABLE HAS MADE IT QUITE CLEAR THAT ANY SUCH ACTIVITY IS FORBIDDEN AND WILL BE DEALT WITH IN ACCORDANCE WITH THE LAW.

C. IT IS THE FIRM POLICY OF HER MAJESTY'S GOVERNMENT THAT ALL MEMBERS OF THE SECURITY FORCES IN NORTHERN IRELAND SHALL OPERATE WITHIN THE SPIRIT AND LETTER OF THE LAW LAID DOWN AND REVIEWED PERIODICALLY BY PARLIAMENT. 4. THE RECORD OF BRITISH GOVERNMENTS SINCE THE BEGINNING OF THE PRESENT TROUBLES IN NORTHERN IRELAND DEMONSTRATES A CONTINUING INCERN TO HAVE THE FULLEST POSSIBLE REGARD FOR HUMAN RIGHTS OF SENSITIVITIES, WHILE DEALING FIRMLY WITH TERRORISM. A SERIES OF COMMITTEES AND INQUIRIES - COMPTON, DIPLOCK, GARDINER AND OTHERS - ARE EVIDENCE THAT THE GOVERNMENT OF THE DAY HAS ALWAYS BEEN READY TO INVESTIGATE MATTERS CAUSING PUBLIC CONCERN AND TO TAKE INDEPENDENT ADVICE ON MEASURES WHICH MIGHT BE NECESSARY TO SAFEGUARD THE RIGHTS OF THE INDIVIDUAL. AT THE PRESENT TIME, THE OPERATION OF THE PREVENTION OF TERRORISM ACT IS BEING REVIEWED AT THE GOVERNMENT'S REQUEST BY LORD SHACKLETON, AND HIS REPORT WILL BE RELEVANT TO SOME OF THE ISSUES COVERED BY AMNESTY INTERNATIONAL.

RECOMMENDATION (1): THE ALLEGATIONS OF MALTREATMENT

The

5. THE REPORT CONSIDERS 78 (SEVENTYEIGHT) CASES IN WHICH ALLEGATIONS OF MALTREATMENT WERE MADE TO THE MISSION. THESE SHOULD BE CONSIDERED AGAINST THE RESEARCH MISSION'S OWN STATEMENT THAT DURING THE FIRST ELEVEN MONTHS OF 1977, 3444 (THREETHOUSAND FOURHUNDRED AND FORTYFOUR) SUSPECTS WERE INTERVIEWED BY THE ROYAL ULSTER CONSTABULARY.

6. OF THE 78 (SEVENTYEIGHT) CASES, IN 39 (THIRTYNINE) THE RESEARCH MISSION INTERVIEWED INDIVIDUALS IN RESPECT OF ALLEGATIONS ON WHICH MEDICAL EVIDENCE WAS NOT AVAILABLE. IN 26 (TWENTYSIX) OF THE REMAINING CASES THE MISSION RECEIVED SOME DOCUMENTARY MEDICAL EVIDENCE BUT WERE UNABLE TO INTERVIEW THE INDIVIDUALS CONCERNED. IN 13 (THIRTEEN) CASES THEY INTERVIEWED PERSONS WHERE SOME MEDICAL EVIDENCE WAS ALSO AVAILABLE. NO OFFICIAL PAPERS ON INDIVIDUAL CASES WERE SEEN BY THE RESEARCH MISSION. THE CASE MATERIAL IN THE REPORT THEREFORE NECESSARILY REPRESENTS INCOMPLETE EVIDENCE ON THE ALLEGATIONS WHICH HAVE BEEN MADE.

7. THE GOVERNMENT ARE CONCERNED TO SEEK OUT THE TRUTH OF THE MATTER AND TO TAKE THE NECESSARY ACTION. BUT IT HAS NOT BEEN POSSIBLE TO EXAMINE FURTHER THE ALLEGATIONS SINCE THEY HAVE BEEN PUT FORWARD TO THE GOVERNMENT ON AN ANONYMOUS BASIS. THE APPROPRIATE LEGAL PROCEDURE IS FOR ALLEGATIONS ABOUT CRIMINAL CONDUCT TO BE CONSIDERED BY THE DIRECTOR OF PUBLIC PROSECUTIONS IN NORTHERN IRELAND, WHO IS THE INDEPENDENT OFFICER OF THE CROWN CHARGED WITH DECIDING WHETHER TO BRING CRIMINAL PROCEEDINGS, AND HIS CONSIDERATION OF CASES IS ALWAYS ON THE BASIS OF THE CONFIDENTIALITY WHICH ATTACHES TO HIS OFFICE. AMNESTY INTERNATIONAL HAVE DECLINED TO GIVE IN CONFIDENCE TO THE DIRECTOR OF PUBLIC PROSECUTIONS THE NAMES OF THE PERSONS WHO MADE THE STATEMENTS ON WHICH THEY BASE THEIR RECOMMENDATION, ON THE GROUND THAT THE MISSION PLEDGED CONFIDENTIALITY TO THEM.

8. A PUBLIC INQUIRY, AS RECOMMENDED BY AMNESTY INTERNATIONAL, WOULD FACE THE SAME PROBLEM OF CONFIDENTIALITY. IT COULD CONSIDER THE INDIVIDUAL CASES ONLY IF THOSE CONCERNED WERE PREPARED TO IDENTIFY THEMSELVES PUBLICLY.

9. THE GOVERNMENT ARE CONVINCED THAT A PUBLIC INQUIRY INTO THE ALLEGATIONS OF MALTREATMENT WOULD NOT BE THE COURSE MOST CONSISTENT WITH THE PUBLIC INTEREST. IT WOULD IN EFFECT INVOLVE A PROLONGED SERIES OF PUBLIC TRIALS OF ALLEGATIONS AT PRESENT UNIDENTIFIED. IT WOULD NOT BE LOGICAL TO CONFINE THE SCOPE OF SUCH AN INQUIRY TO THE 78 (SEVENTYEIGHT) CASES SELECTED BY AMNESTY INTERNATIONAL. IN ORDER TO ENSURE THAT SUCH AN INQUIRY WAS BOTH FAIR TO ALL CONCERNED AND EFFECTIVE IN PRODUCING CONCLUSIONS, IT WOULD BE NECESSARY TO PERMIT REPRESENTATION AND CROSS-EXAMINATION, AND TO GRANT IMMUNITY FROM PROSECUTION TO WITNESSES AS IS DONE IN THE CASE OF ALL SIMILAR INQUIRIES. IT WOULD BE VIRTUALLY IMPOSSIBLE TO PROSECUTE ANYBODY WHO HAD GIVEN EVIDENCE AND AGAINST WHOM A PRIMA FACIE CASE WAS FOUND TO EXIST.

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C. A PUBLIC IN TIRY, AS REDORMENDED BY ANTERNATIONAL, NOULD THE FILL ARDITAGE CONTINUITY, IT CLORE DANKIDER THE FILL ARDITAGE OF CONTINUES SO THE PREPARED TO

11. ACCORDINGLY, HER MAJESTY'S GOVERNMENT DO NOT ACCEPT RECOMMENDATION (1) ABOVE. INSTEAD, THEY INVITE AMNESTY INTERNATIONAL TO SEEK THE CONSENT OF THOSE WHO HAVE MADE STATEMENTS TO THE RESEARCH MISSION TO PROVIDE THE DIRECTOR OF PUBLIC PROSECUTIONS WITH ALL AVAILABLE MATERIAL RELEVANT TO THE COMPLAINTS TO ENABLE HIM TO EXAMINE THOSE COMPLAINTS IN THE NORMAL WAY, WITH A VIEW TO PROSECUTION WHERE THE EVIDENCE JUSTIFIES IT.

10. NONE OF THESE DISADVANTAGES WOULD APPLY TO PROCEDURE PROPOSED BY HER MAJESTY'S GOVERNMENT, IE FULL CONSIDERATION BY THE DIRECTOR OF PUBLIC PROSECUTIONS, WHICH IS THE NORMAL PROCEDURE WHEN COMPLAINTS ARE MADE AND THE ONLY WAY IN WHICH THE AUTHORITIES COULD TAKE ACTION THROUGH THE LAW ON A COMPLAINT.

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12. IF THAT INVITATION IS ACCEPTED, THE ATTORNEY-GENERAL WILL INVITE THE DIRECTOR OF PUBLIC PROSECUTIONS (IN ADDITION TO ANY DECISIONS HE TAKES ON LEGAL PROCEEDINGS) TO MAKE A REPORT ON HIS NERAL FINDINGS AND CONCLUSIONS ARISING OUT OF THE EXAMINATION OF THESE CASES, FOR THE INFORMATION OF THE GOVERNMENT AND OF THE COMMITTEE OF INQUIRY WHICH THE GOVERNMENT PROPOSE TO ESTABLISH (SEE PARAGRAPH 13 BELOW). Werther

RECOMMENDATION (11): INTERROGATION PROCEDURE, COMPLAINTS PROCEDURE AND THE ADMISSIBILITY OF STATEMENTS.

13. ON POLICE PRACTICE AND PROCEDURE, THE GOVERNMENT HAVE DECIDED, FOLLOWING A SUGGESTION BY THE CHIEF CONSTABLE, THAT THERE SHOULD BE AN INDEPENDENT AND IMPARTIAL INVESTIGATION.

THEY ARE THEREFORE SETTING UP AN INDEPENDENT COMMITTEE OF INQUIRY, WHICH WILL CONSIDER PRESENT POLICE PRACTICE AND PROCEDURES IN NORTHERN IRELAND RELATING TO THE INTERROGATION OF PERSONS SUSPECTED OF SCHEDULED OFFENCES, AND WILL REPORT AND MAKE RECOMMENDATIONS. THE CHAIRMAN OF THE INQUIRY WILL HAVE JUDICIAL EXPERIENCE. THE INQUIRY, WHICH WILL SIT IN PRIVATE, WILL REPORT TO THE SECRETARY OF STATE FOR NORTHERN IRELAND WHO WILL PUBLISH THE REPORT OF THE INQUIRY AS SOON AS POSSIBLE AFTER HE HAS RECEIVED IT, TOGETHER WITH HIS OWN CONCLUSIONS ON IT.

14. THE COMMITTEE OF INQUIRY WILL HAVE THE OPPORTUNITY OF CONSIDERING ANY GENERAL CONCLUSIONS WHICH THE DIRECTOR OF PUBLIC PROSECUTIONS DRAWS FROM THE CASES HE HAS BEEN ABLE TO CONSIDER IN THE AMNESTY INTERNATIONAL REPORT (SEE PARAGRAPH 11 ABOVE).

15. THE COMPLAINTS PROCEDURE IN NORTHERN IRELAND HAS BEEN REVISED RECENTLY. IN THE GOVERNMENT'S VIEW THERE ARE LEGAL REMEDIES IN PRACTICE WHICH PROVIDE A COMPLAINANT WITH ADEQUATE MEANS OF REDRESSING HIS GRIEVANCES. THE CONSIDERATION GIVEN BY THE DIRECTOR OF PUBLIC PROSECUTIONS TO ALLEGATIONS OF A BREACH OF THE CRIMINAL LAW BY THE POLICE IS DESIGNED TO ESTABLISH WHETHER A PROSECUTION CAN PROPERLY BE BROUGHT AGAINST AN IDENTIFIED PERSON. WHERE THE DIRECTOR OF PUBLIC PROSECUTIONS DECIDES NOT TO PROCEED, ONE OF TWO COURSES IS STILL OPEN TO A COMPLAINANT. HE CAN BRING AN ACTION FOR CIVIL DAMAGES., OR, IF HE IS ARRAIGNED IN COURT ON A CRIMINAL CHARGE SUPPORTED BY A STATEMENT WHICH HE IS ALLEGED TO HAVE MADE FREELY, HE CAN CHALLENGE THE VALIDITY OF THE STATEMENT IN OPEN COURT.

16. THE GOVERNMENT PROPOSE THAT THE COMMITTEE OF INQUIRY (PARAGRAPH 13) SHOULD HAVE TERMS OF REFERENCE WHICH WILL ENABLE THEM TO CONSIDER THE EFFECTIVENESS OF THE PROCEDURE FOR DEALING WITH COMPLAINTS, AS RECOMMENDED BY AMNESTY INTERNATIONAL.

17. IN ANY CASE ALL COMPLAINTS, AND THE INVESTIGATION REPORTS ON THEM, ARE SCRUTINIZED BY THE INDEPENDENT POLICE COMPLAINTS BOARD FOR NORTHERN IRELAND UNDER PROCEDURES WHICH TOOK EFFECT FROM FIRST SEPTEMBER NINETEEN SEVENTYSEVEN. THE BOARD ARE EMPOWERED TO MAKE SPECIAL REPORTS TO THE SECRETARY OF STATE ON ANY MATTERS COMING TO THEIR NOTICE TO WHICH THEY CONSIDER THAT HIS ATTENTION SHOULD BE DRAWN BY REASON OF THEIR GRAVITY OR OF OTHER EXCEPTIONAL CIRCUMSTANCES. THE SECRETARY OF STATE FOR NORTHERN IRELAND EXPECTS THE POLICE COMPLAINTS BOARD, UNDER THE PROVISIONS OF ARTICLE 11(2) OF THE POLICE (NORTHERN IRELAND) ORDER 1977, TO EXAMINE ALL THE COMPLAINTS AND INVESTIGATION REPORTS REFERRED TO THEM AND TO CONSIDER WHETHER ANY PATTERN OF IRREGULARITY EMERGES THAT THEY CONSIDER SHOULD BE DRAWN TO HIS ATTENTION. THIS IS A CONTINUING RESPONSIBILITY OF THE BOARD. THE FINDINGS OF ANY SUCH REPORT TO THE SECRETARY OF STATE WILL BE PUBLISHED.

18. ON THE QUESTION OF THE ADMISSIBILITY OF STATEMENTS. HER MAJESTYS GOVERNMENT DO NOT ACCEPT AMNESTY'S CONTENTION THAT THE OPERATION OF SECTION SIX OF THE NORTHERN IRELAND (EMERGENCY PROVISIONS) ACT 1973, HAS LED TO THE EROSION OF THE RIGHTS OF SUSPECTS.

* In a initial proceedings for a scheduled offence, a statement made by Theaccused way be given inovidence (but way breachided of the Countition two sof by tortune SECTION SIX, WHICH WAS INTRODUCED ON THE RECOMMENDATION OF THE DIPLOCK COMMITTEE AND, AFTER TWO YEARS' EXPERIENCE, ENDORSED BY THE GARDINER COMMITTEE, DOES NOT AFFECT THE DUTY OF THE COURT TO HAVE REGARD TO ALL THE CIRCUMSTANCES IN WHICH A CONFESSION WHICH IS RECEIVED IN EVIDENCE WAS MADE. FURTHERMORE, AND AS THE GARDINER COMMITTEE NOTED WITH APPROVAL IN THEIR REPORT (CMND. 5847), THE STATUTORY TEST EMBODIED IN SECTION SIX HAS NOT ABROGATED THE WIDE DISCRETION OF THE COURT TO EXCLUDE OR DISREGARD ANY STATEMENT OF THE ACCUSED, EVEN WHERE THE CONDITONS OF SECTION SIX HAVE BEEN SATISFIED, IF IN THE VIEW OF THE COURT THE INTERESTS OF JUSTICE SO REQUIRE. THUS THE EXISTING LAW FULLY PROTECTS PERSONS WHO ARE ACCUSED ON THE BASIS OF THEIR OWN STATEMENTS, AND HER MAJESTY'S GOVERNMENT ARE NOT AWARE OF ANY CASE WHERE THE COURTS HAVE TAKEN ACCOUNT OF A STATEMENT WHICH THE COURTS ACCEPTED WAS OBTAINED AS A RESULT OF VIOLENCE OR THE THREAT OF VIOLENCE. AMNESTY INTERNATIONAL HAVE NOT CLAIMED THAT SUCH A CASE EXISTS.

19. THE GOVERNMENT THEREFORE BELIEVE THAT AMNESTY INTERNATIONAL'S LEGAL UNDERSTANDING OF SECTION SIX IS INACCURATE AND THAT ITS REQUEST FOR A RE-EXAMINATION OF IT IS MISCONCEIVED.

ACCORDINGLY, THE TERMS OF REFERENCE OF THE COMMITTEE OF INQUIRY WILL NOT INCLUDE ANOTHER EXAMINATION OF SECTION SIX.

RECOMMENDATION (111): IMMEDIATE STEPS TO PROTECT SUSPECTS.

20. THE GOVERNMENT HAVE A CONTINUING CONCERN THAT THE RIGHTS OF INDIVIDUALS SHOULD BE PROTECTED, WHETHER THEY BE SUSPECTS UNDER INTERROGATION OR INTERROGATING OFFICERS. MEASURES TO THIS END HAVE BEEN AND ARE BEING TAKEN AND ARE CONTINUOUSLY BEING REVIEWED TO SEE WHETHER THEY CAN BE IMPROVED. THE GOVERNMENT AND THE CHIEF CONSTABLE DO NOT INTEND TO CEASE MAKING IMPROVEMENTS PENDING THE REPORT OF THE COMMITTEE OF INQUIRY. FOR EXAMPLE, THE CHIEF CONSTABLE IS CARRYING FORWARD THE CONSIDERATION HE IS ALREADY GIVING TO THE USE THAT CAN BE MADE OF TECHNICAL AIDS AND PARTICULARLY THE PRACTICALITY OF INTRODUCING CLOSED CIRCUIT TELEVISION TO MONITOR THE INTERROGATION OF SUSPECTS.

21. THE DIFFICULT QUESTION OF ACCESS TO LAWYERS IS ALREADY UNDER EXAMINATION BY LORD SHACKLETON IN HIS REVIEW OF THE OPERATION OF THE PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACTS NINETEEN SEVENTY FOUR AND NINETEEN SEVENTYSIX AND CAN BE CONSIDERED BY THE COMMITTEE OF INQUIRY IN ITS REVIEW OF ALL ASPECTS OF THE PRACTICE AND PROCEDURES RELATING TO THE INTERROGATION OF SUSPECTS.



SUMMARY

22. ACCORDINGLY THE FOLLOWING ACTION IS BEING TAKEN:

A. AN INDEPENDENT COMMITTEE OF INQUIRY WILL BE CHAIRED BY SOMEONE WITH JUDICIAL EXPERIENCE AND WILL CONSIDER THE PRESENT POLICE PRACTICE AND PROCEDURES IN NORTHERN IRELAND RELATING TO THE INTERR-OGATION OF PERSONS SUSPECTED OF SCHEDULED OFFENCES AND TO CONSIDER THE EFFECTIVENESS OF THE PRESENT MACHINERY FOR DEALING WITH COMPLAINTS AGAINST THE POLICE.

B. AMNESTY INTERNATIONAL ARE BEING ASKED TO SEEK THE CONSENT OF THOSE WHO MADE STATEMENTS TO THEM TO PROVIDE THE DIRECTOR OF PUBLIC PROSECUTIONS WITH ALL AVAILABLE MATERIAL SO THAT THE COMPLAINTS CAN BE EXAMINED WITH A VIEW TO PROSECUTION WHERE THE EVIDENCE JUSTIFIES IT.

C. THE DIRECTOR OF PUBLIC PROSECUTIONS WILL ADDITIONALLY REPORT, FOR THE INFORMATION OF THE GOVERNMENT AND OF THE COMMITTEE OF INQUIRY, ON HIS GENERAL FINDINGS AND CONCLUSIONS ARISING OUT OF THESE CASES.

D. THE POLICE COMPLAINTS BOARD, AS PART OF ITS CONTINUING EXAMINATION OF ALL COMPLAINTS AND INVESTIGATION REPORTS, WILL CONSIDER WHETHER ANY PATTERN OF IRREGULARITY EMERGES THAT SHOULD BE DRAWN TO ATTENT-ION.

E. THE REPORTS OF THE INDEPENDENT INQUIRY AND OF THE POLICE COMPLA-INTS BOARD WILL BE PUBLISHED.

F. IN ADVANCE OF THE OUTCOME OF THE INQUIRY, THE CHIEF CONSTABLE OF THE ROYAL ULSTER CONSTABULARY IS CARRYING FORWARD THE CONSIDERATION HE IS ALREADY GIVING TO THE USE TO BE MADE OF TECHNICAL AIDS, AND PARTICULARLY THE PRACTICALITY OF INTRODUCING CLOSED CIRCUIT TELEVISION TO MONITOR THE INTERROGATION OF SUSPECTS.

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