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United Kingdom/Northern Ireland: Inquiry into the killing of human rights defender and lawyer Rosemary Nelson finds serious omissions by state agencies

Yesterday, the UK authorities released the findings of an inquiry into the death of Rosemary Nelson, a lawyer and prominent human rights defender, who was killed on 15 March 1999 by a bomb attached to her car in Lurgan, Northern Ireland. In the years before her death Rosemary Nelson had been subjected to threats and harassment, including by members of the law enforcement agencies. The Inquiry found that "the state failed to take reasonable and proportionate steps to safeguard the life of Rosemary Nelson". The government has interpreted the Inquiry's conclusions to have completely cleared the authorities of collusion in the killing of Rosemary Nelson. This response is, sadly, an example of the United Kingdom government glossing over the inconvenient findings of an inquiry and failing to learn fully from the lessons of its past in Northern Ireland.

The Rosemary Nelson Inquiry was chaired by Sir Michael Morland, a retired judge of the High Court of England and Wales. The Inquiry published its findings yesterday in a 505-page report, following a statement before Parliament by Owen Paterson, Secretary of State for Northern Ireland.

Rosemary Nelson became an internationally renowned human rights defender as a result of her work as a criminal defence solicitor in Northern Ireland. Her work on the frontline, defending human rights, informed domestic and international NGOs monitoring human rights violations in Northern Ireland. Her death was a tragic loss to the international human rights community and undermined the rule of law in Northern Ireland. The circumstances leading to Rosemary Nelson's death were eerily reminiscent of those leading up to the 1989 killing of the human rights lawyer Patrick Finucane, who was also threatened by members of the security forces before being killed by loyalist paramilitaries.

Amnesty International believes that Rosemary Nelson was threatened and intimidated, and eventually killed because of her work as a lawyer and human rights defender. Amnesty International further considers that the Royal Ulster Constabulary (RUC) failed to take the threats to Rosemary Nelson, or the subsequent investigations into her killing, seriously. Amnesty International believes this failure was the result of the institutional sectarianism of the RUC and because the RUC was unable to distinguish Rosemary Nelson as a professional lawyer from the alleged crimes of, and the cause espoused by, some of her clients.

The report of the Rosemary Nelson Inquiry roundly criticized state agencies for numerous omissions that may have been able to prevent her killing, but did not find any evidence of any act by a state agency that directly facilitated her murder. The Inquiry found that:

- there was no evidence of any act by or within any of the state agencies examined (the RUC, the Northern Ireland Office (NIO), the Army or the Security Service) which directly facilitated Rosemary Nelson's murder, but the Inquiry could not exclude the possibility of a rogue member or members of the RUC or the Army in some way assisting the murderers to target Rosemary Nelson;

- some members of the RUC publicly abused and assaulted Rosemary Nelson on Garvaghy Road in Portadown in 1997, having the effect of legitimizing her as a target;
- some intelligence was leaked, finding its way outside the RUC, which increased the danger to Rosemary Nelson's life;
- some members of the RUC made abusive and/or threatening remarks about Rosemary Nelson to her clients, legitimizing her as a target in the eyes of loyalist paramilitaries;
- omissions by state agencies (the RUC and the NIO) rendered Rosemary Nelson more at risk and more vulnerable.

The Rosemary Nelson Inquiry found that "any reasonably thorough and objective assessment could only have reached the conclusion that general intelligence, circumstances and recent events indicated that Rosemary Nelson was at significant risk", and made specific criticisms about omissions by the RUC, the NIO, and Special Branch (the intelligence unit of the RUC), including:

- negligent failure by RUC management to intervene to prevent their officers threatening and abusing defence solicitors, including Rosemary Nelson;
- failure by local RUC management to follow through on promises to pay special attention to Rosemary Nelson's office and home addresses;
- no analysis or evaluation of intelligence relevant to Rosemary Nelson;
- a corporate failure by the RUC to warn Rosemary Nelson of her vulnerability and offer her security advice;
- failure by the NIO to press the RUC proactively for replies to its questions about Rosemary Nelson's security;
- the mechanistic response of the NIO to correspondence from NGOs raising concerns about Rosemary Nelson's safety;
- failure by the NIO to hold any internal policy discussion about the treatment of defence lawyers in general, or of Rosemary Nelson in particular;
- incomplete cooperation, but not deliberate obstruction, by Special Branch into the investigation into Rosemary Nelson's murder; and
- omissions by Special Branch, on one occasion supported by the Security Service, in disclosing information relevant to the investigation.

The Inquiry report states that "the combined effect of these omissions by the RUC and the NIO was that the state failed to take reasonable and proportionate steps to safeguard the life of Rosemary Nelson. If Rosemary Nelson had been given advice about her safety and offered security measures, then assuming that she had accepted such advice and security measures, the risk to her life and her vulnerability would have been reduced."

Notwithstanding the Inquiry's findings, the Secretary of State for Northern Ireland told Parliament yesterday that the report found there to have been "no collusion" by the authorities in Rosemary Nelson's killing.

The Secretary of State also noted that the Inquiry made no recommendations. He expressed the view that this was because the political context and institutions in Northern Ireland had changed so significantly in the intervening years that the systemic problems which existed at the time of Rosemary Nelson's murder had now been effectively addressed.

Amnesty International notes with regret that the lessons of the past, and of the Cory Collusion Inquiry (see background information below), appear to have yet to be learned. Amnesty International is particularly concerned by the government's selective interpretation of the findings of this inquiry and of previous inquiries into collusion and killings in Northern Ireland. Notably, the 2004 Cory Collusion Inquiry report into the case of Rosemary Nelson stated: "Carelessness or negligence might be found to constitute collusion either in the careless or negligent act or omission itself or taken together with other acts or omissions which would indicate a pattern of conduct."

Amnesty International considers that the multiple omissions identified by the Rosemary Nelson Inquiry, when taken together, could amount to collusion. These omissions include, inter alia:

- individual failures by RUC officers;
- RUC local and systemic management failures;
- the failure of the NIO to press the RUC on the issue of her protection;
- the failure of the NIO to address seriously threats to defence lawyers;
- the possible rogue assistance by RUC or other state agents to loyalist paramilitaries;
- the repeated documented inability of the RUC to distinguish Rosemary Nelson from her clients' cause thereby legitimizing her as a target; and
- the incomplete cooperation by law enforcement and intelligence agencies to cooperate fully into the investigation into her death.

Amnesty International is currently studying the report of the Rosemary Nelson Inquiry in detail.

Sadly, despite the vast amount of testimony, material and information presented to the Inquiry, 12 years on, no one has been prosecuted for involvement in Rosemary Nelson's murder.

Rosemary Nelson's loss is deeply felt by those whose lives she touched. The continuing failure to bring those responsible for, and complicit in, her killing is a sad indictment of the criminal justice system in Northern Ireland. The failure to learn that repeated omissions can amount to collusion is an equally sad example of the government choosing to learn selectively from the past.

Background information
Rosemary Nelson gained prominence in the decade before her murder for her defence of individuals detained under emergency legislation or on suspicion of terrorism-related offences. In her high-profile cases Rosemary Nelson represented leading Republicans, acted for the families of people whose deaths involved allegations of collusion between the authorities and loyalist paramilitaries, and represented the residents of Garvaghy Road.

She was killed on 15 March 1999. The Red Hand Defenders, an armed Protestant Loyalist paramilitary group, claimed responsibility for the killing of Rosemary Nelson.

In the three years before her death, Rosemary Nelson had reported harassment and intimidation by members of the RUC and the Army (the Royal Irish Regiment); she also reported receiving anonymous deaths threats. In one incident, Rosemary Nelson reported an assault by RUC officers. Amnesty International and other human rights organizations monitoring the situation in Northern Ireland expressed concerns about such intimidation and threats, and urged the authorities to address them in the years leading up to her murder. The UN Special Rapporteur on the Independence of Judges and Lawyers issued an urgent appeal for her protection in the year before her death. Amnesty International considers that the government, the RUC, the NIO and other authorities failed to adequately respond to the serious threats faced by Rosemary Nelson.

Rosemary Nelson reported having been threatened by RUC officers during interviews with her clients detained under emergency legislation and being assaulted and verbally abused by RUC officers while representing residents of the predominantly Catholic Garvaghy Road neighbourhood in Portadown during disputes about the Protestant Orange Order's annual march. She also complained of systematic intimidation and harassment, including sexual innuendoes, by the RUC, either directly or through her clients.

The Rosemary Nelson Inquiry opened in April 2005 and conducted hearings between April 2008 and June 2009. Its establishment followed the recommendations by the Cory Collusion Inquiry. The stated terms of reference of the Rosemary Nelson Inquiry, after being amended in 2005, were: "to inquire into the death of Rosemary Nelson with a view to determining whether any wrongful act or omission by or within the Royal Ulster Constabulary, Northern Ireland

Office, Army or other state agency facilitated her death or obstructed the investigation of it, or whether attempts were made to do so; whether any such act or omission was intentional or negligent; whether the investigation of her death was carried out with due diligence; and to make recommendations."

The Cory Collusion Inquiry, led by Justice Peter Cory, a retired Canadian judge, published its recommendations in 2004. Judge Cory had been appointed by the UK and Irish governments in May 2002 to investigate a number of cases including the killings of human rights lawyers Patrick Finucane and Rosemary Nelson, in 1989 and 1999, respectively; the 1997 sectarian killing of Robert Hamill, a 25-year-old Catholic man; and the 1997 killing of Billy Wright, a leading Loyalist paramilitary, shot dead in the Maze prison. In his 2004 report on Rosemary Nelson's, Judge Cory reminded any future inquiry into collusion of the importance of considering patterns of failure and omissions that could have contributed to her death, not solely those acts which may have directly contributed to it. Judge Cory stated: "It must be determined whether the failure of Government agencies to protect Rosemary Nelson, in light of the threats they were aware of, constituted collusion. If the Government knew Rosemary Nelson's life was in danger, yet took no steps to ensure her safety, this could constitute collusion."

Amnesty International made submissions to the Cory Collusion Inquiry, including on the case of Rosemary Nelson, and to the Rosemary Nelson Inquiry itself.

Amnesty International reports:

UK: Prominent human rights lawyer killed, AI Index: EUR 45/013/1999, 15 March 1999, http://www.amnesty.org/en/library/info/EUR45/013/1999/en

UK (Northern Ireland): The Killing of Human Rights Defender Rosemary Nelson, AI Index: EUR 45/022/1999, 31 March 1999, http://www.amnesty.org/en/library/info/EUR45/022/1999/en

United Kingdom: chief suspect in the killing of human rights defender Rosemary Nelson is found dead in his cell at Maghaberry Prison, AI Index: EUR 45/006/2002, 9 June 2002, http://www.amnesty.org/en/library/info/EUR45/006/2002/en

United Kingdom: Human Rights Groups call for prompt publication of Cory collusion reports AI Index: EUR 45/024/2003, 6 October 2003, http://www.amnesty.org/en/library/info/EUR45/024/2003/en

United Kingdom: Publish Cory reports now, human rights groups urge government, AI Index: EUR 45/031/2003, 18 December 2003, http://www.amnesty.org/en/library/info/EUR45/031/2003/en

Public judicial inquiries into the killings of Robert Hamill, Billy Wright and Rosemary Nelson An Open Letter from Amnesty International, British Irish RIGHTS WATCH and the Committee on the Administration of Justice AI Index: EUR 45/024/2005, 29 September 2004, http://www.amnesty.org/en/library/info/EUR45/025/2004/en

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