

R.

ALLEGATIONS OF ILL-TREATMENT BY THE POLICE: AMNESTY INTERNATIONAL REPORT

1. The Government has repeatedly emphasised that they do not authorise, and will not condone, the ill-treatment of persons in custody; and the Chief Constable of the Royal Ulster Constabulary has made it clear that any such activity is forbidden and will be dealt with in accordance with the law. While the Government are determined to bring terrorists to book by due legal process, this is not and will not be done at the expense of the rights of the individual in custody.

2. A series of enquiries - Compton, Diplock Gardner and others - are evidence ready to investigate matters causing independent concern, and to take advice on what further measures might be necessary to safeguard the rights of the individual. When Amnesty International's research mission visited Northern Ireland towards the end of 1977, the authorities co-operated to the fullest extent with the mission to ensure that they were properly informed about current practices and procedures. Their report does not prove that malpractice has occurred; it points to a need for investigation. Amnesty looked at only 78 individual cases, while themselves acknowledging that nearly 3500 people were interviewed by the RUC during the first 11 months of 1977. In only 13 cases did they both interview the person concerned and consider medical evidence. The mission itself carried out medical examinations in only 5 cases of the 78.

3. Nevertheless HMG take allegations of this sort seriously, and at the suggestion of the Chief Constable have appointed an independent committee of inquiry under Judge Bennett to look at police procedures and practice in Northern Ireland governing the interrogation of terrorist suspects, and at the operation of the complaints system. Both the reports of this committee and the conclusions of the Secretary of State for Northern Ireland on it will be published.

4. A more detailed question and answer brief on specific points is at Annex A. HMG's Parliamentary Statement of 8 June 1978 is at Annex B.

AMNESTY INTERNATIONAL

1. The Government has not contested Amnesty's findings.

2. The report is an indictment of the Government's attitude.

This is quite misleading. We are treating the report responsibly, but we do not accept that the incomplete and unsubstantiated evidence in it justifies the firmness of the conclusions Amnesty purport to draw. It points to a need for investigation: it does not prove.

The positive nature of the Government response shows our continuing concern for human rights while we deal with the problems of a violent terrorist campaign. Terrorism involves a dilemma for all democratic governments; the need is to strike a balance between combatting terrorist activity and maintaining the liberties of a free society. We therefore take most seriously, as does the Chief Constable, any criticism of existing procedures, of allegations of maltreatment of persons in police custody, and we are doing all in our power to see that they are thoroughly and swiftly investigated. That is why we are particularly disappointed

criminal offences. It would not
that Amnesty International have
refused to make available to the
Director of Public Prosecutions
the material relevant to their
complaints. We cannot deal with
anonymous and unsubstantiated
allegations.
which attach to proper
criminal procedure, and as a result

3. The Report demonstrates
conclusively that systematic
ill-treatment occurs

I do not accept that. The Amnesty
International mission looked at 78
cases, and their report acknowledges
that nearly 3500 suspects were
interviewed by the RUC in the first
11 months of 1977. The mission saw
medical evidence in only 39 cases, and
in only 13 of those did they also
interview the complainant. It would
not have been right to provide the
mission with official papers on
individual cases which were either
sub judice, or on which the DPP had
already reached a conclusion. The
report therefore represents only one
side of the picture.
before one part
of them has been thoroughly and

4. Why not a public
inquiry?

In the first place, a public inquiry
could only consider individual cases
if those concerned were prepared to
identify themselves. Even if this
were so, a public inquiry cannot be
the forum for dealing with possible

5. A judicial inquiry
sitting in camera should look
into each individual case.

criminal offences. It would not be logical to confine the scope of such an inquiry to the 78 cases selected on whatever basis^{by} Amnesty International, and we should in effect be faced with a prolonged series of public trials without safeguards which attach to proper criminal procedure, and as a result of which there would be virtually no possibility of mounting prosecutions where a case might seem to exist. These disadvantages would not apply to the procedure proposed by HMG.

It is also claimed that a public inquiry is necessary because Amnesty have found that the existing complaints machinery is inadequate. We do not accept that this has been proved but the inquiry will have the task of looking into it. It makes no sense to cut across all our existing procedures before one part of them has been thoroughly and impartially examined.

5. A judicial inquiry sitting in camera should look into each individual case.

The objections to this proposal have something in common with the objections to a public inquiry. Here again, in order to ensure fairness

6. What about a special prosecutor, on the Watergate model, as suggested by Senator Kennedy to deal with the specific cases mentioned in the Amnesty Report?

and effectiveness, it would be necessary to grant immunity to witnesses. It would subsequently be virtually impossible to bring prosecutions against anyone who had given evidence. It has been alleged, but not established, that the existing machinery for handling complaints is defective. It is therefore reasonable to set up, as we have done, an inquiry to examine this claim thoroughly and impartially. What would not be reasonable would be to usurp the statutory functions of the police, the Director of Public Prosecutions, and the Police Complaints Board by setting up an ad hoc body with its own obvious drawbacks before that examination is complete.

We should remember also that a complainant who is dissatisfied with the outcome of his complaint has further recourses. If he is brought to trial, he can ventilate his case in open court. If he is not brought to trial, or if he has been acquitted he can bring a civil action against the police. In such circumstances the burden of proof is lower, and

6. What about a special prosecutor, on the Watergate model, as suggested by Senator Kennedy to deal with the specific cases mentioned in the Amnesty Report?

have to be identified.

It is important to recognise that, in proposing the reference of Amnesty complaints to the DPP, there is no question of the Government "investigating itself". The Government can neither institute criminal proceedings nor override a decision by the appropriate authority, who in this case is the Director of Public Prosecutions for NI. As the House will know, the Director is an independent officer of the Crown, charged with the responsibility of deciding whether to bring criminal proceedings; in the discharge of this statutory duty he is not accountable in any way to the Executive.

The appropriate legal procedure is thus for allegations about criminal conduct to be considered by the Director; it is disappointing that Amnesty have refused to make available to him the material relevant to the cases in their report.

Medical supervision of
suspects?

7. Who will conduct
the inquiry?

8. What about access by
solicitors?

The question of medical supervision
will fall within the inquiry's

The inquiry will be chaired by
His Honour Judge Bennet QC, who
has long experience of the criminal
law both as an advocate and as a
judge. The other two members will
be Sir James Houghton, who retired
last year as HM Chief Inspector of
Constabulary for England and Wales,
and Professor John Marshall, who is
Professor of Clinical Neurology at
the University of London.

I am sure that this is a matter
which the inquiry we are setting
up will wish to consider. It must
be remembered that the decisions of
the police in Northern Ireland, as
in England and Wales, are governed
by the preamble to the Judges'
Rules which indicates that access
is governed by the proviso that the
process of investigation or the
administration of justice should not
be hindered thereby. In any
subsequent legal proceedings, a court
retains its discretion to strike out
any evidence which they regard as
having been obtained improperly.

Medical supervision of suspects?

Should not the convictions of all persons convicted on the basis of a confession now be re-opened?

Why did police doctors not detect evidence of maltreatment in the Amnesty cases?

The question of medical supervision will fall within the inquiry's terms of reference. At present, persons in custody are offered an examination by a Police Medical Officer when they are taken into custody, and when they are released or immediately before their first appearance in court. At least one intermediate examination is also offered. In addition, an accused person is allowed to ask for an examination by his own doctor or his partner. This is a facility not enjoyed anywhere else in the United Kingdom.

There can be no question of accepting the allegations in the Report as they stand. The Report presents only one side of the picture. Unless the cloak of anonymity is lifted from the individual allegations, the proper authorities cannot even know what other evidence exists. In any case, examinations by police surgeons are voluntary, and are frequently refused by the person in custody. When complaints are subsequently made after such

Contd.....

refusals, it is obviously extremely difficult to get at the truth.

Should not the convictions of all persons convicted on the basis of a confession now be re-opened?

The report calls into question the assurances given by HMG to the European Court of Human Rights

No. In our response to the Amnesty Report, we have made clear our view that the existing law and court procedure fully protects persons who are accused on the basis of their own statements. We are not aware of any case where the courts have accepted in evidence a statement which was deemed to have been obtained by threats or violence, nor have Amnesty claimed that any such case exists.

Section 6 has eroded the protection of the individual

I do not accept that Section 6 (now Section 8 of the consolidated legislation, the Emergency Provisions Act 1978) has had the harmful effects alleged by Amnesty. The section only alters the provisions on admissibility, and did so, in the words of the Diplock Commission, because the previous practice was "hampering the course of justice in the case of terrorist crimes". The discretion of the courts as to the weight to be attached to any statement is completely

unaffected, and in addition, the courts have made it clear that they retain an overriding discretion to exclude statements, even if they would be admissible under the section where the interests of justice require

The report calls into question the assurances given by HMIC to the European Court of Human Rights

No, sir. The undertaking given to the European Court in February 1977, was that the so-called five techniques, responsibility for which lay at the level of government, would not be reintroduced as an aid to interrogation. The Government did not claim that no ill-treatment of any kind would ever occur again; in our view no government could make such a claim with certainty. We did however, explain to the Court the range of measures taken to prevent a recurrence of the events of 1971 and the Court, in its judgment, expressed satisfaction with these measures.

NORTHERN IRELAND
Chatham House International
Report
Mr. Fitz asked the Secretary of State for Northern Ireland whether he will make a statement on the report of Amnesty International which repeats into allegations of police brutality at Chatham House holding centre, a copy of which was sent to the Government.
Mr. Mervin: Yes. The following is the text of the Government's response to the report by Amnesty International:
Amnesty International Report
Statement by the Secretary of State
1. While Amnesty International's report contains serious allegations against the RUC, the Government is committed to the fullest possible investigation of the charges it contains that they have seriously infringed their general powers and procedures.