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UK: Amnesty International urges judiciary not to partake in inquiry sham

Amnesty International calls on all judges, whether in the United Kingdom (UK) or in other jurisdictions, to decline appointments as chairs or panel members to any inquiry established under the recently enacted Inquiries Act 2005, including an inquiry into allegations of state collusion in the murder of Patrick Finucane. The organization is also urging the Act's repeal.

Amnesty International supports the call of Geraldine Finucane, Patrick Finucane's widow, to all senior judges in England, Wales and Scotland not to serve on an inquiry into her husband's case held under the new legislation.

"By proposing to hold an inquiry into the Finucane case under the Inquiries Act 2005, the UK government is trying to eliminate independent scrutiny of the actions of its agents. Any judge sitting on such an inquiry would be presiding over a sham," Amnesty International said.

Patrick Finucane, an outspoken human rights lawyer, was shot dead in his home in Belfast, Northern Ireland, on 12 February 1989 by Loyalist paramilitaries. In the aftermath of his killing, *prima facie* evidence of criminal conduct by police and military intelligence agents, acting in collusion with Loyalist paramilitaries in his murder, emerged. In addition, allegations have emerged of a subsequent cover-up by different government agencies and authorities.

In April 2004, an independent report, commissioned by the UK and Irish governments, concluded that "only a public inquiry will suffice" in Patrick Finucane's case.

Instead, in the face of strong criticism and opposition, the UK executive railroaded the Inquiries Bill through Parliament and managed to have it passed as legislation as the Inquiries Act 2005 on 7 April 2005, the last possible day before Parliament was dissolved. Any inquiry, held under the new Act, would be controlled by the executive which, under it, is empowered to block public scrutiny of state actions. It will affect not only Patrick Finucane's case, but also other major incidents which would warrant public scrutiny of the actions of the state, such as failures of public services, deaths in prisons, rail disasters and army deaths in disputed circumstances.

"The Inquiries Act 2005 undermines the rule of law, the separation of powers and human rights protection. It cannot be the foundation for an effective, independent, impartial or thorough judicial inquiry in serious allegations of human rights violations. Nor would it provide for public scrutiny of all the relevant evidence," Amnesty International said.

"The Inquiries Act 2005 deals a fatal blow to any possibility of public scrutiny of and accountability for state abuses. Any inquiry under this legislation would automatically fall far short of the requirements in international human rights law and standards for effective remedies for victims of human rights violations and their families. One of the first tasks of the new UK Parliament should be to immediately repeal the Act."

Once again, Amnesty International calls on the UK authorities to immediately establish a truly independent judicial inquiry into collusion by state agents with Loyalist paramilitaries in Patrick Finucane's murder; into reports that his killing was the result of state policy; and into allegations that different government authorities played a part in the subsequent cover-up of collusion in his murder.

Background

In May 2002, the UK and Irish governments appointed Justice Peter Cory, formerly a Judge in the Canadian Supreme Court, to investigate a number of killings in which official collusion was alleged, including the killing of Patrick Finucane. In April 2004, the UK authorities published Justice Cory's reports but refused at that time to announce a public inquiry into Patrick Finucane's case.

Instead of announcing a public judicial inquiry under the Tribunals of Inquiry (Evidence) Act 1921, the government eventually announced that it would introduce new legislation under which an inquiry into the Finucane case would be established. There was no consultation prior to the publication of the Bill. The new Inquiries Act 2005 repeals the Tribunals of Inquiry (Evidence) Act 1921.

Under the new Act:

- the inquiry and its terms of reference would be decided by the executive; no independent parliamentary scrutiny of these decisions would be allowed;
- each member of an inquiry panel, including the chair of the inquiry, would be appointed by the executive and the executive would have the discretion to dismiss any member of the inquiry;
- the executive can impose restrictions on public access to the inquiry, including on whether the inquiry, or any individual hearings, would be held in public or private;
- the executive can also impose restrictions on disclosure or publication of any evidence or documents given, produced or provided to an inquiry;
- the final report of the inquiry would be published at the executive's discretion and crucial evidence could be omitted at the executive's discretion, "in the public interest".

Lord Saville of Newdigate, the chair of the Bloody Sunday Tribunal of Inquiry, pointed out that the Inquiries Act 2005 "makes a very serious inroad into the independence of any inquiry; and is likely to damage or destroy public confidence in the inquiry and its findings". Lord Saville also said: "As a Judge, I must tell you that I would not be prepared to be appointed as a member of an inquiry that was subject to a provision of this kind."

Judge Peter Cory with specific reference to the possibility of an inquiry into the Finucane case held under the Inquiries Act 2005 stated: "It seems to me that the proposed new Act would make a meaningful inquiry impossible."

Public Document

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