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UNITED KINGDOM

Cruel, inhuman or degrading treatment: Detention of Róisín McAliskey

Introduction

Amnesty International remains concerned that the conditions in which Róisín McAliskey is being detained may continue to endanger her mental and physical health. Róisín McAliskey has been detained in conditions which constituted cruel, inhuman or degrading treatment and which affected her mental and physical health. Such treatment violates the United Kingdom's treaty obligations under the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 7 of the UN International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. While, to a certain extent, Róisín McAliskey's detention conditions have now improved, the treatment to which she has been subjected should be investigated by the authorities.

Róisín McAliskey is being detained, without charge, pending extradition to Germany on the basis of an extradition warrant issued by the German authorities in connection with an Irish Republican Army mortar attack on the British army base in Osnabruck, Germany, in June 1996. In this connection, the German authorities want her for questioning. Róisín McAliskey is appealing to the House of Lords against her extradition to Germany.

Her application for bail has already been denied a number of times on the grounds that there was a danger that, if freed, she might abscond. The next bail hearing is scheduled to take place on 6 May 1997. The Prime Minister of the United Kingdom has recently stated in Parliament that he is not aware of any representation having been

made by the German authorities to the United Kingdom authorities concerning the question of granting Róisín McAliskey bail. Thus, the decision to deny bail is being taken by the court, based on representations by the Crown Prosecution Service.

There is also controversy over the evidence gathered by the German authorities against Róisín McAliskey. Interviewed for a German television program on the case, one of the chief prosecution witnesses, after having been shown a picture of Róisín McAliskey, said, "No. Well, I did not recognize her. Is that her? I am seeing this for the first time." Reportedly, however, the German police claimed to have found fingerprints which linked her to the Osnabruck mortar attack and handwriting samples which connected her to a holiday house.

Detention of Róisín McAliskey

On 20 November 1996 25-year-old Róisín McAliskey was arrested in Northern Ireland. She was detained under emergency laws and interrogated for six days in Castlereagh interrogation centre in Belfast. She claims that during the first five days in Castlereagh she was not even questioned about the mortar attack in Germany. No lawyer was present during her interrogation in Castlereagh. On 27 November she was remanded in custody in London on the basis of the German authorities' extradition warrant. On 30 November she was transferred to Belmarsh Prison, a men's prison. In early December Amnesty International wrote to the government to protest against the imprisonment of Róisín McAliskey in a men's prison. However, on 5 December, in response to worldwide protests, Róisín McAliskey was transferred back to Holloway Prison, a women's prison in London.

When arrested, Róisín McAliskey was about four months pregnant and suffering from various medical ailments, including asthma, an eating disorder and severe underweight. It was reported that because she was not receiving adequate medical attention, there was a danger to the continuation of the pregnancy.

Following her arrest, Róisín McAliskey was classified as a Category A high-security risk prisoner. Prisoners, on remand for or convicted of serious offences, can be categorized as Category A if their escape is considered as highly dangerous to the public or the police or to the security of the state. Category A prisoners are divided into three sub-categories: standard risk, high risk and exceptional risk (of escape).

As a result of her categorization as a high-security risk, Róisín McAliskey was subjected, in the first three and a half months of her detention, to an extremely harsh detention regime, notwithstanding the poor state of her health and her pregnancy, which constituted cruel, inhuman or degrading treatment.

Being the only Category A prisoner in Holloway Prison meant that Róisín McAliskey was not allowed to associate with other prisoners. In addition, she was strip-searched regularly, mornings and evenings, reportedly at least 75 times. Róisín McAliskey was also strip-searched before and after visits, even though she originally had only "closed" visits, meaning that there is no possible physical contact between her and her visitor. Given the "closed" visits regime, it is difficult to understand what security

considerations might warrant strip-searches. Such procedures may in certain circumstances constitute cruel, inhuman or degrading treatment and they should only be carried out when strictly necessary for security reasons and if no other less intrusive methods of searching can be used. On 14 March 1997, Sir Peter Woodhead, the Prisons Ombudsman, stated in a letter to Amnesty International:

"strip searching is a potentially humiliating procedure....It is therefore important that their use is kept to the minimum necessary for the maintenance of order and control in prison and the prevention of escapes."

In February, Amnesty International expressed concern that the regular strip-searching, especially in connection with her visits, was humiliating and degrading and not manifestly necessary for security purposes.

Another security measure which caused concern was the practice of turning on her cell light during security checks every hour during the night. In this connection, independent medical evidence has indicated that prisoners who are regularly subjected to hourly checks during the night have developed symptoms of tiredness and experienced anxiety.

As Róisín McAliskey was not allowed access to the prison yard when other prisoners were present, her only option was to take her exercises alone on the roof of Holloway Prison. The exercise area on the roof of the prison is reportedly small, and is covered in metal grids blocking natural daylight from fully entering. However, in order to gain access to the roof, Róisín McAliskey had to climb up flights of stairs which she found too exhausting given her pregnant condition. In addition, she found the idea of exercising in such conditions disturbing and manifestly detrimental to her mental and physical well-being.

Another issue of concern to Amnesty International, which stemmed from her categorization as a high-security risk, was the fact that initially her detention conditions could not guarantee full medical attention, including obstetric care. In this connection, in February the organization called on the authorities to grant Róisín McAliskey bail if the condition of imprisonment could not guarantee full medical attention, including obstetric care, and proper post-birth facilities.

As a result of the regime to which she was subjected, Róisín McAliskey's physical and psychological health deteriorated. Amnesty International believes that these detention conditions amounted to cruel, inhuman or degrading treatment.

On 7 March Róisín McAliskey was deemed to be a Category A "standard risk" prisoner instead of a Category A "high-security" risk prisoner. As a result of this

recategorization, Róisín McAliskey's detention conditions have been improved to a certain extent. There was a significant decrease in the number of times she is subjected to strip-searching. She has also been allowed a daily period of two-hour association with other prisoners, although in the presence of prison guards. However, this means that she still reportedly spends many hours alone in her cell and she is still being denied permission to exercise in the prison yard with other prisoners.

Amnesty International has noted the amelioration in Róisín McAliskey's incarceration regime, and has also welcomed the authorities' decision on 13 March to allow her to attend ante-natal classes, to give birth in a civilian hospital without being shackled, and to keep her baby after birth in the mother-and-baby unit of Holloway Prison. In addition, the authorities have recently stated that she would be able "to use the gym and the swimming pool.... with other prisoners".

However, given the number of pregnant women currently held at Holloway Prison, there is a shortage of spaces in this unit. As a result, uncertainty arises as to whether Róisín McAliskey's access to Holloway's mother-and-baby unit will be extended after the initial nine-month term expires. The uncertainty of this situation is bound to cause anxiety and distress which may in turn lead to a further deterioration of Róisín McAliskey's mental health.

Despite noting the amelioration in Róisín McAliskey's detention conditions, Amnesty International wishes to emphasize that Róisín McAliskey has been detained without charge as a Category A prisoner in a prison which does not have adequate facilities for Category A prisoners. As a result, and given her pregnant condition, Amnesty International remains concerned that her detention conditions may continue to endanger her mental and physical health. For instance, the organization notes with concern that at her last bail hearing in April Róisín McAliskey appeared in a wheelchair. Therefore, Amnesty International will continue to monitor her incarceration conditions to ensure that they do not amount to cruel, inhuman or degrading treatment.

Amnesty International is calling on the authorities to ensure that the conditions conform to international standards. In accordance with Rule 66 and Rule 83 of the European Prison Rules, Róisín McAliskey's prison regime should include opportunities for meaningful activities, education, adequate exercise, recreational and other properly organized activities to ensure her physical and mental well-being. In accordance with the UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), Róisín McAliskey should be able to exercise daily in the open air and there should be natural daylight in her cell. In accordance with Rule 25 of the Standard Minimum Rules, Róisín McAliskey's physical and mental health should be in the care of a medical officer who should have immediate and unhindered access to her, given her pregnant condition and her history of medical ailments.

Background information on women's detention conditions in the United Kingdom

Róisín McAliskey's plight should be considered in the broader context of women's detention conditions in the United Kingdom. Recently published statistics indicate that there has been a substantial increase in the female prison population as a result of tougher sentencing implemented by the judiciary. According to the Prison Reform Trust, the female prison population is increasing at twice the rate of the male prison population. The surge in the number of female inmates, however, has not been met by the authorities with the allocation of appropriate resources. Conversely, as Rannoch Daly, Governor of Armley Prison, Leeds, recently stated, "prison running costs have been cut to pay for the prison building programme".

On 20 February 1997, the Chief Inspector of Prisons, Sir David Ramsbotham, published three reports which reportedly revealed unacceptable conditions in three women's prisons: Risley in Cheshire, Holloway in London and Low Norton in County Durham.

Women in prison are being severely affected by shortages of space and lack of staff. Consequently, the number of hours women are spending locked up in their cells has increased significantly. In addition, the length of time prisoners are allowed to associate with one another is being reduced. In some instances women are not receiving adequate medical attention. In general terms, women are facing harsher detention conditions which, in some cases, may amount to cruel, inhuman or degrading treatment prohibited by treaties to which the United Kingdom is a party.

The government claims a lack of resources as a justification. However, the current emphasis in policy is to make the whole system more harshly punitive rather than constructively remedial. Under international human rights standards practices which constitute cruel, inhuman or degrading treatment can never be justified.

Amnesty International believes that the Government of the United Kingdom must ensure that detention conditions comply with the requirements of international standards such as the UN Standard Minimum Rules for the Treatment of Prisoners, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the European Prison Rules.

In addition, the authorities must take special steps to address the specific needs of women and children in detention which must comply in letter and spirit with the provisions of the UN Convention on the Rights of the Child and the UN Convention on the Elimination of All Forms of Discrimination Against Women.

With respect to the issue of women in custody, Amnesty International believes that the Government of the United Kingdom should take all necessary steps to ensure that their physical and mental health does not deteriorate as a result of incarceration conditions which constitute cruel, inhuman or degrading treatment, in violation of the United Kingdom's obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 7 of the UN International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In this connection, the organization is urging the government to adopt the following specific recommendations.

- Provide all women under any form of detention or imprisonment with adequate medical treatment, denial of which can constitute ill-treatment.
- Provide all necessary pre-natal and post-natal care and treatment for women in custody and their infants.
- The imprisonment of a mother and child together must never be used to inflict torture or ill-treatment on either by causing physical and mental suffering. If a child is ever separated from its mother in prison she should be immediately notified and continuously kept informed of its whereabouts and given reasonable access to the child.
- Women in custody should be consulted over arrangements made for the care of their infants.

With regard to the issue of detention conditions, Amnesty International is urging the authorities of the United Kingdom to comply with the requirements of international standards relating to detention conditions so as to ensure that incarceration regimes do not amount to cruel, inhuman or degrading treatment or punishment.