

## UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

### CAT A/47/44 (1992)

93. The Committee considered the initial report of the United Kingdom of Great Britain and Northern Ireland (CAT/C/9/Add.6) at its 91<sup>st</sup> and 92<sup>nd</sup> meetings, held on 13 November 1991 (CAT/C/SR. 91 and 92).

94. The report was introduced by the representative of the State party who stated that his Government, in preparing its initial report, had tried to explain as fully as possible the range of legal provisions and other measures through which the United Kingdom sought to meet its obligations under the Convention. That had not been an entirely straightforward task given that the United Kingdom comprised what was in effect three separate jurisdictions - England and Wales, Scotland and Northern Ireland. The United Kingdom took its obligations under the Convention seriously and where it had been found that further measures were needed to improve the protection of rights, legislation and procedures had been revised and amended accordingly.

95. Referring to recently enacted legislation, the representative informed the Committee that the Criminal Justice Act 1988 had added to United Kingdom law by creating a specific offence of torture based on the definition of torture contained in the Convention. The United Kingdom had also ratified the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, which had entered into force in February 1989. The Police and Criminal Legislation Act 1984 which dealt with police powers, the rights of persons in police detention, police discipline and complaints against the police had also been regularly reviewed and revised since being enacted. The four codes of practice in connection with police powers which had come into force under the Act had been reviewed and revised in April 1991, thus strengthening the safeguards of persons in police detention. A code governing the tape-recording of police interviews had also been issued.

96. In addition, the Government had recently published a White paper setting out a programme of changes in prisons. The White Paper accepted the central proposition of a report prepared by Lord Justice Woolf, following serious disturbances in six prisons in England and Wales in 1990, that security and control had to be balanced with justice and humanity. The reforms in the penitentiary system to which the Government attached particular importance were the ending, by late 1994, of the practice of "slopping out" because of the absence of integral sanitation in cells; a code of standards for accommodation, programmes and facilities to be provided in all prisons; and the appointment of an independent complaints adjudicator by the end of 1992.

97. The representative also stated that terrorism continued to be a real threat in the United Kingdom and especially in Northern Ireland. While it was still necessary to keep in place exceptional measures contained in the Prevention of Terrorism Act and in the Northern Ireland Emergency Provisions Act, there were valuable safeguards, such as the annual debate in Parliament on the renewal of the measures, following an annual review of the legislation by an independent reviewer. New safeguards had been proposed, in particular, for the questioning of terrorist suspects in Northern Ireland. In addition, the Northern Ireland "Guide to Emergency Powers" which set out the

rules regulating conditions of detention, was soon to be replaced by a statutory Code of Practice. This Code would be admissible in civil and criminal proceedings governing the detention, treatment, questioning and identification by police officers of persons detained under the Prevention of Terrorism Act. The Government was also considering the appointment of an independent commissioner to monitor procedures at holding centres, with the right to visit those centres at any time of his or her choosing. The Commissioner's main task would be to ensure that the proper procedures relating to the treatment of terrorist suspects were being followed and, more generally, that the arrangements for the detention of suspects were satisfactory.

98. Members of the Committee thanked the Government of the United Kingdom for its very full report, especially with regard to the treatment of children and persons detained under mental health legislation, and also expressed appreciation to the Government's representative for the additional information he had provided. Noting that there was a marked difference between the regime applied in England, Scotland and Wales and that applied in Northern Ireland, members of the Committee raised various concerns and questions, particularly with regard to the implementation of articles 2 and 11 of the Convention in Northern Ireland.

99. With reference to article 2 of the Convention, members of the Committee recalled that derogations from certain provisions of the Convention were not allowed even in times of emergency and wished to know, in that light, how certain provisions relating to the detention of suspected terrorists were applied. They noted in that regard that under the Prevention of Terrorism Act a person might be held by police for an initial period of 48 hours, which could be extended for a further five days, without the right to obtain independent medical advice or to have access to legal counsel during the first 48 hours, and observed that such provisions created conditions which might lead to abuses of authority by agents of the State.

100. With reference to paragraph 1 of article 2, in conjunction with article 11 of the Convention, and recalling the differences which existed in legal protection of persons charged with or suspected of offences of terrorism in Northern Ireland compared to that enjoyed by citizens in the rest of the United Kingdom, members made reference to information received from non-governmental sources which indicated that 90 per cent of cases brought before the Diplock courts, in which a judge alone conducted the trial, relied solely or mainly on confessions as evidence. That situation could put pressure on interrogators to obtain confessions and create an opportunity for conduct which could contravene the provisions of the Convention. Amnesty International had provided information on a large number of allegations of ill-treatment of persons under interrogation, particularly at Castlereagh Holding Centre, which investigations apparently did not substantiate. In that context, information was requested concerning the Independent Commission for Police Complaints, which had reviewed those completed investigations. Members of the Committee also drew attention to the prima facie case of ill-treatment of Mr. Brian Gillen during interrogation at Castlereagh and asked whether any legal disciplinary actions had been taken against the alleged perpetrators and whether compensation had been provided to persons who had been ill-treated by interrogating officers, particularly at Castlereagh. In addition, it was noted that police authorities were reluctant to make video recordings of interrogations, perhaps out of fear that they would provide evidence of ill-treatment.

101. Members of the Committee expressed regret that the text of section 134 of the Criminal Justice

Act had not been reproduced in the report, given its significance in assisting the Committee to understand the implementation of articles 1 and 4 of the Convention within the United Kingdom. In that connection, members of the Committee wished to know whether the definition of torture as contained in the Act was couched in terms identical to that of the Convention and what the penalties were for torture or ill-treatment. They also requested clarification as to what was meant by the offence of “assault”, especially under Scottish law.

102. With reference to article 3 of the Convention, members of the Committee recalled that States parties had a formal obligation not to return any person to a State where the person would be in danger of torture. In this connection, they expressed concern as to whether the grounds for refusal to extradite and return a person, referred to in the report, were sufficient to meet all the obligations the United Kingdom had assumed under this article of the Convention. They also referred to information received from non-governmental organizations expressing concern at the way decisions on refugee status were taken in the United Kingdom. Two particular cases were mentioned, involving nationals of Sri Lanka and Zaire, who had been returned to their country of origin when there had been a real threat that they might be subjected to cruel or inhuman treatment or even torture. Accordingly, further information was requested as to how reviews relating to qualification for refugee status were actually carried out and as to whether the Government was making any real attempt to ensure that immigration officers were made aware of the United Kingdom’s obligations under the Convention. In addition, members of the Committee requested clarification as to the exact jurisdiction of the Secretary of State and the courts with regard to decisions taken under the terms of the Extradition Act 1989. They also wished to know what was meant by the term “possible use of exceptional leave”, as it related to the assessment of claims of likely torture on return to another country.

103. In respect of articles 5 to 7 of the Convention, members of the Committee requested further information, especially with regard to the application of provisions relating to the non-extradition of a person who had committed an act of torture and the trial of such a person within the country and wished to know, in particular, what the specific provisions were in section 134 of the Criminal Justice Act 1988 concerning the jurisdiction of the courts over the crime of torture.

104. With regard to article 10 of the Convention, members of the Committee expressed concern over information received from the Howard League of Penal Reform which pointed to the absence of formal instruction for law enforcement personnel in respect of their international obligations as to the custody, questioning or treatment of arrested persons. They also expressed concern at the fact that the Government did not consider it necessary to provide training in the prohibition of torture to health care professionals.

105. With regard to article 11 of the Convention, members of the Committee asked whether prison warders were armed and what procedure was followed in the event of a serious incident, such as a prison riot. They also wished to know how the United Nations Standard Minimum Rules for the Treatment of Prisoners were implemented in the United Kingdom and what other standards were applied to persons who were in custody or who had been convicted. In addition, members requested clarification of the indication in the report that the Government was considering extending the regime operating in Northern Ireland, where there was in effect no right of silence for accused persons, to the rest of the United Kingdom. With regard to a reported 100 per cent increase from

1980 to 1990 in suicides among persons in detention, it was asked whether such statistics were accurate and whether they were a source of concern to the Government. It was also asked whether the use of strip cells to house suicidal prisoners was considered the best way of preventing suicide and whether the Mental Health Act Commission was responsible for monitoring the mental health of prisoners as well as that of detained patients.

106. Concerning articles 12 and 13 of the Convention, members of the Committee requested clarification of the statement in the report that the provisions and practices relating to the investigation of allegations of torture in Scotland and Northern Ireland were broadly comparable with those elsewhere in the United Kingdom. They also wished to know whether complaints against the police were dealt with by the police or by another authority; how offences committed by members of the armed forces were dealt with; whether statistics on the number of complaints of alleged offences were available; and whether such data were published in the annual Home Office Report.

107. In respect of article 14 of the Convention, members of the Committee complimented the United Kingdom on the compensation system it had established for victims of crime and asked whether the State was directly responsible for compensating a victim of torture if the torturer was insolvent.

108. With regard to article 15 of the Convention, members of the Committee noted the statement in the report that confessions made by an accused person could not be given in evidence against him if they had been obtained by oppression and asked for clarification of the term “oppression” in this context. They also wished to know whether the prohibition of the use of such confessions was part of common or statutory law and whether, in line with the scope of the Convention, that prohibition covered not only confessions but also statements in general.

109. With respect to article 16 of the Convention, it was asked whether corporal punishment in schools was prohibited throughout the United Kingdom.

110. Finally, members of the Committee asked whether the United Kingdom authorities would publish the report by the European Committee for the Prevention of Torture following its visit to the United Kingdom in spring 1990, which until now had remained confidential.

111. In his reply, the representative referred to the situation in Northern Ireland and noted that the principal power of arrest lay with the police, the powers of arrest of the armed forces in Northern Ireland being very limited. The latter could detain a suspect only for a maximum of four hours and in all cases had to transfer the suspect to a police station. Concerning the regime existing in Northern Ireland for the interrogation of terrorist suspects, he said that the need for detention for more than 48 hours had to be reviewed every 12 hours by a uniformed officer of at least inspector rank. Moreover, the interrogation of terrorist suspects was monitored by a closed-circuit television system. Written interview records had to be made, timed and signed. Detailed custody records had to be opened as soon as practicable for each person in detention and had to be reviewed periodically by a police officer. If there was a complaint of ill-treatment, a report had to be made to an officer who was not connected with the investigation. In the event of suspected use of force, a medical officer had to be called immediately and, in addition, access to a medical officer had to be provided

at a set time every day. The right of access to a solicitor during police detention could only be delayed beyond 48 hours upon the authorization of an officer of at least superintendent rank and the reasons for the delay had to be submitted to the detainee in writing.

112. With regard to the concern expressed over the law on the right to silence as provided for in the Criminal Evidence (Northern Ireland) Order, the representative stated that this Order was merely a limited measure which removed an advantage enjoyed by a person who refused to answer any questions and sought to bring a police investigation to a halt. A research programme was being carried out to determine the effects of the Order in relation to terrorist crimes and the Government would consider the results of that research. Referring to the concern expressed about trial without jury in the Diplock courts, the representative indicated that his Government accepted that that solution was not ideal but considered that in such trials appropriate safeguards were provided to defendants, such as the automatic right to appeal to a three-judge court. He also stated that a significant majority of defendants in Diplock courts pleaded guilty.

113. With reference to the allegations of ill-treatment reported by Amnesty International in November 1991, the representative informed the Committee that the allegations would be investigated and disciplinary measures would be taken, as appropriate, against the guilty parties. On the matter of the conduct of investigations into complaints of ill-treatment and the safeguard of the right to redress, the representative provided a description of the powers of the Independent Commission for Police Complaints in Northern Ireland. He indicated that the Commission's primary task was to ensure that complaints about police behaviour were thoroughly investigated and that appropriate disciplinary action was taken. Compensation might be awarded to a victim even where no disciplinary proceedings had taken place or in the absence of a finding of guilt, because the standards of proof which applied in disciplinary and civil proceedings were different. Mr. Brian Gillen had accepted the sum of 7,500 pounds sterling as compensation. With regard to the use of video recordings of interrogations, the representative stated that his Government did not have closed mind on that point but was not yet convinced that in the particular circumstances of Northern Ireland the introduction of such recordings would not jeopardize the interview procedure.

114. With reference to articles 1 and 4 of the Convention, the representative provided the Committee with the text of section 134 of the Criminal Justice Act 1988. He also explained that the content of section 134 was very close in substance and form to article 1, paragraph 1, of the Convention and that to secure a conviction in proceedings in the United Kingdom it was enough for a person to have inflicted severe physical or mental suffering. The penalty for a person found guilty of torture was life imprisonment. In England, Wales and Northern Ireland the Attorney General's consent was required for proceedings for an offence under section 134. The Criminal Justice Act applied in Scotland where, in addition, persons guilty of torture could be prosecuted for a number of other offences under Scottish Law. Equally, in England, Wales and Northern Ireland, persons guilty of torture could also be prosecuted for one of the offences under the Offences against the Person Act 1861. The offence of assault was a common law offence.

115. With respect to article 3 of the Convention, the representative indicated that the Secretary of State was empowered to refuse extradition for reasons other than those set out in sections 6 and 12 of the Extradition Act 1989. When the Secretary of State's decisions affected a person's fundamental right to life, they could be contested in the courts. With regard to the meaning of the

term “exceptional leave”, the representative explained that such leave to remain in United Kingdom territory was available to ensure protection for all persons in humanitarian cases.

116. The situation of asylum seekers in detention was closely reviewed by immigration authorities. An independent Board of Visitors had unrestricted access to all detainees and could transmit any serious complaint to the Home Secretary.

117. Concerning articles 5 to 7 of the Convention, the representative stated that the courts of Great Britain and Northern Ireland had wide extraterritorial jurisdiction to deal with any person present in the United Kingdom, regardless of the nationality of the offender or victim. A person who was not extradited would be prosecuted if there was sufficient evidence to warrant proceedings being taken. So far no proceedings had been taken for torture under section 134.

118. With respect to article 10 of the Convention, the representative explained that training for law enforcement personnel stressed the importance of never abusing their authority and never ill-treating the persons in their care. As to prison medical officers, Prison Standing Order No. 13 repeated the United Nations Standard Minimum Rules; the representative added, however, that in the light of the comments of several members of the Committee it would be sensible to see whether the current provisions in the United Kingdom adequately reflected the country’s obligations under article 10 of the Convention.

119. Concerning article 11 of the Convention, the representative informed the Committee that prison staff were never armed and that in the event of a serious disturbance, which required outside assistance, the police were called in. The United Nations Standard Minimum Rules for the Treatment of Prisoners were reflected in the Prison Rules 1964, which applied to England and Wales, and similar rules which applied in Scotland and Northern Ireland. The United Kingdom applied all but a small number of the United Nations Rules and any exceptions related to budgetary or technical problems. Regarding the concern raised over the number of prisoners who had committed suicide, the representative gave statistics on the number of self-inflicted deaths in England and Wales and informed the Committee of the various initiatives or measures taken by the Government on that specific matter as well as about proposals to reform the prison system in England and Wales.

120. Prison medical officers were responsible for the mental physical health of the prisoners. Guidance given to prison medical officers strongly discouraged the use of strip cells for suicidal prisoners, but it was recognized that it might be necessary for short periods. With regard to concerns raised as to the right to silence, the Government had recently established a Royal Commission on Criminal Justice to consider the opportunity available for an accused person to state his position and how far the courts might draw inferences from the silence of an accused person and would await the findings of the Royal Commission before considering the matter further.

121. Concerning articles 12 and 13 of the Convention, the representative informed the Committee that complaints against the police were the subject of an annual review and statistical returns. In England and Wales, the number of complaints had risen but the number of substantiated cases had dropped.

122. In connection with article 15 of the Convention, the representative referred to the definition of oppression as provided for in section 76 of the Police and Criminal Evidence Act 1984. Where it was alleged that a confession had been obtained by oppression, the court was required not to allow it to be used unless it had been established by the prosecution that it had not been obtained by such means. Section 11 of the Northern Ireland (Emergency Provisions) Act 1991 did not use the term “oppression”, but explicitly referred to torture, inhuman or degrading treatment and to violence or threat of violence. The use of written statements in proceedings was governed by section 78 of the Police and Criminal Evidence Act, by article 76 of the Northern Ireland Police and Criminal Evidence Order and by the general law on the exclusion of evidence. A written statement by a witness to the police was admissible only with the consent of the accused. If the statement was contested by the defendant, the witness had to come to court and give oral testimony and if he confirmed his earlier statement in oral testimony, he could be challenged by the defence.

123. With regard to article 16 of the Convention, the representative indicated that corporal punishment had been abolished in publicly funded schools and that the matter of corporal punishment in independent schools was currently being considered by the European Commission of Human Rights in Strasbourg.

124. Finally, the representative indicated that the report drawn up by the European Committee for the Prevention of Torture following its visit to the United Kingdom in 1990 would be made public, together with his Government’s reply, subject to the agreement of that Committee.

#### Concluding observations

125. The Committee stated that, except for the situation existing in Northern Ireland, it could reasonably be said that the Government of the United Kingdom met in virtually every respect the obligations contained in the Convention. On the other hand, the implementation of the Convention in Northern Ireland was far from satisfactory. In that connection, the Committee noted that although Parliament every year reviewed the need to maintain the emergency regime in Northern Ireland, that regime had been in effect for nearly 20 years. The Committee recalled the obligations of States parties under article 2 of the Convention and, in particular, expressed concern over the absence in Northern Ireland of video recordings of interrogations by the police, the lack of a suspect’s entitlement to the presence of a solicitor during interrogation, and the refusal of the right to silence. The Committee welcomed the proposal to establish an independent commissioner to inspect interrogation centres but pointed out that, in accordance with article 11 of the Convention, such monitoring must apply to interrogation rules as well as to methods and practices.

## **CAT A/48/44 (1993)**

### Dependent Territories

261. The Committee considered the initial report of the United Kingdom of Great Britain and Northern Ireland on its dependent territories (CAT/C/9/Add. 10) at its 132<sup>nd</sup> and 133<sup>rd</sup> meetings, on 18 November 1992 (see CAT/C/SR. 132, 133 and 133/Add. 2).

262. The report was introduced by the representative of the State party, who pointed out that, in addition to the nine dependent territories covered by the report (Anguilla, British Virgin Islands, Cayman Islands, Falkland Islands (Malvinas), Gibraltar, Montserrat, Pitcairn, Saint Helena and Turks and Caicos Islands), the Convention would be extended by the end of the year to the other remaining dependent territories, namely, Bermuda, the Channel Islands, Hong Kong and the Isle of Man. The representative then outlined the history and the main socio-economic conditions of the nine dependent territories under consideration and pointed out that they were all inhabited by democratic communities which had a very large measure of local autonomy and very similar legal systems based on the English system.

263. He stated that all the dependent territories except the British Virgin Islands, the Cayman Islands, Pitcairn and Saint Helena had human rights provisions in their Constitutions, in each case modelled on and derived from the European Convention on Human Rights; and each contained a provision explicitly prohibiting torture and inhuman or degrading treatment or punishment. In all cases, the constitutional provisions also included an enforcement provision giving anyone who claimed to have been subjected to or threatened with torture or inhuman treatment the right to have access to the Supreme Court and giving the Supreme Court the power to grant whatever redress the circumstances of the case required.

264. In addition, the dependent territories had legislative and administrative measures which laid down in great detail the procedure that the police must follow in dealing with detained persons, in particular with regard to their treatment, interrogation, the admissibility in evidence of confessions etc. In the Falkland Islands (Malvinas) and Saint Helena those measures corresponded almost exactly to the United Kingdom Police and Criminal Evidence Act of 1984 and the various codes of practice promulgated under it. In the other territories, those measures had been elaborated by the Judges' Rules, a set of administrative rules drawn up originally in 1913 and revised from time to time by the judges and brought up to date, as necessary.

265. The representative also pointed out that the discretion to refuse to extradite, accorded to the Home Secretary in the United Kingdom and to the governors in the dependent territories, would be used in the sense of non-extradition in cases where there were substantial grounds for believing there to be a danger of torture. On the other hand, adequate powers were available in all circumstances for the extradition of alleged torturers in accordance with the provisions of articles 7 and 8 of the Convention.

266. Members of the Committee expressed general satisfaction at the way in which the Convention was being implemented in the United Kingdom dependent territories and focused their attention on certain points which needed clarification.



267. With reference to article 2 of the Convention, information was requested on procedures concerning custody and preventive detention and, in particular, their legal duration, especially in Gibraltar where there was a heavy inflow of immigrants and economic refugees. It was also asked whether the dependent territories had any military forces and, if so, whether the rules relating to power of arrest, interrogation and bringing before a court that applied to the civilian police forces also applied to military forces. In addition, it was asked how soon after being taken into custody a person was brought before the judge, whether legal aid was available, whether a person could be held incommunicado and whether persons on remand were segregated from convicted prisoners.

268. With reference to article 3 of the Convention, it was asked how the extradition laws of the United Kingdom came into play in connection with expulsion or return (refoulement).

269. In connection with article 7 of the Convention, some clarifications were requested about the text of provisions relevant to its implementation which were contained in section 134 of the Criminal Justice Act 1988. It was also observed that some of the dependent territories were relatively close to places where torture was known to be practised and that it was likely that torturers fled there. In that connection, it was asked whether information was available concerning the arrest and arrangement of such individuals or their extradition to non-Commonwealth countries.

270. With reference to articles 8 and 9 of the Convention, members of the Committee wished to have further assurance that the rules governing their implementation in the dependent territories were applied to all States parties to the Convention, whether or not they had signed an extradition treaty or a treaty on mutual judicial assistance with the United Kingdom. Additional information on the scope of mutual judicial assistance was also requested and it was recalled that such assistance should, according to the Convention, extend beyond the process of extradition.

271. With regard to article 10 of the Convention, members of the Committee wished to know how education and information on the question of torture were imparted to police officers and prison staff in the dependent territories. It was stressed that postgraduate training for doctors and other health professionals, with emphasis on diagnosis and rehabilitation, and training for border police in the identification of victims of torture, were particularly important.

272. In connection with articles 12 and 13 of the Convention, it was asked whether there had been any recent cases of torture in any of the dependent territories, and whether bodies analogous to Gibraltar's Police Complaints Board existed in any of the other dependent territories.

273. Referring to article 14 of the Convention, members of the Committee wished to know whether there were criminal injuries compensation schemes in the dependent territories and whether the principle of vicarious liability of the State applied with regard to compensation.

274. In connection with article 15 of the Convention, it was noted that, according to the part of the report on the Cayman Islands, answers to questions by the police "may be inadmissible in evidence" if the Judges' Rules were disobeyed. It was observed that those Rules provided that answers to questions must be obtained voluntarily and not under duress and therefore a more categorical statement of inadmissibility seemed to be necessary.

275. With regard to article 16 of the Convention, it was asked whether corporal punishment was resorted to under any circumstances, either as part of a sentence or as a disciplinary measure.

276. In his reply, the representative of the State party, referring to article 2 of the Convention, indicated that in the United Kingdom dependent territories a person could be arrested and detained only if he was legitimately suspected of having committed a criminal offence or for purposes of extradition. Detention incommunicado was authorized only in very special circumstances and for a very limited time. The time that elapsed between a person's arrest and his being brought before a court varied, but in practice the maximum time was in general 48 hours. In certain territories prison regulations required the separation of pre-trial detainees from those who had been sentenced, whereas in others, the smaller ones, separation was not possible because of size limitations. Equally, the Constitutions of certain territories provided that anyone who was charged with an offence could have himself represented by a lawyer at State expense, but even in the absence of a provision of that kind, the defence of the accused was paid for by the State in the event of a serious offence. As for the power granted to the military, he explained that most of the territories did not have any armed forces. Where armed forces were maintained they had no police powers or power of arrest save in very exceptional circumstances. In such cases all the rules concerning arrest and questioning were applicable to the military.

277. With reference to articles 8 and 9 of the Convention, the representative stated that a person could be extradited if the offence for which he was sought was an act of torture prohibited by law, in accordance with United Kingdom legislation. In addition, most of the territories intended to adopt legislation based on criminal legislation in force in the United Kingdom which established extensive machinery for international cooperation in criminal cases.

278. With regard to article 10 of the Convention, the representative stated that medical personnel and police officials in the dependent territories were trained in prohibition against torture in accordance with international standards on the subject. The texts of the rules applicable in human rights matters were disseminated and available in all medical centres and police stations.

279. In respect of article 12 of the Convention, the representative stated that no case of torture had been reported in the dependent territories since well before the entry into force of the Convention.

280. Referring to article 14 of the Convention, the representative explained that virtually all territories had legislation equivalent to the Crown Proceedings Act of 1946, under which an action could be brought against a Government that was supposed to be responsible for the acts of its agents. In addition, provisions of the Penal Code or Code of Criminal Procedure made it possible to order an individual to pay compensation to his victim. Criminal courts could, therefore, sentence the guilty party to imprisonment and also order him to compensate the victim. A civil court in which the victim had brought an action to obtain redress for any wrong suffered would take into account the fact that part of that wrong had already been compensated under the criminal procedure.

281. In connection with article 15 of the Convention, the representative clarified that, if it was alleged that confessions had been obtained or could have been obtained under duress, the court was required to declare them inadmissible unless the prosecution was able to prove that that had not been the case. The court has no discretion to admit an involuntary confession. The court does, however,

have discretion in cases where confessions have been obtained voluntarily but not in conformity with the law.

282. Turning to article 16 of the Convention, the representative stated that corporal punishment existed in certain territories. It was imposed as a disciplinary measure for detainees and was also practised in the schools. The Government of the United Kingdom deplored the maintenance of corporal punishment and had urged the territories to abolish it. Some had done so whereas others had not. It was difficult for the United Kingdom to bring pressure to bear in that matter, since it was within the competence of the territories themselves.

### Conclusions and recommendations

283. The comprehensive report on the dependent territories of the United Kingdom was received with pleasure by the Committee, particularly as no cases of torture were noted to have occurred in the territories during the period reviewed. The territories appeared to be governed in accordance with the obligations in the Convention and the Committee congratulated the Government of the United Kingdom in this respect. The Committee was, however, interested in receiving more detail pertaining to cases of corporal punishment in the territories retaining it. The nature and incidence of such punishment, together with details of the crime and the characteristics of the offender, should be forwarded to the Committee when the information is gathered. The Committee also looked forward to receiving the other information that the representative of the United Kingdom agreed to forward to it.

### **CAT A/51/44 (1996)**

58. The Committee considered the second periodic report of the Government of the United Kingdom of Great Britain and Northern Ireland and on the United Kingdom and its dependent

Territories (CAT/C/25/Add.6) at its 234<sup>th</sup> and 235<sup>th</sup> meetings, on 17 November 1995 (CAT/C/SR.234 and 235), and has adopted the following conclusions and recommendations:

1. Introduction

59. The Committee thanked the Government of the United Kingdom for its comprehensive report, well-supported by annexed material. The Committee also wishes to acknowledge the breadth of the United Kingdom representatives and the way in which they encouraged a full and open dialogue between themselves and the Committee.

2. Positive aspects

60. The Committee is pleased to acknowledge the following positive aspects:

- (a) An in-country right of appeal for all refused asylum-seekers;
- (b) The use of tape recording for all interrogations by the police in England and Wales, many interrogations in Scotland, and for non-terrorist-related interrogations in Northern Ireland;
- (c) The introduction of Codes of Practice applied to the interrogations of detainees in relation to terrorist activities in Northern Ireland;
- (d) The appointment of an Independent Commissioner for Holding (Detention) Centres for Northern Ireland;
- (e) The appointment of an Independent Accuser of Military Complaints procedures in Northern Ireland;
- (f) The renewal of the prison infrastructure throughout the United Kingdom;
- (g) The noticeable reduction of the level of violence of detainees in detention centres of Northern Ireland;
- (h) The creation of an Independent Complaints Council to deal with complaints against the police in Hong Kong;
- (i) The emphasis placed on education and training of police, prison and immigration officers;
- (j) The appointment of a Prisons Ombudsman in 1994;
- (k) The present practice of permitting detainees in Northern Ireland, in respect of terrorist-related offences, to consult in private counsel which is considered by the Committee as a shift in the right direction;

(l) The Committee notes that new Prison Rules have been drafted for Montserrat and that they will likely be enacted within a few months;

(m) The new suicide-prevention processes in the prison system;

(n) The Committee notes with pleasure that no case of torture appears to have come to light in the dependent Territories.

### 3. Factors and difficulties impeding the application of the Convention

61. In Northern Ireland the maintenance of the emergency legislation and of separate detention or holding centres will inevitably continue to create conditions leading to breach of the Convention. This is particularly so because at present the practice of permitting legal counsel to consult with their clients at their interrogations is not yet permitted.

62. The Committee regrets that invocation of the Convention by individuals is not possible since the United Kingdom has not declared in favour of article 22 of the Convention. This appears unusual given that the United Kingdom has acceded to the jurisdiction of the European Commission of Human Rights.

63. In Hong Kong the warehousing of Vietnamese boat people in large detention centres may bring the Government into conflict with article 16 of the Convention.

### 4. Subjects of concern

64. The Committee is concerned about the following:

(a) The practice of vigorous interrogation of detainees under the emergency powers, which may sometimes breach the Convention;

(b) The method adopted in forcibly returning persons under deportation orders;

(c) The rate of suicide in prisons and places of detention;

(d) The renewal of emergency powers relating to Northern Ireland;

(e) The practice of the refoulement of asylum-seekers in circumstances that may breach article 3 of the Convention;

(f) The practice of the army in Northern Ireland of dispersing, with plastic bullets, what have been described by non-governmental organizations as peaceful demonstrations;

(g) The failure of the United Kingdom to declare in favour of article 22 both for itself and its overseas dependencies;

(h) The failure to provide for counsel to be present during interrogation in Northern Ireland

for terrorist-related offences;

(i) The standards of detention of the Vietnamese boat people in Hong Kong;

(j) The allegations of discrimination in the treatment of Black citizens in the United Kingdom by police and immigration authorities.

## 5. Recommendations

65. The Committee recommends that the Government of the United Kingdom take the following measures:

(a) Abolishing detention centres in Northern Ireland and the repealing the emergency legislation;

(b) Reviewing of practices related to deportation or refoulement where such practices may conflict with the State party's obligations under article 3 of the Convention;

(c) Re-educating and retraining police officers, particularly investigating police officers, in Northern Ireland as a further step in the peace process;

(d) Training immigration officers on how to manage violent prisoners with a minimum at risk of harm to all those involved;

(e) Extending the taping of interrogations to all cases and not merely those that do not involve terrorist-related activities and in any event to permit lawyers to be present at interrogations in all cases;

(f) Declaring in favour of article 22 of the Convention and specifically on behalf of Hong Kong and the other United Kingdom dependent Territories;

(g) Given the need for prisons, continuing the present policy of rebuilding in accordance with the most modern standards;

(h) Reviewing the policies favouring private policing with a view to properly regulating that activity;

(i) Reconsidering corporal punishment with a view to determining if it should be abolished in those dependencies that still retain it.

## **CAT A/54/44 (1999)**

72. The Committee considered the third periodic report of the United Kingdom of Great Britain and Northern Ireland and Dependent Territories (CAT/C/44/Add.1) at its 354th, 355th and 360th meetings, held on 16 and 19 November 1998 (CAT/C/SR.354, 355 and 360) and has adopted the following conclusions and recommendations:

### 1. Introduction

73. The third periodic report of the United Kingdom of Great Britain and Northern Ireland was due on 6 January 1998 and was received on 2 April 1998. In every respect it conformed to the guidelines of the Committee pertaining to the preparation of such periodic reports. In particular the Committee found it helpful to have its recommendations from the examination of the second periodic report summarized at the outset together with a short statement concerning the action the State party had taken in that respect.

### 2. Positive aspects

- 74. (a) The enactment of the Human Rights Act, 1998;
- (b) The enactment of the Immigration Commission Act, 1998;
- (c) The "Peace Process" in Northern Ireland, pursuant to the Good Friday Agreement;
- (d) The removal of corporal punishment as a penalty in several of the Dependent Territories.

### 3. Factors and difficulties impeding the application of the provisions of the Convention

75. The continuation of the state of emergency in Northern Ireland, noting that no exceptional circumstances can ever provide a justification for failure to comply with the Convention.

### 4. Subjects of concern

- 76. (a) The number of deaths in police custody and the apparent failure of the State party to provide an effective investigative mechanism to deal with allegations of police and prison authorities' abuse, as required by article 12 of the Convention, and to report publicly in a timely manner;
- (b) The use of prisons as places in which to house refugee claimants;
- (c) The retention of detention centres in Northern Ireland, particularly Castlereagh Detention Centre;
- (d) The rules of evidence in Northern Ireland that admit confessions of suspected terrorists upon a lower test than in ordinary cases and in any event permits the admission of derivative evidence even if the confession is excluded;
- (e) Sections 134 (4) and (5) (b) (iii) of the Criminal Justice Act 1988, appear to be in direct conflict

with article 2 of the Convention;

(f) Sections 1 and 14 of the State Immunity Act, 1978, seem to be in direct conflict with the obligations undertaken by the State party pursuant to articles 4, 5, 6 and 7 of the Convention;

(g) The continued use of plastic bullet rounds as a means of riot control;

(h) The dramatic increase in the number of inmates held in prisons in England and Wales over the last three years.

## 5. Recommendations

77. (a) The closure of detention centres, particularly Castlereagh, at the earliest opportunity;

(b) The reform of the State Immunity Act, 1978, to ensure that its provisions conform to the obligations contained in the Convention;

(c) The reform of sections 134 (4) and 5 (b) (iii) of the Criminal Justice Act, 1988, to bring them into conformity with the obligations contained in article 2 of the Convention;

(d) The abolition of the use of plastic bullet rounds as a means of riot control;

(e) Reconstruction of the Royal Ulster Constabulary so that it more closely represents the cultural realities of Northern Ireland. This should continue to be associated with an extensive programme of re-education for members of the Royal Ulster Constabulary directed at the objectives of the Peace Accord and the best methods of modern police practices;

(f) The Committee finally recommends that in the case of Senator Pinochet of Chile, the matter be referred to the office of the public prosecutor, with a view to examining the feasibility of and if appropriate initiating criminal proceedings in England, in the event that the decision is made not to extradite him. This would satisfy the State party's obligations under articles 4 to 7 of the Convention and article 27 of the Vienna Convention on the Law of Treaties of 1969.