

LIST OF ISSUES

United Kingdom of Great Britain and Northern Ireland

Part I : Metropolitan territory – England, Scotland, Wales and Northern Ireland

1. How does the State party reconcile its obligation to take effective measures to prevent torture in accordance with article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (‘the Convention’) and the 11 August 2004 judgment of the Court of Appeal in A et al. v Secretary of State for the Home Department which argued that the provisions of the Convention are not part of domestic law? Are there any plans to formally incorporate the Convention, as was done with the European Convention on Human Rights through the Human Rights Act 1998? If not, how will the State party ensure legislative, judicial, administrative and other measures fully meet the obligations of the Convention?
2. How does the State party ensure that acts and omissions of the devolved legislatures and administrations of Northern Ireland, Scotland and Wales are consistent with the Convention against Torture? What remedies are available for breaches of the Convention by the State party’s authorities in each of the components of the Metropolitan territory?
3. Does the State party regard the Convention’s substantive provisions as the same as or wider in scope than the relevant provisions of the European Convention on Human Rights which has been formally incorporated into domestic law and is already being invoked by individual complainants? Are intentional failures to act on the part of the State party’s authorities in the face of acts of torture committed by third parties included in the State party’s definition of torture?
4. What legal or administrative measures does the State party have in place to ensure that the Convention’s prohibition against torture is not derogated from in public emergency or exceptional circumstances? What measures determine whether the security situation in Northern Ireland warrants continued emergency provisions? What status do the recommendations of independent reviewers, parliamentary bodies and such like have with regard to the continuance or termination of the emergency?
5. Please further elaborate the basis upon which the Home Office’s review of sections 134(4) and (5)(b)(iii) of the Criminal Justice Act (which provide a defence of lawful authority, justification or excuse to a charge of official intentional infliction of severe pain or suffering) concluded that there was no conflict with Article 2 of the Convention.
6. Please provide details on those cases in which the ban on torture or inhuman or degrading treatment or punishment introduced into domestic law by the Human Rights Act 1998 has been successfully invoked before the courts.

7. Please provide information on how often the Secretary of State has certified an asylum seeker's claim as "clearly unfounded" with the result that an appeal does not have suspensive effect with respect to the removal? Is that certification subject to judicial review? How many claims that are thus certified succeed on appeal? Please provide explanations of illustrative cases.

8. Is there data on the frequency of recourse to legal advice by asylum seekers during their interviews? What is the maximum length of time that detention of an illegal entrant to the State party can be prolonged for while his or her situation is being determined? How is the list of "safe third countries" for certain asylum seekers created and maintained?

9. Please describe the review procedures in place to determine whether the derogations to the State party's international human rights obligations notified pursuant to the Anti-Terrorism, Crime and Security Act 2001 (ATCSA) continue to address a situation amounting to a public emergency threatening the life of the nation? What mechanisms are in place to evaluate the effectiveness of the measures introduced by the Act and to ensure that their ongoing application is strictly required by the exigencies of the situation? What is the status and effect of recommendations of both the Independent Reviewer of the Terrorism Act 2000 and the ATCSA and of the Parliamentary Committee?

10. Please provide an update on the status of the appeals of all persons detained under the ATCSA, with particular reference to the detention of overseas suspects at Belmarsh, Woodhill and Broadmoor. Will individual cases, particularly of those certified as non-removable, be reviewed to determine continued detention following the failure of their legal appeals? What safeguards against torture or ill-treatment are afforded to detainees held under the ATCSA? Do the Special Advocates provide adequate legal protections to the detainees, particularly inasmuch as they cannot fully discuss the State party's evidence with their clients? Has some of the evidence been obtained under conditions in breach of article 15 of the Convention?

11. Please provide information on any assessments of the effectiveness of the measures introduced to improve the reporting and recording of racist crimes pursuant to the Lawrence Inquiry. Has there been any assessment of the utility of the new and broad definition of "racist crimes" recommended by the Stephen Lawrence Inquiry?

12. Please provide disaggregated statistical data regarding deaths in custody, according to gender, age, location, and sentence, to supplement the ethnic data presented. Please explain why the measures instituted pursuant to the reports on deaths in custody by the Home Office Police Research Group and the Police Complaints Authority have not reduced the high numbers of such deaths? What have been the results of inquiries on these matters, specifically, the Butler Inquiry and its recommendations on the handling of complaints against police officers and the inquiry of the House of Commons Joint Committee on Human Rights?

13. Please provide information on the current status of measures being taken to monitor, address and protect detainees from sexual violence in detention, including from inter-prisoner violence.

14. Please provide a breakdown of the statistical data regarding complaints of torture or ill-treatment according to gender, age, location of the complainant, and result.

15. Has the “national cell sharing risk assessment procedure” been effective in reducing or eliminating inter-prisoner violence? Please provide additional information as to how it identifies “racist, homophobic, or violent prisoners” and what measures are then introduced. Please describe the efforts to develop violence-reduction and anti-bullying strategies, and the results of any assessments of implementation of such strategies.

16. Please detail whether all legal avenues, including rules of vicarious liability, that are open against personnel and management of State-run detention facilities are also applicable to institutions run by private contractors.

17. Are non-prison facilities under consideration for immigration detainees, especially those whose sentences have expired?

18. Please detail any pending investigations, charges, or results under the Female Genital Mutilation Act 2002. What measures have been employed to ensure that incidents of this practice are reported to the authorities?

19. What measures have been taken to improve the protection of incarcerated minors, particularly with respect to inter-prisoner violence, deaths in prison, bullying and racial abuse?

20. Please describe any measures to intensify efforts to understand the causes for the apparent increase in women’s criminality. Have alternative sentences and custodial arrangements been introduced for less severe infractions?

21. What is the result of the State party’s review of its position on the right to individual communications conferred by article 22 of the Convention?

22. In view of the categorical prohibition contained in Article 15 of the Convention on the use of any statement established to have been obtained as a result of torture from being used as evidence in any proceedings except against the alleged torturer, how does the judgment of the Court of Appeal in A et al. v Secretary of State for the Home Department (see Issue 1 above) comply with this obligation when it permits the use by the Special Immigration Appeals Commission of certain evidence extracted under torture?

23. Please update the Committee on the current status of Mental Health Bill, published in June 2002.

Part II: Further areas subject to the State party’s jurisdiction (other than Crown Dependencies and Overseas Territories)

24. Has the State party informed its armed forces that the terms of the Convention, in particular articles 2 and 16, are directly applicable to them when participating in peacekeeping or other military operations either alone or as part of an internationally authorised contingent?

25. In Afghanistan and Iraq, how many detainees are held in the jurisdiction of the State party, particularly at the Umm Qasr and Camp Bucca facilities? Please provide information on what offences they are detained for, for what period and the process which determines the length of their detention. Do detainees have access to legal advice, medical treatment and family visitation? Is there independent review of the grounds of detention and their continuing

applicability? Does the State party regard article 3 of the Convention as a limit on its ability to relinquish such detainees out of its jurisdiction, whether to Afghan or Iraqi authorities or to other states, especially those with military forces in the theatre in question?

26. Please provide detailed information, including rank and unit of offenders, on any cases of torture, abuse or ill-treatment by members of the State party's armed forces in Iraq which have been resolved, as well as numbers of cases charged or pending before the appropriate authorities. Is compensation payable and, if so, what sums have been paid to victims? Are the State party's civil courts available to victims seeking compensation?

27. What efforts have been undertaken to identify and remedy problems in the command and operation of such detention facilities? What measures have been undertaken to ensure that the International Committee of the Red Cross has appropriately wide access to such facilities and all detainees therein, and that its reports are made known to sufficiently senior members of the chain of command for purposes of implementation? Are there other independent entities that monitor these facilities (Parliamentary monitors, independent military lawyers, NGOs and such)?

28. What use, if any, does the State party make of private contractors in respect of the operation of detention facilities abroad? What legal regimes are applicable to such individuals? What training is applicable to such individuals?

29. Are all participants in a theatre of operations required to adhere to the same guidance and rules in the use of interrogation and detention facilities, including limits on interrogation techniques?

30. Which programs of education and information, rules and instructions and mechanisms of systematic review thereof exist for military personnel involved in the custody, interrogation or treatment of individuals taken into detention?

Part III : Crown Dependencies

31. Guernsey: Please explain the current status of an appeal mechanism against decisions of immigration officers.

32. Jersey: Please describe the efforts made fully to bring the Police Procedures and Criminal Evidence (Jersey) Law 2003 into effect.

33. Isle of Man: Please describe the level of implementation of the recommendations of the European Committee for the Prevention of Torture which were still outstanding at the time of submission of the report.

Part IV: Overseas Territories

34. Anguilla: What is the status of the draft legislation for mental health patients and how has earlier criticism for its failure to adequately deal with certain issues been reflected?

35. Bermuda: Please detail the number of cases presented to the new Police Complaints Authority and the results of those investigations.

36. British Virgin Islands: What steps have been undertaken to expand the limited legal aid scheme to be more comprehensive in its coverage?
37. Cayman Islands: Please detail the measures taken to give effect to the recommendations of the 2001 Ramsbottom review of prison systems and detention centres on the Islands.
38. Falkland Islands: Please describe the practical experience of the operation of the new police complaints regime introduced by the Police Ordinance 2000. What powers does the Governor possess in the event s/he determines that a complaint has not been properly investigated?
39. Gibraltar: Please explain the means by which undocumented arrivals in Gibraltar are dealt with and appeal processes available to them.
40. Montserrat: What measures are being taken to ensure that longer term prisoners are able appropriately to serve their sentences in Montserrat itself?
41. Pitcairn: Please provide information on the State party's response to the extensive allegations of sexual abuse reported to have occurred on the Island.
42. St. Helena (and Ascension Island and Tristan de Cunha): Please detail the number and outcome of complaints made alleging breaches of the Gaol Rules 1999.
43. Turks and Caicos Islands: Please detail the alternative care institutions available for children in the Islands.
