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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture
Fiftieth session

Summary record of the 1139th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 8 May 2013, at 3 p.m.

Chairperson: Mr. Grossman

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Fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (continued)

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Fifth periodic report of the United Kingdom of Great Britain and Northern Ireland (continued) (CAT/C/GBR/5; CAT/C/GBR/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the United Kingdom of Great Britain and Northern Ireland took places at the Committee table.*

2. **Mr. Sweeney** (United Kingdom), responding to questions the Committee had asked the previous day, said that his Government's position on the right to individual petition under article 22 of the Convention had not changed since it had submitted its reply to question 42 of the list of issues (CAT/C/GBR/Q/5/Add.1). The United Kingdom was subject to international scrutiny regarding its obligations under the Convention, which were mirrored in other international human rights instruments, by the European Court of Human Rights and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

3. The Government did not accept that the activities of members of its armed forces in Afghanistan meant that Afghanistan had become a territory under the jurisdiction of the United Kingdom. As for the alleged shortcomings in United Kingdom law concerning the obligations in article 14 of the Convention, the Government interpreted that provision as requiring redress and a right to compensation for victims of torture where it was committed within the jurisdiction of the United Kingdom.

4. While Section 134 of the Criminal Justice Act 1988 provided a defence for those accused of torture if they could prove that they had inflicted pain while acting with lawful authority, justification or excuse, it would be impossible to rely on that defence to avoid liability for acts that would constitute torture under article 1 of the Convention. Section 134 (5) of the Act specified that United Kingdom officials alleged to have committed torture abroad could not invoke authority under the law of the place where the alleged pain or suffering had been inflicted as a defence. Similarly, an order of a superior officer could not be invoked as a defence by service personnel abroad, as all orders had to be lawful. Moreover, all United Kingdom service personnel and civilians subject to service discipline were subject to the criminal law of England and Wales, wherever they were serving and operating. Torture and all acts that could constitute cruel, inhuman or degrading treatment were criminalized under several provisions of domestic legislation.

5. The decision of the House of Lords in the case of *A v. Secretary of State for the Home Department (No. 2)* (2006) had clearly indicated that evidence obtained by torture was inadmissible in any legal proceedings. No further action had been necessary to give effect to that decision given that, in the common law legal system, all decisions of higher courts were automatically binding in law. Judges in any legal proceedings who believed that evidence had been obtained through torture were obliged to rule it inadmissible. If the Government believed that evidence might have been obtained through torture, it would not seek to adduce it in legal proceedings.

6. The Government had indicated in 2010 that it would protect the historic right to trial by jury. As explained in paragraph 34 of the written replies, the Justice and Security (Northern Ireland) Act 2007 provided for non-jury trial in cases linked to a proscribed organization and where there was a risk that the administration of justice might be impaired if the trial was conducted with a jury. Under the new affirmative procedure, the provisions of the Act had to be renewed by the Secretary of State at two-yearly intervals, whereas under the previous system, non-jury trials had been held in all cases relating to terrorist offences.

7. The recently approved Justice and Security Act 2013 provided that courts could use closed material procedures in civil cases, thus allowing judges to examine material considered sensitive for national security. It was not intended to cover up wrongdoing or embarrassment, but to address the potentially severe implications for national security of releasing intelligence material. The Act did not affect the existing legal position on the disclosure of Government-held information that was not related to national security or international relations. The Government was confident that the Act was compatible with the European Convention on Human Rights.

8. While the United Kingdom did not use private companies for military operations, as a leading State buyer of private security services, it promoted compliance with the International Code of Conduct for Private Security Service Providers. The Code set a high level of human rights standards for signatory companies, of which there had been over 600 as of April 2013. States could not avoid human rights obligations by outsourcing public functions to the private sector. They continued to be bound by their human rights obligations as a matter of international law, no matter how they chose to deliver their public functions.

9. The United Kingdom was working with the Afghan Government to identify a safe route for captured detainees and would not resume the transfer of detainees if it judged that there remained a real risk of serious mistreatment or torture at the point of transfer. In order to ensure that the treatment of detainees who were transferred remained visible, the authorities worked closely with the International Committee of the Red Cross and the Afghanistan Independent Human Rights Commission, which conducted routine monitoring visits of Afghan detention facilities.

10. The Government had concluded that producing data on allegations of torture or ill-treatment committed by members of the armed forces abroad was not an appropriate use of current scarce resources and time. Such allegations were usually received as allegations of assault and other substantive criminal offences and had previously been categorized as "violence". In order to determine whether an alleged crime fell within the definition of torture or cruel, inhuman or degrading treatment, personnel would have to review each case file.

11. All allegations of abuse or unlawful killing that were reported to have taken place while United Kingdom forces had operated in Iraq were referred to the Iraq Historic Allegations Team, as indicated in the written reply to question 21 of the list of issues. Cases in which there was insufficient evidence of direct criminal involvement, but the information suggested professional failings, were dealt with appropriately. Commanders of all ranks were liable to investigation and prosecution for a failure of command if there was sufficient evidence. In September 2006, Corporal Donald Payne had pleaded guilty to the offence of inhumane treatment of Iraqi civilians. It would be inappropriate for the Government to comment on sentencing decisions of any court, military or civil, in passing sentence. The Judge Advocate had remarked that, in that case, there had been a serious failure in the chain of command. As it was Ministry of Defence policy not to discuss the details of any settlement, it was not possible to provide further information on the £2.83 million compensation package for Iraqi detainees to which the former Secretary of State for Defence had referred. The Government did not routinely publish details of its policy on interrogation techniques and training for operational reasons. All armed service personnel engaged in interrogation were trained and had to meet a high standard before they could conduct such activity.

12. **Ms. Deignan** (United Kingdom) said that the independent Commission on a Bill of Rights had reported in December 2012 that any move towards creating such a bill would have to be undertaken gradually and with full consultation, taking account of any changes to the devolution settlement. The Government's continued commitment to protecting the

rights enshrined in the European Convention on Human Rights had been amply demonstrated by its work on the Brighton Declaration, which would expedite the work of the European Court of Human Rights in the most urgent cases.

13. The National Preventive Mechanism (NPM) was comprised of 18 public bodies, each of which was separately funded, and coordinated by Her Majesty's Inspectorate of Prisons. There were no plans to cut funding for the NPM work undertaken by those bodies. The practice of interchange between State officials and NPM officials did not compromise the independence of the NPM; rather, it helped to meet the requirement for quality and expert input and raised State officials' awareness of the NPM.

14. Assessment of domestic legislation and practice had revealed several operational issues with regard to the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance. The Government would report on the prospects of signature and ratification by the time of the midterm report under the universal periodic review in 2014.

15. **Mr. Bramley** (United Kingdom) said that the fast track asylum screening procedure had been changed to give applicants more information on what to expect and to give them more privacy during screening interviews. While immigration detention was always for the shortest period necessary, that time period depended on the purpose for the detention. Detention pending removal continued only where there was a realistic prospect of removal within a reasonable period of time, which varied from case to case. Where possible, alternatives to detention were used, such as temporary admission or temporary release. There was no judicial involvement in decisions to detain immigrants, but detainees could appeal to the courts.

16. Rule 35 of the Detention Centre Rules required that a medical practitioner should raise any concerns that an individual might have been a victim of torture, but the detainee's allegations were sufficient evidence. The medical practitioner was not required to express a view on whether torture was likely to have occurred or had occurred and there was no prescribed method for determining whether an individual had been a victim of torture. Rule 35 did not apply to short-term holding facilities, including Larne House in Northern Ireland, where nurses provided any medical services required. Detainees suspected of being victims of torture were removed to detention centres with full medical facilities, where they underwent the screening process.

17. The cases of asylum applicants who claimed fear of persecution on return to their country of origin on the basis of their sexual orientation were considered on the merits in the context of the applicants' personal circumstances and all the available information about their country of origin. Those found to be in need of protection were granted asylum or humanitarian protection.

18. New immigration rules that had entered into force in April 2013 provided for stateless persons who had no other right to remain in the country but could not be removed to be formally recognized as stateless and were granted leave to remain.

19. Home Office specialists were responsible for determining whether individuals were victims of human trafficking. Victims of trafficking were not normally detained, but if it became clear that an individual who had been detained was a potential victim of trafficking, the case would be referred back to the relevant specialist.

20. Unaccompanied children were detained in exceptional circumstances only, while arrangements were made for their care by their parents or appropriate responsible family members, or by local authority children's services. That included age dispute cases where the person concerned was being treated as a child. The detention of a foreign national offender under the age of 18 could also be authorized exceptionally, where they could be

proved to pose a serious risk to the public and a decision to deport or remove them had been made.

21. Domestic legislation provided that airport owners must provide facilities for individuals held at airports. Following publication of an independent report in 2012, several projects had been implemented to upgrade the holding rooms and family rooms at London Heathrow airport.

22. Children and adults could be placed in police cells on the grounds that they were thought to be mentally ill only in extremely exceptional circumstances. If a police officer found a person in a public place who appeared to be suffering from a mental disorder and was in immediate need of care or control, they were normally sent to a health-based facility. If that was not possible, they could be held in a police station while health and social care agencies worked with the police to arrange their swift transfer to a health-based facility. In the light of a recent court case, the Government planned to change detention arrangements for 17-year-olds to entitle them to similar provisions as those available to juveniles.

23. **Mr. Sweeney** (United Kingdom) said that the Government did not plan to change the age of criminal responsibility in England and Wales, given that by the age of 10, children were old enough to differentiate between bad behaviour and serious wrongdoing. The majority of offences committed by children aged between 10 and 14 were dealt with through out-of-court disposals and robust intervention.

24. While the law on physical punishment in England and Wales had been strengthened to limit the defence of reasonable punishment, the Government did not wish to criminalize parents for giving their children a mild smack. Similarly, the Scottish Government had no wish to criminalize parents for delivering a light tap to their children. A number of the Overseas Territories had legislation prohibiting the use of corporal punishment in schools and in those that did not, corporal punishment was seldom used because positive reinforcement of good behaviour was becoming more popular.

25. Part of the Government's agenda for transforming the rehabilitation of offenders was the provision of credible, robust sentencing options in the community that addressed the specific needs of female offenders. They included tagging and the use of curfews, which would better monitor and structure offenders' lives.

26. In order to improve standards in care homes, the Government had made it clear that local authorities must ensure that the services they commissioned were safe, effective and of high quality. A new regulatory model was being introduced and a strong, independent inspector of hospitals appointed.

27. Having accepted that there had been collusion in the case of Mr. Patrick Finucane's death, the Government had focused on establishing a full public account of what had happened as quickly and effectively as possible. The resulting review had had access to a wide range of Government and other material and had put in the public domain all the available information about the circumstances of that death. Significant changes had been made to address the issue of collusion since Mr. Finucane's death in 1989.

28. While the Government did not operate any programme of compensation for individuals who had been tortured or ill-treated by other sovereign nations, the United Kingdom was a regular contributor to the United Nations Voluntary Fund for Victims of Torture and was the single biggest donor to the Special Fund of the Optional Protocol to the Convention against Torture. Moreover, many of its embassies abroad supported the work of organizations that cared for victims of torture. United Kingdom nationals claiming to be victims of torture were offered consular assistance and nationals of other countries could seek assistance from the relevant authorities in the State concerned, or consular assistance from the embassy of their home State.

29. While the Government supported the right of Kenyans to take their grievances about the divisive events of the emergency period in that country to the courts, it would be inappropriate for his delegation to comment on individual proceedings at that time.

30. Given that almost half of those released from custody reoffended within a year, the Government planned to transform the way in which offenders were rehabilitated in the community through a new focus on life management and mentoring support. Rehabilitative services would be opened up to a wide range of new providers in the private and voluntary sectors, which would be paid according to the results they achieved.

31. The Government had published its youth custody plans, placing education at the heart of detention and rehabilitation by creating secure colleges to improve educational outcomes, break the cycle of reoffending and help young offenders build successful, law-abiding and productive lives.

32. The main community sentence for the under-18s was the Youth Rehabilitation Order. Custody could only be ordered when the offence was so serious that a fine or a community disposal could not be justified.

33. The Government was committed to reducing the number of prisoners being held in crowded accommodation. Modern prisons had been designed to accommodate crowding, while still providing a decent regime and conditions for prisoners.

34. Any prisoner identified as at risk of suicide or self harm was cared for under the Assessment, Care in Custody and Teamwork procedure. All young offender institutions had a safeguarding policy for children and the Government was working with inspection and investigation bodies and custody providers to identify ways to better support young people in custody who were at risk of self harm.

35. Officers in adult prisons were trained to use physical intervention only as a last resort. Officer training emphasized the use of non-physical interventions and verbal methods to de-escalate conflict, diffuse tension and manage difficult situations. Physical restraint was only resorted to in line with approved techniques, using a system of holds designed to be safe and efficient in restraining and gaining control of a prisoner. If a prisoner remained violent once a lock had been applied, a short burst of pain could be applied only to achieve compliance. Tasers and CS gas were not used in prisons in England and Wales, but a substance known as pelargonic acid vanillylamide (PAVA), a synthetic powder dissolved in a solvent and dispensed from a handheld canister using a propellant gas, was used by trained specialist staff.

36. **Mr. Murray** (United Kingdom) said that all minors requiring custody in Northern Ireland were detained in a single, purpose-built juvenile justice centre. The prison service was committed to building new prison accommodation, redeveloping old facilities and building a new female prison facility. Other measures to reduce overcrowding included limiting the number of fine defaulters coming into custody by introducing a new fine collection scheme and supervised activity orders.

37. Arrangements were in place to support prisoners at risk of suicide and self harm. Women prisoners had access to a range of in-house psychological therapies and health-care services and provisions for outside secondary care were also in place.

38. With regard to transitional justice, the Historical Enquiries Team (HET) was a special, independent investigative unit attached to the police service and tasked with re-examining the deaths of thousands of people in the civil unrest in Northern Ireland between 1968 and the signing of the Belfast Agreement in 1998. The Government was mindful of the pain suffered by many individuals who had been resident in Magdalene-type institutions in Northern Ireland and greatly sympathized with the plight of those abused. An

independent inquiry into historical institutional abuse had been set up and would report by 18 January 2016.

39. **Mr. Owen** (United Kingdom) said that the Scottish Government had invested heavily in developing prison infrastructure and had introduced measures to provide a credible alternative to custody. It had introduced a holistic approach to young offenders and established a commission on women offenders. The Scottish Government's Mental Health Strategy explicitly recognized the needs of offenders and would ensure that those would continue to be addressed. Clear procedures were in place and appropriate training was provided in the use of restraint in custody. Extensive guidelines and regulations were followed for young people to ensure that the use of necessary force was kept to a minimum. No child under 12 could be prosecuted for an offence in Scotland and the age of criminal responsibility would be reviewed to consider increasing it from 8 to 12. Legislation would contain specific provisions on the clear definition of children of 17 as juveniles for the purposes of criminal proceedings.

40. Legislation had been enacted to ensure proper health care for people in custody and a bill would be introduced shortly to ensure that information on rights was provided to all persons in police custody. The system in place provided for access to legal aid during weekends. The Scottish Government had no wish to criminalize parents for lightly smacking their child and legislation clearly outlined what was unacceptable punishment. A national parenting strategy had been published to provide practical advice to parents on different approaches to managing their children's behaviour.

41. **Mr. Sweeney** (United Kingdom) said that the Gibson Inquiry had delivered a report based on its preparatory work to Government in June 2012 and had identified themes and issues that might merit further examination by a future inquiry.

42. Regarding the Consolidated Guidance to Intelligence Officers and Service Personnel and section 7 of the Intelligence Services Act 1994, the policy of the United Kingdom on torture or cruel, inhuman and/or degrading treatment or punishment was clear insofar as it did not participate in, solicit, encourage or condone its use. While it was true that the Guidance might envisage cases where a "less than serious" risk of torture would allow officials to proceed with cooperation, it had to be consistent with article 2.2 of the Convention. The position on the meaning of "serious risk" had been confirmed in a judicial review in the British courts.

43. **Mr. Bramley** (United Kingdom) said that delay in access to a solicitor by those detained prior to being charged under the Terrorism Act 2000 was only permitted when authorized by a senior police officer of the rank of at least superintendent when there were reasonable grounds for believing that exercising the right of access to a solicitor would interfere with the investigation. New provisions known as "Terrorism Prevention and Investigation Measures" (TPIMs) could be retroactive, but the notice would expire after a maximum of two years and to impose a new TPIM thereafter the Home Secretary must believe that some of the activity had occurred since the imposition of the first notice.

44. The current position of the Government on returns to Sri Lanka, supported by the European Court of Human Rights, was that not every Tamil asylum seeker required protection. It was not enforcing the return of Sri Lankan failed asylum seekers and all applications for asylum were considered on their individual merits and taking into consideration the up-to-date country situation. The initial claims of the 13 Tamils who had been returned to Sri Lanka and had subsequently been granted asylum had been considered against the appropriate law and information at the time of their applications.

45. With regard to how torture allegations were factored into the Government's removals policy, all asylum applications were carefully considered on their individual merits and taking into account the up-to-date country situation. Where the fear of

persecution was well founded, a grant of protection would be made and evidence of the risk of persecution was based on published country information from reliable sources. No one would be expected to return to a country where there was a real risk of being tortured. In individual cases, deportation with assurances was subject to careful and detailed discussions endorsed at the highest levels of Government with countries with which the United Kingdom had working bilateral relationships. There were also arrangements put in place to ensure that the assurances could be independently verified.

46. **Mr. Bruni** (Country Rapporteur) said that the challenge for the United Kingdom on its position regarding acceptance of article 22 was to address the consistency of its domestic legislation with international law. He asked who was responsible for implementing the Convention against Torture in the territories subjected to the State party's military operations; whether it would persuade the Afghan authorities to allow the ICRC to inspect detention facilities run by Afghan security forces; what steps were being taken to develop alternative penalties to prison sentences to reduce prison overcrowding; whether a specific date for the Gibson Inquiry had been set and whether the Government would conduct a future inquiry and review section 134 of the Criminal Justice Act.

47. He expressed concern that United Kingdom legislation contained escape clauses leaving room for hidden torture such as in medical settings to occur; that some punishments for criminal offences were inappropriate for children as young as 10 years of age; that leaving an escape clause in the Consolidated Guidance to Intelligence Officers and Service Personnel and section 7 of the Intelligence Service Act 1994 whereby a person was not liable under criminal or civil law for any act committed outside United Kingdom territory left room for torture to occur; and that the provision under the Terrorism Act 2000 allowing delayed access to a solicitor was too vague and could be invoked indefinitely.

48. In implementing articles 2 and 3 of the Convention, he urged the United Kingdom to take into account the wording of article 3 "substantial grounds for believing", rather than use its own term "serious risk".

49. **Mr. Tugushi** (Country Rapporteur) said that he was unconvinced by the arguments put forward by the United Kingdom Government for not recognizing the Committee's competence to receive individual petitions and hoped that it would consider acceptance of article 22.

50. He encouraged the compilation of nationwide statistics on crimes of torture and other related data to facilitate the provision of accurate information to the Committee and other similar national and international bodies. He also encouraged the launch of a public inquiry if the Iraq Historic Allegations Team failed to deliver tangible results.

51. While noting continued financial support for the national preventive mechanisms, he was concerned that prison officials found it difficult to participate in their work, which could undermine their independence. He was concerned about the indefinite detention of migrants and called for a time limit to be set, an independent review of the system and the application of rule 35 to address the protection gap in respect of short-term holding facilities. He welcomed plans to reform the Northern Ireland prison system and improve legislation and regulations. He also welcomed the new Mental Health Strategy in Scotland, but deplored the detention of juveniles and adults suffering from mental health disorders. He requested further information on government policy on the use of tasers among vulnerable groups, especially juveniles and the elderly, and on police training in that respect.

52. **Ms. Sveaass** said that parents should be criminalized for giving their child a mild slap. Criminalizing corporal punishment set standards in parenting and taught parents and children about dignity and the importance of non-violence. She enquired whether the Northern Ireland HET was truly independent, established responsibility for the troubles and

provided reparations to the families of victims. She emphasized that it was important to include young people in the transitional justice process and create reconciliation across generations. She requested updated information on regulations regarding restraint and seclusion mechanisms, including in health-care services and psychiatric hospitals, and on how they were monitored. Had reparation been provided to the 13 Tamils returned to Sri Lanka and what steps had been taken to provide rehabilitation and health-care services for victims of torture?

53. **Ms. Gaer** requested additional information about the return of Tamils to Sri Lanka, in particular how many of the post-return torture claims had been found credible and where the torture had taken place. She asked why flights taking Sri Lankan asylum seekers back to their country appeared to still be operating despite the High Court ruling. She wished to know whether anybody had been punished for misusing restraints in Northern Ireland detention facilities. Regarding historical institutional abuse, she asked about the fate of victims who fell outside the categories covered by the inquiries, what investigations and prosecutions had taken place or were planned, the number of cases taken to court and what their outcome had been. She also enquired about what assistance in seeking redress had been given to victims of Magdalene laundries operating during British rule over Ireland. Lastly, she wondered what was meant by "very high level of government".

54. **Ms. Belmir** expressed concern that the fact that a person could in certain circumstances be denied both a jury trial and appeal of their sentence meant that they were doubly punished. She doubted whether 10-year-olds were in fact capable of exercising judgement. She asked to what extent the potential risk of injury or death was really taken into account before tasers were deployed.

55. **Mr. Wang** Xuexian recalled that any alleged acts of torture or ill-treatment fell within the scope of the Convention and thereby gave the Committee the right to ask questions and receive answers about such cases. Regarding the case of Baha Mousa, he asked how the 93 injuries found on Mr. Mousa's body could amount to anything else but torture and said that Corporal Payne's 1-year prison sentence was hardly commensurate with the gravity of the crime.

56. **Mr. Mariño Menéndez** asked why the Government did not invoke article 21 of the Convention to obtain the release of its citizen detained in Guantanamo. He also asked whether standards had been set for the use of tasers. He wished to know whether foreign nationals whose detention was being fast-tracked were still entitled to a habeas corpus hearing. He reminded the State party that, pursuant to article 1, paragraph 2, of the Convention, actions taken by British Armed Forces abroad, whether or not extraterritorial jurisdiction had been established, were subject to the legal obligations of the United Kingdom.

57. **The Chairperson**, repeating a number of unanswered questions, stressed the Committee's legitimacy in quizzing the State party on all issues that fell within the scope of the Convention.

58. **Mr. Sweeney** (United Kingdom) said that the United Kingdom considered the effective implementation of its obligations under United Nations conventions as the best way of ensuring the highest standard of performance and that the communications procedure was therefore superfluous. The "lawful authority" defence did not constitute a potential loophole because it could not be invoked to avoid liability for acts of torture. Furthermore, members of the British Armed Forces were subject to British law wherever they were in the world and were free not to obey an unlawful order. Professionals using medical techniques for other than clinical purposes could not claim the authority defence. The Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence

Relating to Detainees was intended as practical guidance to officers on the ground and by no means to supplant the law. The phrase “less than serious risk” was equivalent to no real risk. Section 7 of the Intelligence Services Act gave the Secretary of State the power, in certain circumstances, to authorize acts overseas that would be unlawful in the United Kingdom. However, a monitoring system was in place and a report was published annually.

59. The United Kingdom was a proponent of allowing the Afghan authorities to manage the country’s detention facilities themselves and of helping the country increase its compliance with human rights. Regarding the case of Shekar Aamer, it was the Government’s position that intense bilateral engagement with the Government of the United States of America remained the most effective way of securing his release and return from Guantanamo. The case had been broached with the new United States Secretary of Defence as recently as the previous week.

60. Regarding tasers, he said that there would likely be greater deployment of tasers in the Metropolitan Police Service but there were no plans to increase their number to the 36,000 units mentioned by the Committee. Moreover, tasers could only be used by properly trained officers when there was a risk to themselves or the public. The budget reserved for training officers in the use of tasers was at the discretion of the local chief officers. The first police and crime commissioners had been elected in November 2012 and served as added democratic oversight. In England and Wales, the National Offender Management Service was responsible for managing and running custodial institutions. It did not use tear gas or tasers; however, it did use pelargonic acid vanillylamide (PAVA), a synthetic powder dissolved in a solvent that was dispensed as an aerosol and caused temporary blindness and incapacity for 8 to 10 minutes. In most cases, no adverse reaction was reported and full recovery occurred without the need for medical attention. PAVA was only used by trained specialist staff upon authorization of the most senior supervisor.

61. Concerning the use of restraints on youths, he said that pain inducing techniques should never be used if a non-painful alternative could safely achieve the same objective. The new restraint system had been designed to ensure staff had at their disposal a broad range of safe and effective techniques to deploy in a violent incident. The system did include three potentially painful techniques, but they were governed by very strict guidelines and could only be practised to protect a child or others from immediate harm. Restraint should always be a last resort and after any incident, the youth concerned should be debriefed by staff in order to better understand why the behaviour had led to the use of restraints. Finally, all youth detention establishments were obliged to have, and actively promote, a restraint minimizing strategy.

62. In most cases, a trial for serious criminal offences took place before a jury; however, the Justice and Security (Northern Ireland) Act clearly set out the exceptions to that rule, which usually involved the offender’s ties with a proscribed organization. The issue of double punishment did not arise: although there was limited possibility of appealing the decision to hold a non-jury trial because that trial format was called for by the most senior prosecutor, all judgements were appealable, irrespective of the format of the trial.

63. The United Kingdom wholly respected the competence of the Committee, but some of its questions raised confidentiality issues, whence the delegation’s reluctance to reply to them. However, the delegation would be happy to provide in writing as much detail as it could, including explanations for the limited nature of its replies. The Government was confident that it could maintain the independence and impartiality of the national preventive mechanisms despite the presence of prison officials among their members. An independent judge-led inquiry into the Gibson case would be conducted once all police investigations had been completed.

64. **Mr. Bramley** (United Kingdom) said that there were specifically listed conditions under which access to a solicitor could be delayed. A report made under rule 35 of the Detention Centre Rules could amount to independent evidence of torture and such evidence was sufficient to remove a person from fast-track detention. The new instruction regarding rule 35 would be undergoing review. All post-return torture claims by Sri Lankans had been found credible upon second review and their asylum status afforded them benefits such as housing and education. He stressed that there was no question of modifying the national and international legal obligations of the United Kingdom, as the European Convention on Human Rights and the Convention against Torture had not been found incompatible.

65. **Mr. Sweeney** (United Kingdom) thanked the Committee members and the NGOs for the open, constructive and frank discussion.

66. **The Chairperson** commended the delegation for its cooperative spirit and recalled that any additional replies received by the end of the week would be taken into account in the Committee's concluding observations.

The meeting rose at 6.05 p.m.