



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

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COMMITTEE AGAINST TORTURE

Thirty-third session

SUMMARY RECORD OF THE 624th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 November 2004, at 10 a.m.

Chairperson: Mr. MARIÑO-MENÉNDEZ

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Fourth periodic report of the United Kingdom of Great Britain and Northern Ireland
(CAT/C/67/Add.2; HRI/CORE/1/Add.5/Rev.2; HRI/CORE/1/Add.62/Rev.1 and
CAT/C/33/L/GBR)

1. At the invitation of the Chairperson, Mr. Adams, Ms. Al Qaq, Ms. Cannings, Mr. Chollerton, Mr. Daw, Mr. Dixen, Mr. Duggan, Mr. Fish, Mr. Fraser, Ms. Gabriel, Dame Audrey Glover, Mr. Gunn, Mr. Heaton, Mr. Howard, Ms. Hoyoung, Mr. Kissane, Mr. Last, Mr. McGuckin, Mr. Smith, Mr. Spencer, Mr. Stanley, Ms. Tan, Mr. Thomson, Ms. Upton, Mr. Walsh, Ms. Weston-Davies, Ms. Williams and Ms. Wood (United Kingdom) took places at the Committee table.
2. The CHAIRPERSON welcomed the delegation and offered sincere condolences on behalf of the Committee for the recent murder in Iraq of British aid worker Margaret Hassan. He drew attention to the written replies submitted by the Government of the United Kingdom to the questions contained in the list of issues (CAT/C/33/L/GBR) and invited the delegation to introduce the United Kingdom's fourth periodic report (CAT/C/67/Add.2).
3. Mr. SPENCER (United Kingdom) said that the Department of Constitutional Affairs, which played a leading role in the development of human rights policy in the United Kingdom and was responsible for ensuring compliance with the Convention, had prepared the report and the written replies to the questions in the list of issues. His delegation welcomed the Committee's decision to bring forward the examination of the report in the light of concerns about the United Kingdom's involvement in Iraq and Afghanistan. The United Kingdom was determined that its actions in both countries should be in strict compliance with international law and in particular with the Convention. It unreservedly condemned the use of torture and continued to work with its international partners, including the United Nations, to combat torture wherever and whenever it occurred. Torture was an affront to and a denial of the inherent dignity and right to respect that was the inalienable birthright of all human beings.
4. The introduction of the Treason Act in 1709 had put an end to torture as a legal means of criminal inquiry in the United Kingdom and had been the first formal abolition of torture in any European State. Furthermore, it had long been an offence in England and Wales under common law and under the Offences against the Person Act of 1861 to assault a person. In Scotland assault was an offence under common law.
5. According to section 134 (1) of the Criminal Justice Act 1988, a public official or person acting in an official capacity, regardless of nationality, committed the offence of torture if in the United Kingdom or elsewhere he intentionally inflicted severe pain or suffering on another in the performance or purported performance of his official duties. The penalty for that offence was life imprisonment.

6. The United Kingdom had ratified the Convention, which had entered into force on 7 January 1989, and was one of the few countries to have ratified its Optional Protocol. The country was also a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which had entered into force in the United Kingdom on 1 February 1989.

7. The United Kingdom pursued the worldwide abolition of torture through various diplomatic activities and practical projects. For example, it had conducted two rounds of worldwide lobbying for universal ratification of the Convention and had introduced an education programme in the United Kingdom for senior clinicians working in selected countries where the practice of torture was widespread. It also provided funding for research, including ongoing financial support to the United Nations Voluntary Fund for Victims of Torture, and supported the anti-torture activities of the Organization for Security and Cooperation in Europe.

8. Like all States, the United Kingdom frequently faced difficult decisions in which it had to balance the need to protect the rights of its citizens with the pressing need to protect public safety and national security. When taking action to protect public safety and national security, it was constantly aware of its legal obligations at the domestic and international levels.

9. Regarding the compatibility of sections 134 (4) and 5 (b) (iii) of the Criminal Justice Act 1988 with article 2 of the Convention, which required States to take steps to prevent torture in their own territory, he said that the United Kingdom's domestic law fully complied with that article. Section 134 made criminal all acts of torture that took place within the jurisdiction of the United Kingdom. Furthermore, since October 2000 the offence set out in section 134 had been supported by the Human Rights Act 1998, section 6 of which made it unlawful for a public authority to act in a way that was incompatible with the rights set out in the European Convention on Human Rights. Consequently, any person acting on behalf of a public authority could not rely on a defence of "lawful authority" in cases of torture. Section 3 of the Human Rights Act provided additional protection in that it obliged public authorities to interpret all legislation, to the extent possible, in a way that was consistent with the rights set out in the European Convention. The Northern Ireland Human Rights Commission had considered the matter independently and it, too, had found that the Criminal Justice Act was not incompatible with the Convention. The first prosecution under section 134 was currently under way in the United Kingdom. The case, which involved a foreign national who was being tried on charges relating to the torture of victims who were also foreign nationals, was the first of its kind in the world.

10. Ministers had recently concluded a major review of the United Kingdom's position with regard to a wide range of international human rights instruments. Regarding the right of individuals to submit communications to the Committee under article 22 of the Convention, they had decided that they would like to consider the merits of individual communication on a more empirical basis and had consequently decided that the United Kingdom should accede to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which recognized the competence of the Committee on the Elimination of Discrimination against Women to receive and consider complaints from individuals or groups within its jurisdiction. The United Kingdom intended to review the results of that initiative two years after the Optional Protocol's entry into force.

11. The terrorist attacks of 11 September 2001 had demonstrated that international terrorists were able to inflict destruction on a massive scale. Since that date, the United Kingdom had received a series of explicit threats and, in November 2003, the Consulate-General in Istanbul had been attacked. The Anti-Terrorism, Crime and Security Act 2001 had introduced exceptional powers to counter the risks posed by terrorist groups. The powers set out in Part 4 of the Act enabled the Home Secretary to certify and detain foreign nationals believed to present a risk to national security. In order to forestall any argument that such detention violated the right to liberty and security as set out in article 5 of the European Convention on Human Rights, the United Kingdom had derogated from that article. A parallel derogation had also been sought from article 9 of the International Covenant on Civil and Political Rights. Those derogations had been a necessary and proportionate response to the emergency that threatened the life of the nation.

12. The need for those powers, which would expire in November 2006, was kept under constant review. To date, the powers had been used sparingly. As of October 2004, only 17 people had been certified, of whom 12 remained in detention, enjoying all the rights accorded to other prisoners. Anyone detained under those powers was free to leave the United Kingdom at any time and had a right of appeal to the Special Immigrations Appeals Commission. In all but one of the 16 appeals it had heard, the Commission had upheld the decision by the Home Secretary. The United Kingdom had found no evidence to suggest that any of the material used by the Home Secretary to certify detainees had been obtained by torture.

13. Between 2000 and 2002, the United Kingdom had received more asylum-seekers than any other State in the European Union. Most applicants had not been in need of protection and had claimed asylum as a means of sidestepping mainstream immigration controls. In 2002, the Government had introduced legislation to deter the misuse of asylum without undermining the United Kingdom's commitment to protecting genuine refugees, by such means as the use of out-of-country appeals for applicants making asylum claims that had been certified as being clearly unfounded. The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 had introduced updated provisions on safe third countries to which asylum-seekers could be sent if appropriate and had streamlined the appeals system.

14. As a result of the new legislation, the number of claims for asylum in the United Kingdom had been significantly reduced. Figures had fallen from over 84,000 in 2002 to just under 50,000 in 2003, and the downward trend had continued in 2004. That decline had not been at the expense of applicants who genuinely needed protection: in fact, the authorities were now better able to identify genuine refugees speedily and help them begin their integration in society. Each substantive asylum application was considered on its individual merits and in full conformity with international law.

15. The routine use of prison facilities to hold immigration detainees had ended in January 2002. Most immigration detainees were now held in Immigration Service removal centres. In Northern Ireland, although some immigration detainees were held in a prison because their numbers were too few to warrant a removal centre, they were given the option of moving to a removal centre in Great Britain. However, detainees who were considered unsuitable for removal centres for security reasons could be held in a prison.

16. Significant progress had been made over the past two decades in improving prison conditions. A programme to provide all prisoners in England and Wales with 24-hour access to sanitation had been completed in 1996, and a similar programme was under way in Scotland. It was to be hoped that work would begin on a new prison on the Isle of Man before the end of 2004. The Prison Service provided anti-bullying strategies, support for those withdrawing from substance abuse and access to counselling services. Efforts were also being made to reduce all types of discrimination in prisons, with special programmes introduced to address the special needs of women and young people in custody.

17. In April 2004, a Police Complaints Commission for England and Wales had been established to carry out independent investigations into police misconduct. In Northern Ireland, the office of Police Ombudsman had been established in 2000. The Scottish Executive had pledged to set up a new independent police complaints body in the near future.

18. New legislation had been introduced in England and Wales to outlaw the practice of female genital mutilation both overseas and domestically, and similar legislation was expected in Scotland. However, the provision of information about the health consequences of female genital mutilation and support within the practising communities were seen as the real key to eradication of the practice.

19. As part of the first major overhaul of the mental health system since the 1950s, a draft mental health bill had been published in September 2004, setting out a new legal framework for the formal treatment of people, including criminal offenders, who suffered from mental disorders, and introducing new rights and safeguards for patients. It was hoped that the Parliamentary Committee considering the bill would report to Parliament by the end of March 2005.

20. In Guernsey, immigration was governed by the Immigration (Guernsey) Rules 1999. Decisions regarding entry into Guernsey were always taken by a senior immigration officer. In case of a dispute, there was an informal procedure for review by the Lieutenant-Governor. Legislation to establish a tribunal appeals service, which would deal with immigration appeals, was being drafted.

21. In Jersey, several parts of the Police Procedures and Criminal Evidence (Jersey) Law 2003 had entered into force in March 2003 and the remaining parts were likely to enter into force in December 2004. The Law related to the powers and duties of the police, persons in police or customs detention, criminal evidence and the conduct of criminal proceedings.

22. Mr. HOWARD (United Kingdom) said that United Kingdom troops had been on the ground in Iraq since March 2003 and in Afghanistan since November 2001. Part of the purpose of their presence in both countries was to help create a climate in which human rights could flourish. The best way to create such a climate was through direct engagement with the authorities of those countries.

23. The United Kingdom had extended universal jurisdiction to the crime of torture in section 134 of the Criminal Justice Act 1988. Members of the United Kingdom armed forces were thus subject to that provision while on operations abroad. Military personnel were fully

informed of their responsibilities and obligations under national and international law, not only through training received prior to deployment but also through standard operating procedures. They were instructed that prisoners, detainees and civilians should be treated with dignity and respect and should not be subjected to torture, abuse or inhuman or degrading treatment. Military training was fully compliant with article 10 of the Convention.

24. United Kingdom armed forces were bound by the Convention regardless of who exercised jurisdiction in the territory of operation. However, certain provisions, including articles 2 and 16, could be implemented only by the sovereign Government of the territory in question. Therefore, full compliance with the Convention had not been established throughout the United Kingdom areas of responsibility in Afghanistan and Iraq.

25. All British-held detainees in Iraq were guaranteed the full protection of the Geneva Conventions, and the United Kingdom armed forces cooperated with the International Committee of the Red Cross to ensure compliance with international standards. A monitoring team and prisoner registration unit had supervised the conditions in the United States detention facilities initially used for persons detained by British forces. Prisoners held at the only United Kingdom detention centre in Iraq, the Divisional Temporary Detention Facility at Shaibah, were free to practise their religion; religion-related nutritional requirements were accommodated. Detainees were examined by a doctor on arrival and departure and had access to medical and hospital treatment. Prisoners who were no longer considered a threat had been released, and currently only 10 detainees remained at Shaibah. In Afghanistan the British armed forces currently held no prisoners.

26. As criminal jurisdiction lay with the Iraqi and Afghan authorities, article 3 of the Convention was not applicable; nevertheless the British Government had established safeguards to ensure the appropriate treatment of individuals handed over to the local authorities, and agreements to that end had been concluded with both Iraq and Afghanistan. The United Kingdom armed forces also provided training, mentoring and advice to the Iraqi Correctional Service with a view to improving conditions in Iraqi prisons.

27. Allegations of ill-treatment of civilians in Iraq by United Kingdom military personnel were investigated by service police. Of the 156 cases that had been investigated, only 17 alleged inhumane or degrading treatment or torture, thus confirming that United Kingdom military personnel had not been involved in systematic human rights abuses in Iraq. As all allegations were duly investigated by the service police, his Government saw no need for an independent inquiry. The practice of hooding mentioned by the human rights organization Redress was no longer used, and the practice of blindfolding had been banned in the United Kingdom since 1972.

28. It was important to distinguish between the applicability of the European Convention on Human Rights and that of the Convention against Torture. While some of the provisions of the European Convention were not applicable in Iraq, all United Kingdom military personnel abroad were subject to British law which, inter alia, prohibited the practice of torture and other ill-treatment.

29. Dame Audrey GLOVER (United Kingdom) said that the Overseas Territories had their own constitutions and enjoyed a considerable degree of self-government within the scope of the United Kingdom's international obligations. The United Kingdom Government collaborated with the Overseas Territories to ensure the implementation of international norms, and implementation of the Convention had improved. A prison adviser undertook regular visits to detention facilities in the Territories and made recommendations on improvements. In addition, the Government had funded studies on alternatives to custodial sentences and on the financing of legal aid in the Overseas Territories.

30. In Anguilla, a new prison wing had been built to alleviate prison overcrowding, and facilities had been provided for the care of non-violent juveniles. Two probation officers had been appointed, who would take office in 2005. In Bermuda, the 1998 Police Complaints Act provided for the monitoring of complaints of alleged misconduct lodged by civilians against members of the police force. Since 1999, there had been a total of 336 complaints, 25 per cent of which had been found to be unsubstantiated.

31. In the Cayman Islands, a separate detention centre for juvenile prisoners had been built, and progress had been made in such areas as staff training, prisoner education, provision of religious facilities and sentence planning. The United Kingdom Overseas Prison Adviser made regular visits to detention facilities.

32. Six complaints had been made against junior police officers in the Falkland Islands since the Police Ordinance had entered into force in 2000. Further information on those cases could be found in the delegation's written replies.

33. Entry into Gibraltar without proper identification documents was unlawful. The immigration authorities were competent to decide on action to be taken in respect of persons seeking unlawful entry. Undocumented immigrants could seek recourse concerning their status both with the Governor and the Supreme Court.

34. A new prison had been built in Monserrat, and in future all Monserratians sentenced on Montserrat could serve their sentences at home. New prison rules had been introduced in January 2000, and the 2004 Parole of Prisoners Act provided for the establishment of a parole board, which was authorized to hear cases of prisoners seeking to be released into the community on licence and make recommendations to the Governor. In the British Virgin Islands, efforts were under way to expand the current, limited, legal aid scheme.

35. On Pitcairn Island seven men had been brought to trial in 2004 on charges of serious sexual offences, and six of the defendants had been convicted. The four men who had received custodial sentences were currently on bail pending the resolution of a number of legal issues. New prison facilities had been established, which would be staffed by officers from the New Zealand Department of Corrections, so that custodial sentences could be served on the island in future.

36. Ms. GAER (Country Rapporteur) commended the delegation on the excellent report and the exhaustive replies to the questions contained in the list of issues. The list of issues was a new procedure for the Committee, and the Committee would welcome any comments on its usefulness.

37. The Committee welcomed the State party's ratification of the Optional Protocol to the Convention. In that connection, it would be useful to know how national preventive mechanisms had been designated, whether any visits to places of detention had been undertaken thus far and whether full access to relevant documentation would be granted. She asked whether the Northern Ireland Human Rights Commission had been designated as a preventive mechanism and whether in future it would be granted unrestricted access to places of detention, including the Rathgael Juvenile Justice Centre and the women's prison at Hydebank.

38. The Committee had taken note of the State party's comments on sections 134 (4) and (5) (b) (iii) of the Criminal Justice Act, but wished to know whether, in order to close the existing legal gap, the United Kingdom would consider including a reference stating that superior orders were unacceptable as a justification for torture. While section 134 provided for a defence of lawful excuses to a charge of official intentional infliction of severe pain or suffering, she wondered what kind of lawful excuse could be pleaded in the case of Iraq. It would be useful to know whether any of the complaints lodged against United Kingdom military personnel in Iraq had been considered unfounded on the basis of the application of lawful excuses. She sought clarification of the jurisdictions and international obligations the State party recognized as governing the conduct of United Kingdom military personnel in Iraq.

39. She asked whether the State party planned to incorporate the Convention in domestic legislation in order to resolve the issue of inadmissibility of evidence obtained under duress.

40. There was currently no effective remedy for victims of human rights violations perpetrated prior to ratification of the Convention or for their families, and it would be useful to know what the State party's position was on that matter.

41. She wished to know whether the participation of United Kingdom citizens in international peacekeeping operations was governed by the provisions of the Convention. The State party had repeatedly stated that it did not exercise jurisdiction in either Afghanistan or Iraq and was therefore not in a position to take effective measures under article 2. More generally, she wished to know how the State party viewed its obligations to prevent torture with respect to private firms working for it outside its jurisdiction in the context of peacekeeping and other military operations.

42. She also wished to know whether British military officers in Iraq had been present at any of the interrogations that were currently under investigation in the United States; whether such officers had been given training or advice regarding the requirements of the Convention, in particular article 3; whether any officers had raised questions once apparent violations had occurred; and whether internal investigations had been conducted. The Committee would also welcome further information on the responsibilities of the Prime Minister's Special Envoy on Human Rights to Iraq mentioned in paragraph 230 of the written replies.

43. Turning to article 3, she noted that, according to paragraph 44 of the report, when a person's extradition was requested for an offence carrying the death penalty, the Government sought diplomatic assurances that the penalty would not be applied. She would welcome more information on the conditions attached to such diplomatic assurances. Article 3 also prohibited

States parties from returning a person to his home country if he was likely to be subjected to torture there. In the light of a recent article in The Guardian about the long-established practice of reliance on diplomatic assurances in the United Kingdom and the considerable amount of high-level political interest involved, she wondered whether the Government considered diplomatic assurances to constitute a safeguard against return to torture or a loophole permitting it.

44. Since so many NGOs had expressed concern about the categorization of third countries in connection with asylum-seekers, she sought an explanation of the procedures applicable to such persons from designated third countries. Given the numerous reports of persons being returned to their home countries without any appeal, it was not clear what protection was available to them. She had also been struck by the Government's statistics on complaints of ill-treatment of asylum-seekers by public officials, an unusually high number of which had been substantiated. Further comment on the investigation procedures and cases of judgements of and sanctions against officials found guilty would therefore be welcome.

45. Much material had been submitted by NGOs relating to the Anti-Terrorism, Crime and Security Act 2001, and it was alleged that the Act had been rushed through Parliament without proper review and that the rationale behind it had been called into question. She sought clarification of those allegations. She also asked whether there were any plans to rescind the derogation from article 5 of the European Convention on Human Rights entailed by the Act. She enquired whether there was any possibility of making the Act applicable to all citizens, and not only to persons seeking immigration. She would also welcome some comment on the assertion by Amnesty International that when the Home Secretary certified a suspected terrorist, there was no process whereby the person concerned could challenge it, so that certification amounted to an indefinite criminal sentence. Since only 17 persons had been detained under the Act, it was difficult to believe that the emergency was of such proportions as to warrant derogations from both the International Covenant on Civil and Political Rights and the European Convention on Human Rights. The State party had repeatedly maintained that anyone detained under the Act was free to leave the country; if that was the case, why had so few opted to leave, and were there in fact other countries to which they could safely go?

46. She sought clarification concerning the information contained in paragraphs 214 to 217 of the written replies which implied that, while the Geneva Conventions were applicable to the return of "security internees" in Iraq, the Convention against Torture and other human rights treaties were not.

47. Amnesty International had reported that women who were the victims of trafficking were sometimes removed from the territory of the United Kingdom without any real assessment of the risk of the return to their homeland. Were steps being taken to address that problem? She noted that no information had been provided on women, minorities and other vulnerable groups in response to question 7 on the list of issues concerning the certification of claims by asylum-seekers and the possibility of judicial review.

48. She asked whether it was true that the burden of proof concerning membership of proscribed organizations had been reversed under anti-terrorist legislation. She also wished to know what the factual basis was for the Government's continued application of Northern Ireland counter-terrorism legislation.

49. Turning to article 4, she asked why no central statistics were kept of cases brought to court under the Human Rights Act and whether there were any plans to remedy that situation. She also wished to know whether sexual violence in prisons was monitored and what accounted for the reported increase in inter-prisoner violence in general. In the light of reports of suicides in the army as a result of bullying and sexual harassment, she asked whether there had been any inquiries into that situation that had resulted in prosecutions, and whether preventive measures had been taken, such as the establishment of an ombudsman for soldiers.

50. In the context of article 5, she welcomed the provision by the delegation of a copy of the judgement in the Pinochet case and the clarification made in the report that the immunity enjoyed by a former head of State did not apply to criminal jurisdictions. However, she wondered whether it might apply to civil court cases. She found it unusual that there had not been one single case prosecuted under the Female Genital Mutilation Act 2002, and she sought some explanation of that situation. Lastly, she enquired why the status of the Independent Reviewer of the Terrorism Act 2000 was solely advisory.

51. The CHAIRPERSON, speaking as Alternate Country Rapporteur, said that he would focus on articles 10 to 16 of the Convention, starting with the status of the Convention. According to paragraph 200 of the written replies, although the Convention was not part of domestic law, it was recognized that the authorities must seek to comply with its provisions and should not do anything to contravene it unless compelled by domestic law to do so. That raised the issue of whether the counter-terrorism legislation applicable to asylum-seekers and persons held on suspicion of terrorism was fully in line with the provisions of the Convention, or whether the Convention had jus cogens provisions that prevailed over domestic legislation.

52. With regard to the handover of Iraqi prisoners to the Iraqi authorities, non-refoulement must be recognized as a peremptory norm under international law, and not merely as a principle enshrined in article 3 of the Convention. He wondered whether that aspect of the prevention of torture had been taken into account.

53. The State party's current interpretation of article 15 seemed to be that evidence extracted through torture outside the territory of the United Kingdom could be used by British judicial bodies. He wondered whether that might become a permanent interpretation and what standards concerning evidence the United Kingdom applied to other States that were not parties to the Convention.

54. With regard to the treatment of refugees, it had been asserted that attempted entry into the United Kingdom without identity papers was an offence. He understood that criminals must be dealt with and, if necessary, expelled, but surely the vulnerable situation of refugees who had mislaid their documents or presented false papers in order to enter the country should be taken into account? Paragraphs 78 to 82 of the written replies dealing with asylum and immigration seemed to reflect a reluctance to refer to the Convention against Torture, despite the fact that its provisions relating to non-refoulement were more stringent than those contained in the 1951 Convention relating to the Status of Refugees.

55. He expressed concern about the Anti-Terrorism, Crime and Security Act 2001, which left a person who was detained as a suspected terrorist, but could not, for various reasons, be expelled in a kind of legal limbo. Surely the suspicion of terrorism warranted an investigation. Such persons should be brought to trial so that their situation could be clarified.

56. He enquired what body would be set up in the United Kingdom to implement the provisions of the Optional Protocol.

57. He requested additional information on the functions of the Northern Ireland Human Rights Committee and asked whether it monitored all the detention facilities, including Maghaberry prison. It was alleged that the treatment of prisoners in some detention facilities fell short of universal standards. It would be interesting to know whether the Mental Health Commission for Northern Ireland would have a role to play in implementing the legislation being developed in that area.

58. He asked what the legal consequences were of deprivation of nationality under the Nationality Act 2002. Would former citizens so deprived be considered foreigners under the new anti-terrorist legislation? He also sought information about the situation of stateless persons.

59. The United Kingdom claimed that it did not exercise jurisdiction in either Afghanistan or Iraq under international law. Perhaps it was referring to the European Convention on Human Rights, which, where jurisdiction was concerned, was not fully in line with the Convention against Torture. Under article 12 of the Convention the United Kingdom was bound to investigate acts of torture committed in Iraq, given that its troops were exercising authority on that country's territory. It was not a question of a *lex specialis* prevailing in a situation of armed conflict, but of a general human rights principle that must be upheld.

60. Mr. EL MASRY said that he would address three issues, the first being the admissibility of evidence under article 15. According to paragraph 201 of the written replies, while there was a need to share information to combat the scourge of international terrorism, the precise origin of such information was often obscure and the circumstances surrounding any particular interrogation would never be known. He drew attention to the situation of Mr. Moazzam Begg, a British citizen detained in Guantánamo Bay, who had provided detailed information about the circumstances of his interrogation during which incriminating statements had allegedly been signed under duress. While his lawyers in the United Kingdom had asserted that such statements were inadmissible, the Court of Appeal had ruled that the courts could use such evidence, provided that United Kingdom officials were not implicit in the violation. The same ruling referred to the fact that the provisions of the Convention were not part of domestic law and therefore not directly enforceable in the courts. He wondered whether there was any likelihood that the United Kingdom might incorporate the Convention in its domestic legislation, since that was the best means of ensuring the prohibition of torture.

61. Several NGOs had raised the issue of Iraqis, who had been tortured while in United Kingdom custody. He asked whether the Government had any plans to entrust a civilian mechanism with the task of conducting an independent investigation into all deaths in custody

and the methods of torture and ill-treatment allegedly inflicted on detainees. He also asked what measures had been put in place to ensure compliance with the Convention against Torture, what steps had been taken to allow torture survivors to seek redress before courts in the United Kingdom and whether an international mechanism might be permitted to conduct inspections of British-run detention facilities in Iraq. He also wished to know the Government's response to allegations that officials from the United Kingdom Foreign Office had acted as interrogators at Guantánamo Bay. He asked how the Government explained the role that the United Kingdom might have played in the unlawful delivery of its residents and nationals to the United States of America, where they had been detained without any legal basis or legal guarantees.

62. He wished to know what the delegation's views were on diplomatic assurances, in the light of the decision of the European Court of Human Rights in Chahal v. United Kingdom. He recalled the position taken on that matter by the Special Rapporteur of the Commission on Human Rights on the question of torture and observed that if it was deemed necessary to seek diplomatic assurances from a country, that must be because there was an acknowledged risk of torture or ill-treatment.

63. Mr. MAVROMMATIS commended the delegation on its excellent report but lamented that the current practice of submitting a single report covering the United Kingdom and all its dependent territories meant that the situation in the Overseas Territories received less attention than it should. It was time that the Committee and the State party reviewed that aspect of the reporting procedure. He welcomed the extensive written replies submitted by the delegation, but expressed concern as to how the replies, which were available only in English and had not been issued as an official United Nations document, would be reflected in the record.

64. Although the United Kingdom should be commended with respect to the Pinochet case, he was unhappy that it was a minister who had taken the decision regarding the state of General Pinochet's health, since such decisions should be left to the judicial authorities.

65. He wished to know why the State party chose to incorporate regional instruments but not international instruments, into its domestic legislation, and recommended that the Government should incorporate the Convention against Torture into national law. He further recommended that it should accept the competence of the Committee under article 22 of the Convention.

66. The Government should reconsider whether it was still strictly necessary to maintain the state of emergency in Northern Ireland. It should also take steps to ensure that all evidence obtained as a result of torture, including derivative evidence, was deemed inadmissible in all types of proceedings, irrespective of where or by whom the torture had been committed.

67. He asked how the independence of the new Independent Police Complaints Commission was to be ensured, and why analogous bodies had not been set up in other parts of the United Kingdom.

68. The British Government could not brush aside the calls for an independent inquiry into events in Iraq. Amnesty International and Human Rights Watch had brought human rights abuses in Iraq to the attention of the United Kingdom authorities immediately after the war had

been declared won; the alleged abuses included the detention of prisoners in places where they had no access to their relatives, disappearances, torture and deaths. He requested updated information on the situation in Abu Ghraib prison, and emphasized that the Committee needed to be provided with full and complete information about such situations in order to be able to draw the right conclusions.

69. Mr. RASMUSSEN said that the United Kingdom had been a pioneer in many areas relating to the Convention against Torture, such as lobbying actively worldwide for its ratification, becoming involved in the Pinochet case and, more recently, becoming the first State party to put foreign nationals on trial on charges relating to the torture of victims who were also foreign nationals. He invited the United Kingdom to be a pioneer once again, by becoming the first State party to submit a complaint under article 19 of the Convention that dealt with the treatment of British citizens in Guantánamo Bay.

70. He asked what training or psychological support was given to those entrusted with the harrowing task of executing forced deportations of asylum-seekers. He suggested that whenever a deportation attempt failed, the person concerned should be offered a medical examination in order to document and investigate any sign of injuries, which might help the authorities to amend the procedure to prevent excessive use of force.

71. Mr. YAKOVLEV asked for clarification of the State party's position on diplomatic assurances. He suggested that a better solution to extradition dilemmas might be to exercise the principle of universal jurisdiction, by putting suspected terrorists on trial in the country where they were residing.

72. Mr. GROSSMAN noted with satisfaction that the United Kingdom had made history with the first case of a criminal prosecution of a foreign national for offences against other foreign nationals. However, he wished to know whether there had ever been any prosecutions of foreign nationals for the torture of British nationals, particularly as British law did not provide for the option of filing a civil suit in such cases.

73. He wished to know the Government's response to the accusation levelled by Amnesty International that the investigations into civilian casualties in Iraq had been shrouded in secrecy and lacking in public scrutiny, and asked what measures had been taken in that regard.

74. The establishment of an area claims officer with responsibility for reparation claims in Iraq was commendable. He wondered, however, how the Government answered complaints that the area claims officer was not easily accessible and that there were long delays in processing payments.

75. He asked to what extent the Government had considered implementing the recommendation of the Newton Committee that Part 4 of the Anti-Terrorism, Crime and Security Act 2001 should be repealed. He also wished to know whether the "threat to the life of a nation", which had been used to justify derogation from obligations under the European Convention on Human Rights, had been assessed against the specific criteria established by the European Court of Human Rights in its definition of that term.

76. He wished to know whether the fact that an asylum-seeker's country of origin was one of those on the list of safe countries played a determining role in the decision on asylum. He would appreciate information regarding claims that asylum-seekers had been denied food for several days following riots at the Yarl's Wood centre in February 2002.

77. He asked for an explanation of an apparent discrepancy in the figures provided on the percentage of deaths in custody attributed to suicide. He also asked for further information about the circumstances of the deaths in custody associated with the actions of officials. He wished to know what steps were being taken to prevent sexual abuse by prison guards and whether the review process for administrative segregation or solitary confinement took into account the harmful effects of solitary confinement. He also sought more details about recreational facilities, work and training opportunities for prisoners and about the Government's position on the use of baton rounds. He asked the delegation to comment on the findings of a Crown Prosecution Service report that concluded that black and Afro-Caribbean defendants were tried on the basis of weaker evidence than white defendants.

78. Lastly, he wished to know how the State party monitored the corporal punishment permitted in non-State schools in order to ensure that it was not inhuman or degrading.

79. Mr. PRADO-VALLEJO wished to make two fundamental legal points: first, that the United Kingdom's military invasion of Iraq had been a violation of the principles of the Charter of the United Nations, since it had been undertaken without the approval of the Security Council; and, second, that since the Geneva Convention stipulated that prisoners taken during wartime could not be transferred from one country to another, and Guantánamo Bay was in Cuba, those being held there were being detained unlawfully.

80. Mr. SPENCER (United Kingdom) noted that the answers to some of the questions asked could be found in the written information already provided to the Committee and said that his delegation would do its best to provide substantive responses to the remaining questions.

The meeting rose at 1.10 p.m.