



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

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Summary record of the 1743rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 8 May 2019, at 3 p.m.

Chair: Mr. Modvig

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

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

Sixth periodic report of the United Kingdom of Great Britain and Northern Ireland (continued) (CAT/C/GBR/6; CAT/C/GBR/6/Corr.1; CAT/C/GBR/6/QPR/6)

1. *At the invitation of the Chair, the delegation of the United Kingdom of Great Britain and Northern Ireland took places at the Committee table.*
2. **Mr. Candler** (United Kingdom of Great Britain and Northern Ireland) said that questions relating to the United Kingdom's overseas territories would be answered by the representatives of its Foreign and Commonwealth Office in Geneva, with the support of colleagues in London from the government department responsible for overseas territories, who were following the review via the webcast.
3. **Ms. Adamson** (United Kingdom of Great Britain and Northern Ireland), responding to questions from Ms. Gaer and Mr. Heller Rouassant about the United Kingdom's planned departure from the European Union, said that the domestic human rights framework offered comprehensive, well established and effective protections, within a clear constitutional and legal system. The United Kingdom was committed to membership of the European Convention on Human Rights, to which it would remain a party following exit from the European Union. The Human Rights Act 1998 gave further effect to that Convention in domestic law, and there were no plans to amend or repeal it. Nor were there any current plans to introduce a British bill of rights.
4. Mr. Heller Rouassant and Ms. Belmir had asked questions relating to section 134 of the Criminal Justice Act 1988. The Government remained of the view that the legislation was consistent with the obligations imposed by the Convention against Torture. Recalling that article 1 of the Convention explicitly excluded "pain or suffering arising from, inherent in or incidental to lawful sanctions", she said that section 134 provided a defence for those accused of torture if they could prove that they "had lawful authority, justification or excuse". Such "lawful authority" had to be in accordance with United Kingdom law. In fact, torture within the meaning of the Convention Against Torture would never be lawful in the United Kingdom. Further, article 3 of the European Convention on Human Rights had been given effect in the Human Rights Act 1998, under which no person could be subjected to torture, inhuman or degrading treatment or punishment. Victims were able to rely on article 3 in civil and criminal proceedings. In no cases had a defendant been able to rely on the defence in section 134 of the Criminal Justice Act. The Government was not aware of any cases where the Attorney General had refused his consent because of a defence under that section.
5. Regarding Mr. Tuzmukhamedov's questions about references to the Convention against Torture in domestic law, the United Kingdom took a dualist approach to international law, meaning that obligations in any treaty it ratified must be given effect in domestic law, either through legislation or through the common law. The courts would in the first instance consider arguments with reference to the position under domestic law. However, the Courts could – and did – refer to international conventions where there was ambiguity in domestic law in an area covered by international law.
6. Ms. Gaer had asked about the national preventive mechanism. The Government acknowledged the concerns relating to the fact that the preventive mechanism did not have a statutory basis and it would continue to explore how to address those concerns, including through discussion of possible legislative options. The Government considered that sufficient safeguards were in place to ensure that when a public official changed roles to join a national preventive mechanism the independence of that body was not compromised. The Government would provide additional funding for the functioning of the national preventive mechanism in the current financial year.
7. **Ms. Stradling** (United Kingdom of Great Britain and Northern Ireland), responding to a question by Mr. Heller Rouassant, said that while the United Kingdom's policies and legislation gave effect to the Convention against Torture, the Convention itself had not been

incorporated into domestic law, since that was not a requirement. Regarding Mr. Hani's question concerning the individual communications procedure under article 22, the Government had no plans to change its current position. That procedure was not an appeals mechanism; it could not resolve decisions in domestic courts or result in enforceable award of compensation to the applicant.

8. **Ms. Thynne** (United Kingdom of Great Britain and Northern Ireland), responding to questions raised by Ms. Gaer concerning transitional justice in Northern Ireland, said that formal political talks to restore the executive in Northern Ireland had commenced on 7 May 2019. The United Kingdom Government was committed to finding the best way possible to meet the needs of victims and survivors and to help people address the impact of the Troubles, enabling Northern Ireland society to move forward. Following the Government's consultation entitled "Addressing the Legacy of Northern Ireland's Past", in which over 17,000 responses had been received, the Government would soon publish a formal response setting out its proposals and present amended legislation to Parliament. It was clear that any approach to the past must be consistent with the rule of law. Where there was evidence of wrongdoing, it should be investigated, and where the evidence existed, prosecutions should follow. The Government did not support amnesties or proposals offering immunity from prosecution.

9. Regarding the independence of the Historical Investigations Unit, the national security provisions contained within the draft legislation establishing the Unit committed the United Kingdom Government, and other relevant authorities, to provide full disclosure of information to the Unit where it might reasonably require that information in connection with its functions. The provisions did not allow information to be withheld on the ground of embarrassment or reputational damage to the Government. If appropriate in relation to considering prosecutions, the Unit – an independent body with full policing powers – could pass information, including sensitive information, to the Director of Public Prosecutions. The national security provisions contained within the draft legislation would not compromise or interfere with that independence. However, the Government would continue to maintain the need for control and would prevent the public release of that information if doing so would be likely to prejudice the national security of the United Kingdom.

10. **Mr. Grzymek** (United Kingdom of Great Britain and Northern Ireland), said that the funding of the six-year programme to address outstanding legacy inquest cases had been agreed in March 2019. Expert staff were currently being recruited into the Northern Ireland Police Service (PSNI) and into the court service to support the necessary resourcing of the programme. The first year of the programme had already been funded; its future funding would come under the Northern Ireland budget, as part of the normal bidding process. The Chief Constable had made it clear that the PSNI was fully committed to providing disclosure to the office of Police Ombudsman for Northern Ireland, in line with its statutory obligations.

11. **Ms. Thynne** (United Kingdom of Great Britain and Northern Ireland), responding to questions by Ms. Gaer, said that the Government would carefully consider the recent Supreme Court judgment in the case brought by Geraldine Finucane, the wife of Patrick Finucane, before making any further comment. The Government remained fully committed to seeing an end to non-jury trials in Northern Ireland, when safe and compatible with the interests of justice. Meanwhile, owing to the ongoing security situation and the severe terrorist threat specific to Northern Ireland, the Secretary of State for Northern Ireland had recently laid a statutory instrument before parliament, making provision for a two-year extension to the use of non-jury trials. Non-jury trials accounted for less than 2 per cent of all Crown cases. The current legislation set out the appropriate criteria to be considered before a decision was taken to proceed with a non-jury trial; there were no plans to amend those criteria.

12. **Mr. Grzymek** (United Kingdom of Great Britain and Northern Ireland) said that preparatory work on the recommendations in the Historical Institutional Abuse Inquiry Report published in January 2017 had been completed and a public consultation launched on the relevant draft legislation. Analysis of the responses received, and proposed legislation, had been sent to the Secretary of State in early May 2019.

13. The independently chaired inter-departmental working group established in October 2016 to review the historic practices in Magdalene Laundries and Mother and Baby Homes in Northern Ireland had met between March 2017 and January 2018 and had commissioned independent research, which was due to be completed in early summer 2019. The issue of child recruitment by paramilitaries in Northern Ireland was being addressed by the prevention-oriented Tackling Paramilitarism Programme, which involved a wide range of agencies, including health services, youth justice and the education sector, and aimed to address the needs of young people at risk in the community. Cases of paramilitary punishment of children had declined in recent years; in the year ending February 2019, there had been 3 paramilitary assaults against children under the age of 18, compared to 5 in the previous 12 months.

14. **Ms. Sephton** (United Kingdom of Great Britain and Northern Ireland) said that the closed material procedures provided for under the Justice and Security Act 2013 contained strong judicial safeguards and the use of closed material procedure declarations was closely monitored. In addition, the Human Rights Act 1988 continued to protect the right to a fair trial. The annual report to Parliament on the use of closed material procedures included statistics on the number of cases, including for Northern Ireland, and was publicly available. Regarding statistics in relation to prosecutions for torture, so far there had been three prosecutions for torture under universal jurisdiction: one conviction in 2005, one acquittal in 2016 and one ongoing case against Agnes Reeves Taylor.

15. Regarding the issue of special mission immunity, in 2017 the Director of Public Prosecutions had declined to grant a private arrest warrant in respect of a visiting Egyptian official against whom allegations of torture had been made on the grounds that the official was, at that time, entitled to immunity from British criminal proceedings because he was a member of a temporary diplomatic mission, known as a “special mission”. The applicant had challenged the Director’s decision in proceedings, but it had been upheld by the High Court and the Court of the Appeal, on the basis that a member of a special mission is entitled, under customary international law, to immunity from criminal proceedings during the duration of that special mission, without exception.

16. Regarding the extraterritorial application of the Convention, the United Kingdom’s position continued to be that, because the Convention did not contain a single overarching provision determining the ambit of the entire Convention, the scope of each article must be considered on its own terms. However, the United Kingdom’s armed forces remained subject to the rule of law at all times, including the domestic criminal law of England and Wales, and where applicable, international law.

17. Turning to investigations into alleged abuse committed by British forces in Iraq between 2003 and 2008, she said that the Service Police published quarterly statistics on the progress of the investigations on the Government’s website. The statistics showed that as of 31 December 2018, the Service Police had closed 1,127 of the 1,280 allegations transferred from the Iraq Historic Allegations Team, and was still conducting 19 full investigations and 18 more limited investigations, in respect of 151 allegations. Mr. Touzé had asked about follow-up given to the report of the Intelligence and Security Committee of Parliament into detainee mistreatment and rendition; in November 2018 the Government had published its response to the report, which was publicly available.

18. Regarding 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, the Prime Minister had invited the independent Investigatory Powers Commissioner to make proposals for how the Guidance could be improved, taking into account the views of the Intelligence and Security Committee, and those of civil society. The Investigatory Powers Commissioner’s Office had undertaken a public consultation in August–November 2018; the Commissioner was due to respond to the Prime Minister with his proposals shortly and the Government would react in due course. The Government did not operate a specific programme of compensation for individuals who had been tortured or ill-treated by other sovereign nations. However, persons alleging the liability of United Kingdom Government for their alleged torture or mistreatment overseas could still bring a civil damages claim against the Government and could also rely on article 3 of the European Convention on Human Rights. The Government

had contributed £25,000 to the United Nations Voluntary Fund for Victims of Torture in 2018–2019 and was considering a possible contribution for the year 2019–2020.

19. **Ms. Hawley** (United Kingdom of Great Britain and Northern Ireland), responding to questions raised by Mr. Rodríguez-Pinzón on psychosocial care for victims of torture, including asylum seekers and persons held in immigration detention, said that all asylum seekers with active applications, refugees, victims of trafficking and children in local-authority care were eligible to receive National Health Service care, free of charge, including mental health services. Improving Access to Psychological Therapies was a National Health Service programme in England providing care for those with depression and anxiety. NHS England guidance aimed to ensure the provision of timely and good quality mental health services for vulnerable migrants, in particular refugees and asylum seekers. Mental health treatment and access to psychological therapies initiated in an immigration removal centre continued if the detainee was released into the community.

20. **Mr. Candler** (United Kingdom of Great Britain and Northern Ireland), responding to the question concerning the United Kingdom's relationship with Saudi Arabia, said that the Government took its arms export responsibilities very seriously and operated an extremely robust and transparent export control regime. Under British export control law, the export of arms had to be authorized by a licence issued by the Secretary of State for International Trade. Applications for licences were considered on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria, or the "Consolidated Criteria". Applications for export licences to any country were assessed against the Criteria and took account of a range of risks. The United Kingdom drew on all available information in its assessment and risks concerning human rights violations were key factors. The United Kingdom did not export equipment if the assessment pointed to a clear risk that the equipment might be used for internal repression, would provoke or prolong conflict within a country, or that the intended recipient would use the items aggressively against another country.

21. Regarding the question on Libyan coastguard training, the objective of the United Kingdom's support to the Libyan coastguard and navy was to increase Libya's ability to secure its own maritime borders in a manner compliant with human rights, with a focus on rescue activities and the disruption of smuggling and trafficking operations. The United Kingdom expected all vessels to operate in accordance with maritime law, including the exercise of restraint and adherence to established human rights norms. The United Kingdom had stressed to the Libyan coastguard's senior leadership that human rights violations were unacceptable. As part of its human rights policy, the United Kingdom would keep that training programme under continual review.

22. The Committee had raised several points regarding prison conditions and the treatment of prisoners. In England and Wales, the Government was committed to building new prisons with a capacity of up to 10,000 places and to reconfiguring the existing custodial estate, with the aim of effectively addressing basic issues such as safety, decency and overcrowding, and driving improvements in rehabilitation. The Government had passed its target of recruiting 2,500 extra prison officers seven months ahead of schedule, with staffing levels at their highest since 2012. The Government had announced the creation of a new counter-corruption unit on 4 May 2019, which would proactively target the few instances of suspected corrupt staff. Regarding non-custodial options, in a speech on 18 February 2019, the Lord Chancellor and Secretary of State for Justice had said that he was considering looking at alternatives to punish and rehabilitate offenders, and that there was a very strong case for replacing sentences of 6 months or less with a robust community order regime, with some clearly defined exceptions.

23. Regarding the overrepresentation of the black, Asian and minority ethnic (BAME) population in the criminal justice system, the Government was striving to make the criminal justice system fairer and ensure that it promoted equality. In October 2018 the Ministry of Justice had published an update on the steps taken by the Government to tackle racial disparity, responding to recommendations made in the 2017 *Lammy Review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. The steps taken included efforts to improve the diversity of those

working in the criminal justice system, pilot alternatives to prosecution for those who were eligible and address disproportionate outcomes in procedures.

24. With regard to the issue of human rights training provided to public officials, the criminal offences of torture and aiding and abetting acts of torture applied equally to all law enforcement officials, prison staff and border guards. Public officials were also obliged, under the Human Rights Act 1998, to act in compliance with article 3 of the European Convention on Human Rights. Human rights law was incorporated into all aspects of policing in the United Kingdom and had helped shape the guidance outlined in the Code of Ethics issued by the independent College of Policing. Training of the Border Force included references to the Human Rights Act 1998. The Government was currently reviewing training for all public-sector prison staff on personal protection and the use of force. The training included human rights components, and staff were made aware of their obligations to comply with the Human Rights Act 1998.

25. Regarding the request for clarification on the reference to contractors, in paragraph 97 of the periodic report, they included persons who were deployed in support of military operations but were not Ministry of Defence civilians or members of the armed forces, such as information technology support staff or caterers.

26. A question had also been raised concerning the Al-Sweady inquiry. The final report of that inquiry had been published on 17 December 2014. Having considered evidence provided by the United Kingdom Government of changes to policy, training and oversight since 2004, the inquiry team had been satisfied that mistreatment was much less likely to occur at the present time.

27. The delegation had also been asked how violence in prison was being tackled. Under a new offender management model, 92 prisons had introduced dedicated officers, known as “key workers”, to manage prisoner caseloads. More than 34,000 prisoners currently had a key worker assigned to them. The Government had invested in nearly 86,000 body-worn video cameras and provided staff with the necessary skills and equipment to deal with challenging situations in a fair and just way. Prisons had strict requirements for reporting, recording and debriefing after any use of force. Staff found misusing force were dealt with under disciplinary proceedings or, if the abuse was deemed serious enough, referred to the police.

28. Concerning the question raised about the alleged torture or ill-treatment of a Haverigg Prison inmate, that incident had been investigated by police as part of an operation into allegations of prisoner-on-prisoner sexual assaults at the prison. Following the police investigation, no charges had been brought and the case had been closed.

29. Lastly, turning to the issue of deaths in custody, in 2018, there had been 317 deaths in prison, 18 more than the previous year. Of those, three had been apparent homicides, down from five incidents in the previous year. There had been 87 apparent self-inflicted deaths, up from 73 in the previous year, 4 of which had occurred in women’s prisons, compared to 1 in the previous year. In the year ending March 2018, there had been no deaths of children in custody in the youth secure estate.

30. **Ms. MacKinnon** (United Kingdom of Great Britain and Northern Ireland) said that, in Scotland, reducing the prison population was a top priority of the Cabinet Secretary for Justice and the Justice Board. The Scottish Government and the Scottish Prison Service were working closely together to relieve pressure on the prison estate. A substantial programme of work was in progress, including the current management of offenders bill going through Parliament and other measures to expand alternatives to custody. Notable success had been achieved in reducing the number of young offenders taken into custody in Scotland. Community sentences were more effective than short custodial sentences and had helped achieve a 19-year low in reconviction rates. The Scottish government would shortly introduce legislation to bring short-term prison sentences of less than 12 months to an end, which would help ensure that short sentences were only used when the judiciary decided they were necessary after considering all the alternatives.

31. With respect to the issue of prison violence and measures to prevent it, the Scottish Prison Service continued to work with partners in order to review its policy response. The

Service had introduced a national strategic risk and threat group to oversee the management of serious offenders and organized criminal groups. The Service had also developed guidance on the management of individuals under the influence of substances in order to reduce the risk of violence.

32. **Ms. Hawley** (United Kingdom of Great Britain and Northern Ireland) said that the number of people detained under the Mental Health Act 1983 was published yearly in the mental health statistics. For the period 2017–2018, nearly 50,000 new detentions under the Act had been recorded. On 31 March 2018, there had been just under 16,000 people reported as being detained in hospital. The Mental Health Act statistical data included demographic information about the age, gender and race of people subject to the Act. Detention rates for the 18–34 age group had been around one third higher than for the 50–64 age group. Among the five broad ethnic groups, known rates of detention for the black or black British group had been over four times those of the white group and the rates of use of community treatment orders for the black or black British group had been over eight times the rate for the white group. The Act had recently undergone an independent review, and a report with recommendations had been submitted in December 2018, in response to rising detention rates and disproportionately high rates of detention for people from ethnic minority groups.

33. With regard to the Mental Capacity Act 2005, statistics on deprivation of liberty safeguards were regularly published. In England, in the period 2017–2018, there had been approximately 227,000 applications to local authorities to authorize the deprivation of liberty for the purpose of care or treatment. A bill to amend the Act currently before Parliament aimed at creating a more efficient and streamlined system, clearing the backlog of applications and reducing health inequalities for persons with disabilities.

34. **Ms. Stradling** (United Kingdom of Great Britain and Northern Ireland), replying to the question raised about hate crime and the training of police, said that the United Kingdom Government took the issue very seriously, which had led it to publish a hate crime action plan in 2016. The plan covered all five strands of hate crime recognized by the Government: race; religion; sexual orientation; transgender identity; and disability. It focused on five key areas: preventing hate crime by challenging beliefs and attitudes; responding to hate crime within communities; increasing the reporting of hate crime; improving support for victims of hate crime; and building understanding of hate crime. The plan had been refreshed in 2018, which had included efforts to improve police training on hate crime, such as delivery by the National Police Chiefs Council of training for all call handlers to help identify hate crime victims at an early point of contact.

35. **Mr. Alexander** (United Kingdom of Great Britain and Northern Ireland) said that, on 16 April 2018, the United Kingdom Government had established a task force to ensure that members of the Windrush generation were supported in their right to be in the country. The Government had also launched the Windrush compensation scheme earlier in 2019, under which individuals would be able to submit claims for a wide range of losses, such as loss of employment or access to housing, education and National Health Service care.

36. With regard to asylum determinations, the Government did not seek to return anyone considered to be at risk of prosecution or serious harm in his or her country. It regularly published statistics on asylum claims. The most recent statistics from October 2017 to December 2018 showed that 36,605 asylum claims had been received. In the same period, 8,454 applicants had been granted asylum or an alternative form of protection. Although information on claims linked to torture was collected in order to assess individual claims, no statistics were recorded on the number of asylum claimants whose applications had been accepted or rejected on the grounds of torture.

37. The Government had introduced a stateless leave policy and immigration rules setting out the requirements for an individual to qualify for stateless leave to remain. It was committed to ensuring that stateless leave applications were considered without unnecessary delay. Case workers received extensive training and followed detailed instructions to carefully consider all such applications.

38. Approximately 95 per cent of people liable for removal at any one time were managed in the community and not in detention. With regard to the question as to whether

the United Kingdom would seek to impose a 28-day time limit on immigration detention, in line with the recommendation of the United Nations High Commissioner for Refugees, while the Government noted that recommendation, it was not clear how the 28-day time limit had been arrived at. As such, the United Kingdom had no current plans to change its policy.

39. The Government was committed to ensuring that immigration detainees were treated with dignity and respect and those identified as vulnerable while in detention were properly supported, with access to the physical and mental health care they needed. In addition, rule 34 of the Detention Centre Rules 2001 provided that individuals would be seen by health-care staff within two hours of their arrival and that they were offered an appointment with a doctor within 24 hours. Rule 35 of the same Rules required doctors in immigration removal centres to report to the Home Office cases of individuals whose health was suffering in detention or who represented a risk of suicide or self-harm or who might have been victims of torture.

40. Turning to the question raised about the current deportation with assurances agreements, he said that such deportation utilized the existing deportation powers contained in Immigration Act 1971 but added an assurance element so that any risk could be adequately addressed. The United Kingdom would not remove individuals who faced the death penalty. The Government did not comment on individual deportation with assurance cases for operational reasons. However, most deportation with assurance arrangements did include independent monitoring on return.

41. With regard to the Government's efforts to address human trafficking, the United Kingdom remained committed to tackling all forms of modern-day slavery and human trafficking and was taking increased action both domestically and internationally. The national referral mechanism was the United Kingdom body responsible for identifying and supporting potential victims of slavery or trafficking. Referrals to the mechanism had increased significantly in recent years. Between 2017 and 2018, 239 suspects had been charged with modern slavery offences, representing a 27 per cent rise over the previous year. In the same period, referrals to the Crown Prosecution Service had increased to 355, the highest number ever recorded, and 185 modern slavery and human trafficking convictions had been secured. As of March 2019, the numbers of modern slavery investigations being conducted across the country had reached around 1,204 cases, which represented an increase of 87 per cent over the previous 12 months. That increase was an indication of greater awareness among law enforcement communities of crime related to modern slavery.

42. With regard to training and institutional capacity to identify victims, all first responders received training on the indicators of modern slavery and human trafficking so that they were able to identify victims and provide immediate support. The Government had made £8.5 million of additional funding available to support the establishment of the Modern Slavery Police Transformation Unit. That unit would help individual police forces to better detect and investigate modern slavery and human trafficking. The United Kingdom was also playing a strong role in combating modern slavery and human trafficking internationally. At the General Assembly of the United Nations in 2017, the Prime Minister had made a call to action to step up international efforts to tackle modern slavery. The efforts to fight slavery were supported by a £200 million aid commitment, including a £33.5 million modern slavery fund that focused on high-risk countries from which victims were regularly trafficked to the United Kingdom.

43. Redress for victims of modern slavery was provided for under the Modern Slavery Act 2015. Victims of trafficking and modern slavery could seek redress through civil claims in a county court or high court, employment claims in an employment tribunal and criminal claims in the Criminal Injuries Compensation Authority. The Modern Slavery Act had recently been reviewed by an independent panel of experts overseen by parliamentarians, which would deliver its final report with recommendations to the Government in the coming weeks. In October 2017, the Government had announced plans to reform its national referral mechanism to improve the identification of victims.

44. Children who went missing were at increased risk of trafficking or exploitation. On 28 June 2016, the Government had announced up to £3 million for the Child Trafficking Protection Fund. The Fund complemented other work to support victims of child trafficking, including the provision of independent child trafficking advocates. In 2016, the Department of Education had commissioned the Refugee Council and the United Kingdom branch of the End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes network to train 1,200 foster carers and support workers of unaccompanied asylum-seeking children who were at risk of going missing from care due to being trafficked. Following the success of that training, in 2018, the Department had commissioned a further 1,000 training places for foster carers and support workers of unaccompanied children.

45. Concerning the question on alignment between the Modern Slavery Act and international definitions of trafficking, the Government was confident that the United Kingdom statutory framework fully implemented the Trafficking in Persons Protocol and that there were no gaps in the offences which allowed criminals to escape prosecution.

46. Regarding migrant domestic workers, in March 2015, the Government had conducted a review to assess arrangements for the protection of workers from abuse and exploitation. In response to that review the Government had taken a number of actions, including removing the condition that tied workers to a specific employer by allowing them to switch to a different employer within the six months' validity of their visas. The provision had also been extended to domestic workers employed in diplomatic households. The Government had also increased the leave that could be granted to overseas domestic workers found to be victims of slavery or trafficking, from six months to two years.

47. **Ms. Adamson** (United Kingdom of Great Britain and Northern Ireland) said that having the age of criminal responsibility set at 10 allowed for flexibility with children who offended and for early intervention in a child's life with the aim of preventing subsequent offending later in life. Most proven offending was committed by children aged 15 to 17. For example, only 17 per cent of all sentences given to children in 2017 had been for those aged 10 to 14, of which 82 per cent had entailed community service. Custodial sentences could only be made by a judge. The Government contracted independent children's rights and advocacy services in all young offender institutions and all secure training centres in the youth secure estates. Advocacy services were commissioned to empower children in resolving the issues relating to their welfare, care and treatment while in custody.

48. The increased use of restraint and separation in the youth estate was a concern. The Government's approach to restraint was always to minimize its use through both de-escalation and diversion strategies. Concerning Medway Secure Training Centre, significant changes had been made across the wider estate since allegations of abuse had been brought to light, including taking the site back into public control and initiating disciplinary action against staff suspected of wrongdoing, several of whom had been dismissed. With respect to Medomsley Detention Centre, the abuse that had taken place at that centre had been appalling and it was right that those responsible had finally been brought to justice. The Government would continue to increase safeguards and track down any kind of abuse.

49. Turning to the question about reports from the national preventive mechanism that men, women and children had been transported together in the same prison vans, she pointed out that prisoner escort contracts were specific regarding the requirement for the separation of adult male, female and young prisoners. Where possible, separate vehicles were used to transport all young people, women and men. However, the vehicle fleet was designed to provide internal separation, which allowed for women, young people or adult men to travel in the same vehicles, if required, but with clear separation.

50. Regarding the use of Taser guns, the Government was clear that all force used by the police must be necessary, proportionate and reasonable in the circumstances. It was committed to giving the police the necessary tools to do their job and the Taser provided officers with an important tactical option when facing potentially violent situations where other tactics had been considered or failed. The Government supported use of the device by specially trained police officers in line with national policing guidance. Tasers were not

used in prisons or immigration settings anywhere in the United Kingdom. All officers who were selected to use the Taser had to undergo comprehensive training and have an appreciation of the physical and psychological effects of those devices. Use of force, including Tasers, was subject to a robust and transparent accountability process. Data on Taser use had therefore been collected and published by the Government since its introduction in April 2004. In 2018, the Government had begun publishing use of force statistics, including Tasers, as part of the annual data review.

51. **Ms. MacKinnon** (United Kingdom of Great Britain and Northern Ireland) said that the Age of Criminal Responsibility (Scotland) Bill had been amended to provide for the possibility of subsequent review and further increase of the age. An expert group composed of senior professionals from the care and justice sector would be reconvened to consider that possibility. In April 2019, the First Minister of Scotland had announced her plan to incorporate the Convention on the Rights of the Child into domestic law by 2021. To that end, consultations would be conducted to address any legal and practical issues ahead of incorporation. In addition, efforts were under way with children, young people and stakeholders to co-design and co-deliver a three-year awareness-raising programme on children's rights.

52. **Ms. Hawley** (United Kingdom of Great Britain and Northern Ireland) said that cases of intersex persons were often complex and had to be addressed on an individual basis. The National Health Service in England was exploring the feasibility of commissioning a clinical pathway for intersex children and young adults. The Service's policy was for all infants and adolescents suspected of having intersex characteristics to be seen by an experienced multidisciplinary team and for families to be assigned a single point of contact to discuss options in terms of immediate or delayed treatment with hormone therapy or surgery. Moreover, new parents of an intersex child as well as intersex children or adolescents, especially those requiring medical or surgical attention, should have access to specialist psychological support both during and after the diagnostic process. In January 2019, the Government Equalities Office had, for the first time, launched a call for evidence in order to better understand the experiences and needs of people with variations in sex characteristics; the Government was currently considering the responses received.

53. **Ms. Thynne** (United Kingdom of Great Britain and Northern Ireland) said that the Government recognized the sensitivity of the issue of abortion in Northern Ireland, but its position was that, since the issue had been devolved, any question of amending laws or policy was for the devolved administration to consider. Furthermore, the Government remained committed to its international obligations and believed that the devolved administrations should ensure the compliance of domestic laws. The current situation in Northern Ireland did not warrant derogating from that principle, and the support the Government had already put in place struck the appropriate balance between the position of the devolved administration and access to safe abortion services in England for women from Northern Ireland. Nevertheless, the Government would keep its position under review in the light of its legal obligations and any emerging legal judgments.

54. **Mr. Alexander** (United Kingdom of Great Britain and Northern Ireland) said that protecting women and girls from violence and supporting victims was a key government priority and £100 million had been pledged to that end. Since 2010, the Government had strengthened the law on violence against women, had established the offences of domestic abuse and two new stalking offences and had criminalized forced marriage. Prosecutions of violence against women and girls had risen by 23 per cent since 2010, while convictions had gone up by 30 per cent. The increased funding, including £17 million for the Violence against women and girls service transformation fund, would advance cooperation with local authorities on securing the future of rape support centres and refuges whilst driving major change across all services to make early intervention and prevention, rather than crisis response, the new norm. Between 2016 and 2020, the Government had committed over £40 million to fund nearly 150 domestic abuse projects, 4,000 bed spaces and support for some 45,000 people. It had also allocated £12.5 million specifically to services for victims and survivors of sexual violence.

55. The Government viewed female genital mutilation as a crime and had significantly strengthened the law to improve protection for victims and those at risk and to break down

barriers to prosecution. In addition, it had established the offence of failing to protect a girl from female genital mutilation, had extended the reach of extraterritorial offences and had introduced life-long anonymity for victims, civil protection orders for such cases and a mandatory reporting duty for known cases in girls under 18. The protection orders had proven to be effective, with nearly 350 granted since their introduction. Frontline professionals had been provided with resources, including free e-learning modules, multi-agency guidance and a range of communication materials. The number of newly recorded cases continued to gradually fall.

56. **Ms. Francis** (United Kingdom of Great Britain and Northern Ireland) said that Wales had introduced legislation in 2015 to improve the public sector response to violence against women, domestic abuse and sexual violence. The Wales Centre for Public Policy had begun a review of refuge services, looking at international best practices and drawing on the views of victims and survivors. Welsh ministers already had the duty to incorporate the Convention on the Rights of the Child, and a study had been commissioned to determine what legislative action could be taken to safeguard and enhance equality and human rights in Wales in the context of the Kingdom's pending exit from the European Union. The aim was to consider how any new action aligned with the framework under the Well-being of Future Generations (Wales) Act 2015, and care would be required to ensure that proposals did not conflict with or inadvertently undermine existing duties.

57. **Ms. Gaer** (Country Rapporteur) said that it was very welcome news that the State party remained committed to fully implementing its obligations under the Convention irrespective of its exit from the European Union. In that connection, she wondered whether those obligations applied in the Overseas Territories, and if so, who was responsible for ensuring they were discharged. Was the scant information provided on certain Overseas Territories perhaps symptomatic of a problem with the applicability or implementation of the Convention? It would be interesting to hear how the State party intended to respond to the recommendations it would receive from the Committee, specifically what role civil society, human rights institutions and the national preventive mechanism would play and whether there were plans to set up an implementation mechanism.

58. However, the delegation had failed to provide much of the data requested, thereby heightening her concern regarding the lack of data, which was further reinforced by the finding of the University of Bristol that compiling comprehensive data on allegations of ill-treatment was impossible because the various bodies across the State party did not use the same metrics or definitions. It would be interesting to know whether the State party intended to act on that finding. Data were important not only for the Committee to have a comprehensive picture of the situation in the State party but also for the oversight mechanisms. The State party's national preventive mechanism could be a model for other States, but not if it had no means of measuring its own effectiveness.

59. In follow-up to questions regarding a number of the issues raised in the first half of the dialogue ([CAT/C/SR.1740](#)), she wished to know whether any remedial action had been taken in the Haverigg case and whether any staff members had been disciplined for allowing the abuse to take place, especially since it had occurred in plain view. More broadly, she would welcome information on whether victims of abuse could access investigation records. It would be helpful to know how many deportations with assurances had been carried out that did not require post-return monitoring, as it was deviations from the norm that demonstrated how well a system worked in practice, and whether the State party might consider reviving the Foreign and Commonwealth Office's strategy for the prevention of torture. Was the State party's assertion that the arrest of the journalists in Northern Ireland in connection with their work on the Loughinisland massacre had been consistent with the rule of law based on the findings of an investigation?

60. She would appreciate a response to her questions on: the referral of stateless persons to the relevant procedure and their rights to legal assistance and to appeal negative decisions; the sexual abuse of children; violence against women, in particular migrant women; the investigation of allegations of torture during the Troubles and reports of other torture committed by the military in the 1970s.

61. **Mr. Heller Rouassant** (Country Rapporteur) said that it was worth noting that, in addition to the humanitarian aspect, the unlimited detention of migrants cost the State party between £25 million and £35 million per year and that, despite the introduction of a standardized system for processing applications, over 14,000 asylum seekers had been awaiting a decision for longer than the statutory six-month period. While he noted the Age of Criminal Responsibility (Scotland) Bill, the fact remained that the age of criminal responsibility in England and Wales was not in line with international standards. He would appreciate further information on the training provided to military personnel on the basis of the findings of the process described in paragraph 224 of the State party report. Noting that no action appeared to have been taken in response to the Council of Europe Commissioner for Human Rights' call for an investigation into the ill-treatment, rendition and torture of suspects in the 9/11 attacks, he wished to know whether the State party was open to an independent judicial investigation into the involvement of members of the British Armed Forces in such acts in Iraq. Such an investigation would have the benefit of establishing the facts and assigning responsibility without the International Criminal Court needing to continue its preliminary examination and might be a better way of proving the independence of the judiciary and closing such a controversial and shameful chapter in the State party's history. Lastly, he was interested to hear how the State party intended to approach the implementation of the concluding observations in the light of its constitutional complexity and to ensure a consistent response.

62. **Mr. Touzé** said that, while he welcomed the fact that there had been an official government reaction to the 2018 report by the Intelligence and Security Committee of Parliament, he was more interested in what investigations and judicial procedures were envisaged to realize the rights of the victims under articles 13 and 14 of the Convention.

63. **Mr. Rodríguez-Pinzón**, noting that civil claims were the avenue for victims of torture committed abroad to obtain reparation, said that pushing forward the Torture (Damages) Bill was the opportunity to provide an effective remedy unfettered by the usual obstacles inherent in civil proceedings. Collecting data on rehabilitation for asylum seekers and refugees who had been subjected to torture would be useful for policy purposes; perhaps the system used for victims of trafficking might serve as a model in that regard.

64. **Ms. Belmir** said she was concerned that, despite the recommendations made by the Committee in its previous concluding observations ([CAT/C/BGR/CO/5](#), para. 10), the State party had not repealed section 134 (4) and (5) of the Criminal Justice Act 1988, which appeared to provide an "escape clause" to the absolute prohibition of torture. In that connection, she wondered whether the State party had conducted investigations into allegations that members of the British armed forces had been involved in human rights abuses, including acts of torture and deaths, overseas.

65. **Mr. Hani**, welcoming the State party's contribution to the United Nations Voluntary Fund for Victims of Torture, said that he would be grateful for a response to his questions regarding: the allegedly widespread use of physical restraints on children at young offender institutions and secure training centres; the use of solitary confinement against children; and the Minimising and Managing Physical Restraint system, in particular whether it had been evaluated and, if so, what results had been achieved. He also invited the delegation to comment on reports that: men, women and children were transferred together in prison vans; children were subjected to long journeys without toilet breaks; and that detainees faced delays in being transferred from vehicles during very hot and cold weather. Lastly, he failed to understand why the State party had not accepted the individual communications procedure under article 22 of the Convention when it had done so for other international human rights conventions.

66. **The Chair**, while welcoming the information provided on measures taken to end modern slavery, human trafficking and violence against women, said that there had been disappointingly little detail about how the State party effectively and reliably identified victims of torture. In particular, he wished to know what was being done to ensure that asylum seekers who were victims of torture were reliably identified at an early stage and whether Home Office administrators were responsible for evaluating medical evidence of torture.

67. **Ms. Gaer** said that she wondered whether the forthcoming review of the Northern Ireland situation would be limited to conflict-related legacy issues or would involve a broader evaluation of all human-rights-related issues in Northern Ireland. In that connection, she pointed out that, pursuant to article 33 of the Belfast Agreement of 1998, the Westminster Parliament would legislate as necessary to ensure that the international obligations of the United Kingdom were met with respect to Northern Ireland. Regarding asylum seekers, she wished to know how many persons had been returned to Afghanistan, Eritrea and Sri Lanka; whether the Government maintained a list of “safe countries” to which asylum seekers could be returned without the right of appeal; and, if so, whether Ukraine was considered to be a safe country of origin. Lastly, she would be grateful to learn of any steps the Government was taking to review the application of the standard of proof in asylum decisions, including in relation to the assessment by caseworkers of medical evidence of torture.

The meeting was suspended at 5.15 p.m. and resumed at 5.30 p.m.

68. **Ms. Robson** (United Kingdom of Great Britain and Northern Ireland) said that the territorial application of the Convention had been extended to all British Overseas Territories with permanent populations, namely Anguilla, Ascension Island, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, Pitcairn, St Helena, Tristan da Cunha and the Turks and Caicos Islands. While the United Kingdom had overall responsibility for the overseas implementation of human rights treaty obligations, the Governments of those territories were responsible for their implementation through laws and policies. The Ministry of Justice liaised with those Governments to ensure that they were able to meet their duties in that regard, while the Foreign and Commonwealth Office assisted them in monitoring compliance with the Convention, including by sending independent advisers to visit prisons. Since the submission of her country’s periodic report in 2017, information on the implementation of the Convention in Gibraltar and the Turks and Caicos Islands had been received and would be provided to the Committee in writing.

69. The Foreign and Commonwealth Office continued to operate in accordance with the principles set out in its Strategy for the Prevention of Torture, which provided guidance to diplomats on preventing torture overseas. Indeed, torture prevention constituted a key strand of the Government’s human rights work abroad, including with respect to the allocation of overseas project funding.

70. **Ms. Sephton** (United Kingdom of Great Britain and Northern Ireland) said that closed material procedures, which, under the Justice and Security Act 2013, allowed sensitive evidence to be disclosed to a judge in a closed hearing, had been used in fewer than 20 cases each year since the Act’s introduction. Between 25 June 2016 and 24 June 2017, there had been 13 applications for a declaration to be made in closed material proceedings and 14 declarations had taken place. Of those cases, eight had related to Northern Ireland. A similar number of applications had been made between 25 June 2017 and 24 June 2018, with five declarations having been made and four cases having related to Northern Ireland. It was worth noting that applications to make a declaration in closed material proceedings could be filed in one year and decided in another. Lastly, regarding the 2018 report of the Intelligence and Security Committee of Parliament, the Government was giving serious consideration to the issue of detainee mistreatment and rendition, including whether or not to establish a judge-led inquiry into the matter.

71. **Mr. Candler** (United Kingdom of Great Britain and Northern Ireland) said that a great deal of data was publicly available on government websites or released under the Freedom of Information Act 2000. According to information released by the Ministry of Justice in April 2019 under the Freedom of Information Act, 2,666 prison staff had been subject to disciplinary action in England and Wales between mid-2013 and mid-2018. In the same period, 6,597 investigations into misconduct had been launched, including 718 into assault or unnecessary use of force against a prisoner. Between 1 December 2017 and 1 December 2018, 50 prison officers had been disciplined for assault or unnecessary use of force. Of those cases, 13 had resulted in the officers’ dismissal; 4 officers had resigned and 28 had received a first or final warning. Lastly, a police investigation into the incident at Haverigg prison had found no evidence of staff involvement.

72. **Ms. Adamson** (United Kingdom of Great Britain and Northern Ireland) said that the Government was urgently considering the findings of the Independent Inquiry into Child Sexual Abuse report on the sexual abuse of children in custodial institutions. It recognized the need for fundamental reform of youth custody in order to ensure the safety, welfare and rehabilitation of young people. To that end, the Government had launched an urgent review of safeguards in custody settings and an independent review of pain-inducing restraint techniques, introduced new specialist training for prison staff and increased front-line youth custody staff by a third. It was also investing in secure schools to put education at the heart of the youth custody system. All allegations of abuse were treated seriously and sensitively and all persons involved were treated with dignity and care. Various methods were available for young persons to report incidents; however, barriers to reporting did still exist and action was being taken to remedy that situation.

73. With reference to segregation in young offender institutions and secure training centres, in certain circumstances it was necessary to remove very disruptive children for safety reasons. However, segregation was never used as a form of punishment and children were never subjected to solitary confinement. All prison vans contained individual cells; thus, young persons and adults were always held separately in those vehicles. Comfort breaks were offered every four hours. Lastly, the Committee's forthcoming concluding observations would be discussed by the Government, the devolved administrations, the national human rights institutions and civil society organizations.

74. **Ms. MacKinnon** (United Kingdom of Great Britain and Northern Ireland) said that the First Minister of Scotland had convened an Advisory Group on Human Rights Leadership to examine the human rights impact of the withdrawal of the United Kingdom from the European Union and how best to protect and promote all human rights. Among other aspects, it had recommended the creation of a new Act of the Scottish Parliament incorporating international human rights conventions into Scottish domestic law. A task force on human rights was to be established later in the current year to take the recommendations of that Advisory Group forward.

75. **Ms. Hawley** (United Kingdom of Great Britain and Northern Ireland) said that the content and quality of medical education in the United Kingdom was the responsibility of the General Medical Council, an independent regulatory body. In 2017, it had approved the updated core psychiatry curriculum of the Royal College of Psychiatrists, which contained specific competences in relation to the human rights of asylum seekers. Although it did not make explicit reference to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), it did include recognition of the impact of human rights violations and post-traumatic stress disorder following exposure to traumatic events such as torture.

76. **Ms. Thynne** (United Kingdom of Great Britain and Northern Ireland) said that the legacy issues relating to Northern Ireland were not contingent upon the talks due to take place between the British Prime Minister and the Irish Taoiseach. Those negotiations would cover the issues deemed most appropriate at that time by the two leaders. All the decisions so far taken by the United Kingdom Government had been aimed at promoting good governance and maintaining essential public services. The Government's priority was the restoration of the Northern Irish devolved institutions.

77. An investigation into the arrest of two journalists in Northern Ireland had been conducted by a separate police authority in England. On the question of whether victims of abuse could access investigation records, it should be pointed out that police reports were not made public but were transferred to the National Archives, where they could be viewed. Requests for information could also be made under the Freedom of Information Act 2000. Lastly, the primary function of the Historical Investigations Unit was to investigate fatalities related to the Troubles; cases of serious injury would be investigated by the Police Service of Northern Ireland.

78. **Mr. Alexander** (United Kingdom of Great Britain and Northern Ireland) said that the non-suspensive appeals designated list of States to which asylum seekers could be returned was publicly available on the Government's website and in the relevant legislation. The appropriateness of a designated State was reviewed every time the country policy and

information notes were updated. Ukraine was currently on the list. When a protection or human rights claim from a person entitled to reside in a designated State was categorized as “clearly unfounded”, any appeal against the decision had to be made outside the United Kingdom.

79. In 2018, there had been 1 enforced return and 3 voluntary returns to Eritrea, 79 enforced returns and 85 voluntary returns to Afghanistan and 42 enforced returns and 462 voluntary returns to Sri Lanka. Further data on returns were freely available on the Government’s immigration statistics portal.

80. On the question of torture claims in detention, decisions were made by caseworkers who were trained to assess the balance of evidence, which was applied in line with government policy on detention and assessment of torture claims. In that connection, an insecure immigration status was no barrier to gaining access to protection or to the national referral mechanism. Although the police shared data on such cases with the Home Office, the overriding policy was to treat the individual’s vulnerabilities first, then address his or her immigration status. Similarly, at-risk persons, including those found to be stateless, were not held in immigration detention. An individual could only be held in detention pending removal if there was a realistic prospect of their removal within a reasonable time frame.

81. **Mr. Candler** (United Kingdom of Great Britain and Northern Ireland), summarizing the information contained in paragraph 97 of his country’s periodic report (CAT/C/GBR/6), said that all military personnel, as well as specific nominated civil servants and contractors, received training on the law of armed conflict, which covered applicable international humanitarian and human rights law.

82. With reference to the provision of mental health services in places of deprivation of liberty, the new Health and Justice Information Service would enable clinical records to be shared between health-care services in prisons and in the community. All men and women entering custody were assessed by custodial and health-services personnel, which included a mental health screening. The National Health Service in England provided an offender mental health-care pathway to ensure that persons deprived of liberty who had mental health needs were directed to the appropriate services and had signed a national partnership agreement for prison health care in England in April 2018 with a view to delivering safe, decent and effective health care for offenders. Priorities under that agreement included reducing suicide and self-harm and improving the mental health and well-being of the prison population.

83. In his closing remarks, he wished to thank the Committee for what had been a challenging, yet fascinating dialogue. Although they had not necessarily agreed on all aspects of the Convention, he hoped that his delegation had been able to explain the legislation and policies of the United Kingdom with a view to developing greater understanding. The Government looked forward to receiving the forthcoming concluding observations, which would guide its next report and dialogue with the Committee.

84. **The Chair** said that he wished to remind the delegation that it could submit any outstanding replies in writing; if they were received within 48 hours, they would be taken into account in the Committee’s concluding observations. In the interests of maintaining an ongoing dialogue, the Committee would select three recommendations for urgent follow-up by the State party within one year. The State party would be invited to submit an implementation plan for the remaining recommendations.

The meeting rose at 5.55 p.m.