UNITED KINGDOM
Summary of concerns raised with the Human Rights Committee

In the context of the UN Human Rights Committee's examination of the fifth periodic report of the United Kingdom (UK), in October 2001, under the International Covenant on Civil and Political Rights (ICCPR), Amnesty International drew Committee members' attention to a summary of some issues which have been of concern to the organization in recent years.

HUMAN RIGHTS PROTECTION

There have been some major developments since the Human Rights Committee examined, in 1995, the UK's implementation of its obligations under the ICCPR.

The *Human Rights Act*, which came into effect in October 2000, incorporated most of the rights contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights).

* Amnesty International believes that the government should ratify and incorporate Protocols 4, 7 and 12 of the European Convention on Human Rights; as well as ratify Article 13 of the European Convention which provides for an effective remedy for breaches of the Convention rights.
* Amnesty International believes that the *Human Rights Act* should be seen as a first step in the UK's incorporating a wide range of international human rights treaties and standards into domestic legislation. This should include the incorporation of the ICCPR and the ratification of the first Optional Protocol to the ICCPR.

The peace process in Northern Ireland has resulted in a number of positive developments, in particular, the repeated commitment within the Multi-Party Agreement of April 1998 to respect for human rights and the mechanisms outlined by the Agreement to promote and protect human rights. A central mechanism was the creation of the Northern Ireland Human Rights Commission, which was set up in March 1999; one of its primary tasks has been to consult and draft proposals for a Bill of Rights for Northern Ireland. Another mechanism was the creation of the Equality Commission, which was set up later in the same year.

The Agreement also proposed the initiation of independent reviewing bodies of policing and the criminal justice system in Northern Ireland. In March 2000, the Review of the Criminal Justice System in Northern Ireland was published. The 447-page Review (with, additionally, 18 Research Reports) contained 294 recommendations, including the creation of a new prosecution service, the creation of an Independent Judicial Appointments Commission, the removal of overtly British symbols from court houses,

the appointment of a minister for justice and a local attorney general. Legislation based on this review will be introduced in 2002.

In addition, in November 2000, the new Northern Ireland Police Ombudsperson, Nuala O'Loan, and her team of independent, civilian investigators began to function: to investigate independently, or to supervise police investigations of, allegations of police misconduct.

The review of policing, led by Chris Patten (known as the Patten Commission), resulted in the *Police (Northern Ireland) Act 2000,* which was passed into law in November 2000. Under this Act, the Royal Ulster Constabulary (RUC) was renamed in November 2001 as the "Police Service of Northern Ireland (incorporating the RUC)" and measures have been put in place to increase the recruitment of Catholics and women to the police service.

* Amnesty International is concerned that the Act failed to include all of the measures for increased police accountability which were recommended in the report produced by the Patten Commission. These included :
(a) increasing the powers of the civilian oversight body (a Policing Board) and of the Police Ombudsperson to initiate inquiries into police policies and practices;
(b) reflecting the Patten Commission's recommendation that human rights protection be at the heart of policing and that policing be carried out within the framework of international human rights norms and standards. For example, the oath to uphold human rights, which Patten had recommended should be taken by all new and serving officers, would only be taken by new officers.

THE RIGHT TO LIFE (Article 6)

Northern Ireland: Disputed Killings by the Security Forces and Collusion

Since the mid-1980s Amnesty International has expressed concern about the government's failure to ensure that disputed killings, including by the security forces or with their alleged collusion, were investigated promptly, impartially, independently and thoroughly. Such failure resulted in violations of international human rights law. The police investigations have been flawed in many cases; the prosecution authorities have failed to bring prosecutions in most cases; and inquests in Northern Ireland have failed to provide a forum for public scrutiny of the full circumstances of disputed killings and to examine the legality of law enforcement officials' actions.

Significantly in this context, the judgments delivered by the European Court of Human Rights in May 2001 highlighted these concerns. The unanimous rulings were made in four cases brought by the families of 12 people, 11 people killed by security forces and one person killed by an armed Loyalist group with the alleged collusion of the security forces.[1] The European Court concluded that the UK had violated the right to life in Northern Ireland.

[1] Hugh Jordan v. the UK (no. 24746/94); McKerr v. the UK (no. 28883/95); Kelly and others v. the UK (no. 30054/96); and Shanaghan v. the UK (no. 37715/97).

Consistent with the concerns expressed by Amnesty International, the European Court found in all four cases that the procedures for investigating the use of lethal force by police officers failed to meet the requirements of Article 2 of the European Convention on Human Rights, which enshrines the right to life. It criticized the lack of independence of the investigating police officers from the officers implicated; the lack of public scrutiny; and the lack of information provided to victims' families by the prosecution authorities about decisions not to bring prosecutions. Also, the Court criticized the fact that the inquest procedure in Northern Ireland does not allow any verdict or finding which could play an effective role in securing a prosecution of any criminal offence; and that people suspected of causing death cannot be compelled to give evidence at an inquest. The Court considered that the non-disclosure of witness statements to the victim's family prior to the witness appearing at the inquest prejudiced the families' participation in the inquest. It also was critical of delays in each case.

The landmark judgments effectively require the UK government to change the procedures by which it investigates killings in disputed circumstances, including criminal investigations, prosecution decision-making and the inquest system. They will have major repercussions, not only for the families of the 12 victims of killings in disputed circumstances which the European Court examined, but also for many other cases in Northern Ireland, as well as procedures in the rest of the UK.

There are over a dozen inquests into disputed killings still pending in Northern Ireland. The families of some people, who were killed by the security forces or by paramilitary groups in alleged collusion with members of the security forces, have waited many years for an inquest. However, such inquests cannot now proceed in light of the recent rulings, until changes are made.

Although Amnesty International welcomed the UK government's announcement in early 2001 of a two-year review of the inquest procedure, this will not alleviate the pressing need for families of the victims to have the full circumstances of the killings examined and publicly scrutinized in the near future. The government needs to urgently address these issues.

Northern Ireland: The Killing of Patrick Finucane and Curtailment of freedom of expression

Patrick Finucane, a Catholic human rights lawyer, was shot dead in February 1989 by Loyalist paramilitaries. Since the early 1990s Amnesty International and other NGOs have called for a judicial inquiry into his killing, after allegations emerged of official collusion in his murder.[2] It has been alleged that MI5 (security services), RUC Special

[2] See Amnesty International documents *Political Killings in Northern Ireland*, AI Index: EUR

Branch and a secret military intelligence unit, all played a role. Questions are also posed about the extent of knowledge held by the Northern Ireland Office or Cabinet members concerning the operations of the various intelligence units.

Sir John Stevens was recalled to Northern Ireland for the third time in April 1999 to carry out an investigation into the murder of Patrick Finucane and other related matters of collusion (known as the "Stevens 3" investigation).[3] Evidence has emerged that a secret military intelligence unit, known as the Force Research Unit (FRU), used an informer in the Ulster Defence Association (UDA, a Loyalist paramilitary group) to target and kill a number of people. Evidence has also emerged that in the case of Patrick Finucane, Loyalist informers passed information on the targeting of Patrick Finucane, before his killing, to both the RUC Special Branch and to the FRU. In October 2000 it was reported that Special Branch officers had blocked further investigation of a senior North Belfast UDA commander who admitted his part in the murder of Patrick Finucane to three RUC detectives in 1991.

To date only one person has been charged in connection with the murder of Patrick Finucane. William Stobie was initially charged in June 1999 with murder, although the charge was reduced on 30 August 2000 to aiding and abetting, counselling and procuring others to murder Patrick Finucane. Information on Stobie's role had been available to the police and to the Director of Public Prosecutions (DPP) in 1990, at which time a prosecution was not brought. William Stobie, a former UDA quartermaster, had admitted in police interviews in 1990 that he supplied one of the weapons used; but he also insisted that at the time he was an agent of the RUC Special Branch and that he had kept Special Branch informed before and after the murder of the information he had received. In November 2001, the prosecution authorities dropped the charges against William Stobie.

45/01/94, and *Patrick Finucane's Killing: Official collusion and cover-up*, AI Index: EUR 45/26/00. See also the *Report on the mission of the Special Rapporteur to the UK*, 5 March 1998, E/CN.4/1998/39/Add.4 and subsequent annual reports, in which Special Rapporteur Param Cumaraswamy concluded "that the RUC has engaged in activities which constitute intimidation [of lawyers], hindrance, harassment or improper interference". He urged the authorities to conduct an independent and impartial investigation of all threats to legal counsel; he also recommended that the government initiate an independent judicial inquiry into the circumstances of the killing of Patrick Finucane.

[3] See *United Kingdom: Political Killings in Northern Ireland*, AI Index: EUR 45/01/94, for details about the previous two investigations by Sir John Stevens. Sir John Stevens is currently the Commissioner of the Metropolitan Police, London. In December 1999 Deputy Assistant Commissioner Hugh Orde took over the day-to-day control of the "Stevens 3" investigation (Sir John Stevens became the Commissioner for the Metropolitan Police shortly afterwards).

* Amnesty International is concerned that the current Stevens investigation is not examining all the killings that may have been carried out as a result of official collusion or acquiescence and urges the government to initiate a full, independent and public inquiry into the killing of Patrick Finucane and into all aspects of collusion.

Amnesty International is also concerned that the government is attempting to intimidate former members of intelligence units, journalists and newspapers from investigating and making public claims of illegal activities by state agents. The case of a former member of FRU, known as Martin Ingram, is an example. Ingram made startling revelations concerning the operations of FRU in the *Sunday Times* in November 1999. This resulted in a year-long police investigation of Martin Ingram and the *Sunday Times* journalist, Liam Clarke, for breaching the Official Secrets Act. The Ministry of Defence also obtained an injunction against the *Sunday Times* to prevent the newspaper from publishing further disclosures by Martin Ingram. (See below for more information on the right to freedom of expression.)

Northern Ireland: The Killing of Rosemary Nelson

Rosemary Nelson, a human rights lawyer, was killed by a Loyalist car bomb in Lurgan in March 1999.[4] In the face of calls for a fully independent investigation into her killing, in particular in view of the threats she had received prior to her death, the RUC Chief Constable appointed senior British officers to lead the police investigation. Colin Port, the Deputy Chief Constable of the Norfolk police, has led the investigation since April 1999. Amnesty International was concerned that this investigation contained officers from the RUC, particularly in view of the fact that Rosemary Nelson had been threatened and intimidated by RUC officers, and urged that the investigation be totally independent. To date, although arrests have been made, no one has been charged in connection with the murder.

Amnesty International has been concerned by the lack of a prompt, thorough and impartial investigation into all the complaints of threats and intimidation made by Rosemary Nelson before her death; Rosemary Nelson had been allegedly threatened, through her clients, by RUC officers. The results of the internal police investigations have still not been made public. On 23 December 1999 the DPP decided not to prosecute anyone as a result of complaints Rosemary Nelson had made about threats issued against her by RUC officers. In May 2000 the Independent Commission on Police Complaints decided not to recommend disciplinary action against the RUC officers who allegedly

[4] See Amnesty International's report: *Northern Ireland: The Killing of Human Rights Defender Rosemary Nelson*, AI Index: EUR 45/22/99.

threatened and intimidated Rosemary Nelson. Amnesty International believes that these decisions have not been made on the basis of a full and impartial investigation and urges that such an investigation be carried out. The organization notes that other complaints are still pending.

Amnesty International is also concerned that the investigation into the failure of the police and the authorities to protect Rosemary Nelson's right to life, despite the known threats to her life, has not been prompt, thorough and impartial.

* Amnesty International continues to urge an independent public inquiry into the killing of Rosemary Nelson, because it believes that only such an inquiry can address all of the concerns which have arisen.

Northern Ireland: The Killing of Robert Hamill

On 27 April 1997, Robert Hamill, a Catholic, aged 25 and the father of three children, was walking through the centre of Portadown with three companions when they were attacked by a crowd of around 30 Loyalist men and women. The two men were beaten and kicked savagely, and Robert was knocked unconscious almost immediately. The crowd continued to kick him as he lay on the ground while shouting sectarian abuse such as 'Die you Fenian [republican] bastard'. According to Robert Hamill's companions, four police officers who were sitting in a RUC jeep about six metres away did not intervene to stop the attack or come to their assistance. Having suffered a severe head injury, Robert Hamill never regained consciousness and died on 8 May 1997.

Initial reports issued by the RUC following the attack misleadingly claimed that there had been a battle between Loyalist and Republican factions in which it would not have been safe for the police to intervene, and that the police had come under attack. No evidence was collected at the scene of the incident and no one was arrested that evening or during the immediate period following the violent attack. The attack was investigated by RUC officers from Portadown RUC station, the same station as the RUC officers who failed to intervene in the attack. Following the death of Robert Hamill, six people were arrested and charged with his murder. However, by November 1997 all but one of the six suspects had been released. The only person to be brought to trial was Paul Hobson, who was acquitted of Robert Hamill's murder in March 1999 for lack of evidence. Paul Hobson was sentenced to four years' imprisonment for committing an affray.

After the Hamill family lodged a complaint against the RUC for their failure to act at the time of Robert Hamill's killing, a police investigation into the conduct of the four police officers at the scene was carried out under the supervision of the Independent Commission for Police Complaints (ICPC). The ICPC subsequently forwarded the investigation report to the Director of Public Prosecutions (DPP). Following the trial of

Paul Hobson in March 1999, on 29 September 1999 the DPP decided not to bring criminal charges against any of the officers. The coroner leading the inquest into the death of Robert Hamill decided in June 2000 that he was unable to hold an inquest because he was unable to guarantee the safety of a key witness. In November 2000 the newly created Police Ombudsperson took over the supervision of the investigation from the ICPC; the results of the investigation remain pending.

Amnesty International is concerned about the alleged failure of RUC officers to intervene and protect Robert Hamill and his companions when they were attacked by a large group of Loyalists; the failure of the RUC officers to provide first aid to Robert Hamill; and the failure of the RUC to impartially and promptly investigate the attack, including the failure to preserve the scene of crime, to secure forensic evidence and to make arrests promptly.

* Amnesty International is therefore calling for a full, independent and impartial inquiry to be carried out into the circumstances surrounding the killing of Robert Hamill and the role played by the RUC at the time of the incident and in the investigation.

England and Wales: Deaths in custody/disputed killings

Amnesty International has identified a pattern of deaths in police custody in England and Wales, due to excessive use of force and restraint techniques leading to asphyxia. In many incidents, the victims have also been subjected to ill-treatment. A large proportion of the victims have been from black or other ethnic minority communities. Amnesty International is concerned that the authorities have failed to carry out independent investigations into the full circumstances of each death; to make the results of the investigations public; and to bring to justice those allegedly responsible. This is coupled with an inquest system which is flawed. These failures have eroded public confidence in the criminal justice system. Amnesty International believes that the system of investigation and prosecution of disputed deaths in police custody is seriously flawed and is unsuitable to bring about impartial, thorough and transparent investigations and just prosecutions and is intrinsically biassed in favour of police officers.

Such systemic failures can best be understood through some illustrative cases, which Amnesty International has been monitoring. No one has yet been held accountable for any of these disputed deaths. (The cases are listed in chronological order.)

Christopher Alder

Christopher Alder, a black ex-paratrooper, died on 1 April 1998 in Queens Gardens Police Station, Hull, England, following his arrest in connection with a fight outside a nightclub. Five police officers were suspended from duty during the investigation into his death.

In July 2000, an inquest jury returned a verdict of "unlawful killing". At the inquest it emerged that Christopher Alder, who had been handcuffed behind his back, was found motionless on arrival at the police station. CCTV video evidence showed that he was dragged into the police station custody suite and placed face down on the floor, where he was left unconscious for over 10 minutes, his trousers around his knees as a result of being dragged. Even though Christopher Alder had been incontinent and his rattling breathing was audible on the video, it showed that police officers speculated for several minutes that he might be faking, before calling an ambulance. Apart from removing the handcuffs shortly after arrival at the police station (reportedly after three minutes), none of the five police officers present at the custody suite attended to Christopher Alder for another seven minutes, until it was noted that he was not breathing anymore and resuscitation attempts were made in vain. It was later found that Christopher Alder had blood and vomit in his mouth and may have been gasping for breath. Medical experts stated at the inquest that the cause of death was probably blocked air passages, which could have been cleared by emergency help. Flaws in the investigation also emerged at the inquest: Christopher Alder's clothes had been destroyed and the police officers' clothes had not been forensically checked.

In April 2001 the Crown Prosecution Service (CPS) declined to bring manslaughter charges against the five officers involved, who were subsequently charged with misconduct in public office. However, following several reviews of the evidence, which concluded Adler could have been revived, the CPS announced in October the officers would face manslaughter charges.

Roger Sylvester

Roger Sylvester, a black man aged 30, fell into a coma on 11 January 1999 after being detained under the *Mental Health Act 1983* and restrained by eight Metropolitan Police

officers. He never regained consciousness and died a week later. Roger Sylvester was in front of his house in Tottenham, North London, reportedly naked and distressed, when police arrived, brought him to the ground, handcuffed him and put him in a police van to be taken to hospital. Several police officers allegedly restrained Roger Sylvester both while in the police van and at the hospital, where he finally collapsed. On 20 October 2000 the CPS ruled that no officer would be prosecuted, due to insufficient evidence.

In April 2001 the family of Roger Sylvester was granted permission for a full judicial review of the CPS decision. In May 2001 the Sylvester family sought disclosure of the investigation findings, and particularly, of medical evidence, including post-mortem examination reports and statements made by hospital staff, and of some pages of police officers' notebooks. The High Court refused to order the CPS to hand over such documents, ruling that the family should access this information via an inquest. Counsel for the Sylvester family noted that at the inquest the police officers allegedly involved will be able to see all the evidence against them tested, while being allowed to exercise their right to silence, as they reportedly did throughout the investigation. In its ruling, the High Court also requested the investigating authorities to allow for a "generous" pre-inquest disclosure of evidence, which they are otherwise entitled to withhold until 28 days prior to the inquest; yet, as of July 2001, a date for a full inquest had not been set and no evidence disclosed to the family.

In July, at the request of the Police Complaints Authority (PCA), disciplinary proceedings were opened against one of the Metropolitan police officers involved in the restraint of Roger Sylvester, for having destroyed pages from his police pocket notebook. The pages are believed to have covered events and the time period surrounding the death of Roger Sylvester. According to police rules, police officers are not allowed to tear pages out of their notebook. The Metropolitan police had previously refused to bring disciplinary charges against the officer. At the disciplinary hearing, the police officer admitted to having destroyed two pages of his notebook and was reportedly cautioned.

The Metropolitan police refused to name the police officer, to allow the family of Roger Sylvester to attend the hearing and to disclose to the family of Roger Sylvester and to the public what punishment the police officer would face. The PCA and the Mayor of London expressed criticism at the decision of the Metropolitan police not to disclose the final outcome of the disciplinary proceedings.

Harry Stanley

Harry Stanley was shot dead by an armed response unit of the London Metropolitan Police on 22 September 1999 in East London, while he was walking home and carrying a table leg in a plastic bag. He had just stopped in a pub where another customer, mistaking his Scottish accent for Irish and the table leg for a sawn-off shotgun, alerted the police.

The police officers involved claimed that they shouted twice "Stop, Armed Police", and shot Harry Stanley when he responded by turning around. He was struck by two bullets, one of which hit his head. Even though Harry Stanley had various documents on him and the shooting occurred about one hundred metres from his home, it took about 18 hours for police officers in charge to identify him and to trace his family. This resulted in the family not having its medical and/or legal representative at the post-mortem examination.

On 4 December 2000 the CPS announced that no criminal charges would be brought against the police officers who shot dead Harry Stanley, because their response was commensurate with the degree of risk they honestly believed they were facing. The family applied for judicial review of the CPS decision and requested the Metropolitan Police Commissioner to publish, in the public interest, the investigation report into the shooting. A challenge was also launched pursuant to the Human Rights Act requiring a thorough investigation into the killing.

Proposals for an independent investigatory body into police misconduct in England and Wales

In May 2000 following strong criticism expressed by lawyers, non-governmental organizations (including Amnesty International), national authorities and the European Committee for the Prevention of Torture over the past few years, the Home Office initiated a consultation on the reform of the investigation system into serious police misconduct and on the creation of an independent body to carry out such investigations. In the context of this consultation, Amnesty International published a document entitled *UK - Deaths in custody: lack of police accountability* (AI Index: EUR 45/42/00).

After an initial consultation, the government published in December 2000 a second document for further comments by interested parties entitled "Complaints Against the Police. Framework for a New System", which proposed a new system for investigating serious police misconduct, involving independent civilian investigators. The new body, the Independent Police Complaints Commission (IPCC), would have its own investigation teams, run by civilians

and made up of a mix of police and non-police members. The most serious cases of alleged police misconduct (including deaths in custody, serious injuries, shootings and racist conduct), whether or not a complaint had been made, would be referred to the IPCC. In such cases, the IPCC would have the discretion to investigate independently the allegations or to supervise the police investigation.

Amnesty International welcomed the government's decision to reform the current system for investigating allegations of police officers carrying out human rights violations, including unlawful killings, excessive use of force, and torture and cruel, inhuman or degrading treatment.

Amnesty International has participated in the consultation exercise from the start, focussing particularly on the investigation and prosecution of controversial death in police custody cases.

*Amnesty international considers that the proposed investigatory body must be seen to be independent of the police force in investigating allegations of serious police misconduct in order to gain public legitimacy and credibility.

* Amnesty International urges that the proposed legislation include the following:

(a) there should be agreed criteria for the acceptance and recording of complaints, and they should be publicly available;

(b) allegations of ill-treatment, harassment and cruel, inhuman or degrading treatment should be explicitly included, regardless of the seriousness of the injury, in the list of cases to be referred directly to the proposed IPCC for investigation. In each such instance the proposed IPCC should be responsible for

determining whether to submit a case to the Crown Prosecution Service;

(c) the proposed IPCC should have the power to initiate investigations into patterns of alleged police misconduct, whether or not complaints have been lodged;

(d) the complainant and his/her legal representative should have the right to be present at disciplinary hearings and not to be excluded from them by the presiding officer, as should members of the proposed IPCC;

(e) information obtained from investigations should be disclosed to the victim or family of the victim, subject only to the harm test;

(f) the proposed IPCC should comply with international human rights standards.

Plastic bullets

Amnesty International continues to be concerned about the firing of plastic bullets as a method of crowd control.

The organization has been concerned for several years about the use of plastic bullets in Northern Ireland, where since 1969 it has resulted in the death of 17 people, eight of whom were children under the age of 16 years, and in a number of serious injuries, including permanent disabilities.

Amnesty International is concerned particularly about:

- the reported frequent breach of guidelines for the firing of plastic bullets (for example, according to reports plastic bullets were fired indiscriminately, aimed at the upper part of the body, at too close a distance and also at bystanders. It should also be noted that, although according to guidelines plastic bullets should be fired at the lower part of the body, this means head height for children);
- the inability to properly aim plastic bullets;
- the lack of accountability for the firing of such bullets;
- the disproportionate use of such bullets against the minority catholic community in Northern Ireland.

In 1998, following the examination of the third periodic report of the United Kingdom, the Committee against Torture recommended "(d) The abolition of the use of plastic bullet rounds as a means of riot control". Amnesty International is concerned that to date the government has ignored the Committee against Torture's recommendation to abolish the use of plastic bullets, and that instead it introduced in June 2001 a new type, allegedly safer. However, according to a report by the Defence Scientific Advisory Council (an internal Ministry of Defence committee), the new type of plastic bullet could in fact cause more non-life-threatening injuries and if a head injury is sustained, could cause marginally worse brain damage, including the retention of the projectile in the head. Moreover, the probability of ricocheting will be higher.

Criticism regarding the use of plastic bullets has been expressed also by the Northern Ireland Human Rights Commission, which, in a report published in May 2001, noted that the Royal Ulster Constabulary's record-keeping on the use of plastic bullets was inadequate in a number of cases in which they had been used, and that some files concerning incidents during which plastic bullets were fired had closed "even though by any meaningful standard of accountability they should not reasonably have been closed".

Police handling of racist killings

Amnesty International has been concerned that the police have failed to carry out prompt, thorough, and impartial investigations into suspicious deaths of people from black or other ethnic minorities. The failure of the Metropolitan Police to carry out such an investigation was examined by a public judicial inquiry in the case of Stephen Lawrence, aged 17, who was killed in 1993 by a group of white youths. The inquiry found that the investigation had been flawed "by a combination of professional incompetence, institutional racism and a failure of leadership by senior officers".

Another case which aroused public concern was the death of Michael Menson, who died after being set on fire in a racist attack in January 1997. The police had initially treated the case as suicide, even though Michael Menson had made statements about the circumstances to his friends and hospital staff before dying. He was conscious for six days after the attack; during that time the police failed to interview him about the circumstances. Following a reinvestigation by the Metropolitan Police's Racial and Violent Crimes Unit[5], three men were charged in March 1999, two of whom with murder and all three with perverting the course of justice. At the trial, which took place in December 1999, one was convicted of murder, one of manslaughter and all three were

[5] The unit was set up in the wake of the Stephen Lawrence inquiry.

found guilty of perverting the course of justice. A fourth man was tried and convicted of manslaughter in Cyprus, where he had fled.

Ricky Reel died in October 1997 after drowning in the Thames river. The police failed to carry out a thorough and impartial investigation; and the Police Complaints Authority found three officers guilty of neglect of duty. An inquest jury in November 1999 returned an open verdict on the cause of death; the family believe he died as a result of a racist attack.

Disputed Prison Deaths and Cruel, inhuman or degrading treatment or punishment (Articles 2, 6, 7, 10, 14 and 22)

Amnesty International is concerned that detainees in England and Wales, both on remand and convicted, have died while in prison custody or been subjected to torture or cruel, inhuman or degrading treatment or punishment; racist abuse; and medical neglect. The authorities have failed to protect detainees' fundamental human rights including the rights to life, to dignity, to physical and mental integrity, and to fair trial.

Although there have been very few deaths in recent years involving control and restraint methods by prison officers, the authorities have still failed to protect prisoners' rights to life and to physical and mental integrity. The number of suicides continues to be high: in 1999 there were 91 suicides and in 2000 there were 81; case after case demonstrates the authorities' failure to take adequate preventive measures, whether through ensuring adequate training of all prison staff in suicide-prevention methods, or through failing to provide adequate conditions and medical treatment as a preventive method.[6] Complaints by prisoners about the lack of adequate medical treatment are widespread. The conditions in which prisoners are held may amount to cruel, inhuman or degrading treatment. The Chief Inspector of Prisons has signalled that the long-term confinement of dangerous prisoners in solitary punishment cells is jeopardizing their mental health and making them more disruptive. The continued practice of long periods of isolation or "lock-up" (including up to 23 hours per day) and inadequate exercise and meaningful activity has also greatly affected the physical and mental well-being of prisoners. These violations of the right to physical and mental integrity are coupled with widespread allegations of torture and ill-treatment both by prison officers and by prisoners. Moreover, bullying and intimidation are also widespread, not only by prison officers of prisoners but also by prison officers of other members of staff. Even the Prison Service Director General referred last year to "a culture of violence" in some

[6] See *Keenan v. UK* , in which the European Court of Human Rights ruled in April 2001 that the failure to provide adequate medical care, psychiatric input and monitoring amounted to cruel, inhuman or degrading treatment and a violation of Article 3 of the European Convention on Human Rights.

prisons, which allowed officers to abuse prisoners with impunity. Many black and other ethnic minority prisoners allege that such treatment is often racially motivated. Internal prison inquiries have concluded that there was "institutional racism" in some prisons, and the Commission of Racial Equality is currently investigating racism in three prisons. Of particular concern is the fact that juveniles under the age of 18 are subjected to all of the above-mentioned violations.

The system for dealing with prisoners' complaints of serious allegations of ill-treatment and other forms of abuse and for ensuring the accountability of prison staff, both management and officers, needs radical change for it to become effective. Inquests, which are the only form of public scrutiny and examination of any deaths in prison, are inadequate in addressing the full circumstances of such deaths and in scrutinizing the legality of actions taken by public agents.[7]

What is most disturbing is the fact that all of the above violations have been documented thoroughly and regularly by the Chief Inspector of Prisons, various NGOs and the Prisons Ombudsperson. Amnesty International is concerned by the government's failure, on the one hand, to develop adequate guidelines and policies to ensure that prisoners' human rights are fully protected, and on the other hand, to provide adequate resources to deal with systemic problems in order that the right to dignity, both of prisoners and prison staff, be protected.

Zahid Mubarek

In November 2000 the conviction of Robert Stewart, aged 20, for the murder of his cell mate, Zahid Mubarek, aged 19, on 21 March 2000 at Feltham Young Offender Institution and Remand Centre (YOI/RC), raised serious concerns about the wider context in which the murder took place. According to the evidence at the trial, Zahid Mubarek, of Pakistani origin, was put in the same cell as Robert Stewart even though prison officers were or should have been aware of Robert Stewart's racial prejudices and violent behaviour. Amnesty International also received allegations that the locking-up time for some wings at Feltham was 23 hours per day, with extremely limited facilities to carry out any meaningful or physical activity, and that many detainees lived in an atmosphere of intimidation, bullying and fear. In 1998 the Chief Inspector of Prisons had conducted an inspection at Feltham, and had concluded that the conditions and treatment of the children and young prisoners, were, in many instances, totally unacceptable. Amnesty International considers that the detention of young people in the conditions described in his report constitute cruel, inhuman and degrading treatment.

[7] *Keenan v. UK* - the European Court of Human Rights judgment of 3 April 2001 ruled that the inquest did not provide a remedy for determining the liability of the authorities for any alleged mistreatment, or for providing compensation.

* In December 2000 Amnesty International urged the government to establish a wide-ranging, independent and public inquiry into the circumstances of the killing of Zahid Mubarek, and into the failures of Feltham YOI/RC to protect the lives and well-being of prisoners in its care. Amnesty International also urged that the inquiry examine how the prison system deals with children and young offenders and the compatibility of its policies and treatment with international standards.

On 4 September 2001 the High Court ordered an inquiry into the death of Zahid Mubarek. Rejecting submissions from Home Secretary David Blunkett that an investigation by the Commission for Racial Equality would be adequate, the High Court held that an independent public investigation was required by Article 2 of the European Convention on Human Rights which requires governments to take preventive measures to protect the lives of individuals who may be at risk from criminal acts. The court concluded only a full and independent inquiry would meet the government's obligations under the Convention, whilst a failure to conduct such an investigation would amount to a breach of rights. Citing serious procedural and systemic failings in the prison, the court went on to say that the right to life guaranteed by the Convention required an effective and thorough inquiry which could "only be met by holding a public and independent investigation with the family legally represented, provided with the relevant material and able to cross-examine the principal witnesses". The Home Secretary lodged an appeal against the ruling.

Alton Manning

Alton Manning**,** a 33-year-old black remand prisoner, died in December 1995 after a struggle with officers in Blakenhurst Prison in Worcestershire, England.

In 1996 the Crown Prosecution Service (CPS) decided not to bring charges against any of the prison officers allegedly involved. In March 1998 an inquest jury ruled that Alton Manning had been unlawfully killed after prison officers restrained him in a neck-lock, leading to positional asphyxia, during a violent struggle. After the inquest, seven officers were suspended. The findings of the inquest were referred to the CPS for further consideration, but in 1999 the CPS confirmed that no prosecutions would be brought for Alton Manning's death. The matter was referred back to the CPS on 17 May 2000 by the Divisional Court, after the deceased's family brought a successful judicial review of the previous CPS decision not to bring charges. On 1 June 2001 the CPS again announced that it would not be prosecuting any prison officer for the death.

Ill-treatment by police officers

Amnesty International continues to receive allegations that people have been subjected to ill-treatment by police officers; many of the victims come from black or other ethnic minorities. The organization is concerned that such allegations have not been investigated thoroughly, impartially and independently, and that the perpetrators of such ill-treatment have not been brought to justice, despite the frequent out-of-court settlements or court-awarded settlements for damages to the victims.

In February 1994 David Adams was subjected to ill-treatment both during arrest and at Castlereagh interrogation centre, Northern Ireland. He claimed he had been beaten and deliberately kicked so hard that his leg was broken; he suffered multiple injuries and was hospitalized. Several years later he was awarded £30,000 damages for assault by a judge. The DPP did not bring any prosecutions, despite critical comments by the judge. In 2000 David Adams lost a high court action against the DPP's decision not to prosecute RUC officers alleged to have ill-treated him, as well as an action in the appeal court.

Some worrying allegations of ill-treatment emerged in May 2001, when the government agreed to the publication of the report on the visit to Northern Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 29 November to 8 December 1999.

The CPT received reports regarding the alleged ill-treatment, in 1997, of five detainees at Gough Barracks Holding Centre. The medical officer at Gough Barracks confirmed that all five detainees suffered from injuries consistent with their allegations. Following RUC investigations, in none of these cases were criminal or disciplinary procedures initiated by the Director of Public Prosecutions and by the Independent Commission for Police Complaints for Northern Ireland.

The CPT also gathered several recent allegations of ill-treatment, a number of which were the subject of out-of-court settlements on the basis of legal advice that medical evidence was consistent with the allegations.

Furthermore, the CPT reported extensively on the case involving a male detainee held at Castlereagh Holding Centre between 29 October and 3 November 1999 (about three weeks before the CPT's visit), who alleged to have been assaulted in his cell and in an interview room. The video-tape covering the period in question was viewed by the CPT's delegation, and was found to contain "clear images of the detainee being physically ill-treated by both uniformed and detective officers". In the words of the CPT's report:

> "26. ... The initial images show two detective officers sitting in an interview room, apparently waiting for the detainee to arrive. After a brief interval, they abruptly leave the room, entering a corridor area which is not covered by a video

camera. They return shortly afterwards, and one of the detectives removes his jacket and hangs it on the back of a chair. He then moves the interview room desk towards the wall, thus clearing a space in the centre of the floor. When - a few moments later - the detainee enters the picture, he is being dragged by two uniformed officers (one of whom is holding his right arm, the other his left leg), who proceed to throw him against the interview room wall, on which he bangs his head. As the detainee lies prone, holding his head in his hands, the detective officers are seen to lift the desk, strike him with it, and then hold it down on top of him for nearly a minute. Afterwards, the detainee is carried out of the interview room (and out of the picture) by uniformed officers."

Following an RUC investigation into the circumstances of the case, the CPT was informed on 30 June 2000 that "the RUC do not accept that the video shows a series of assaults on the prisoner ... In the confined interview room the prisoner was slid along the floor and at this point banged his head on the wall. When uniformed officers left the room, as shown by detailed examination of the video and the chronology, he began to kick at the Detective Officers, grabbing the desk in the room and pushing it up and back towards one of the officers who then held the desk down ... These matters were the subject of a criminal and disciplinary investigation supervised by the Independent Commission for Police Complaints. No criminal or disciplinary proceedings were detected."

In its report, the CPT explicitly states that "The Committee is not convinced by this reply". The CPT also notes that its delegation was the first body to request to view the video-tape of the incident, after about three weeks, while neither the Deputy Independent Commissioner for the Holding Centres (who had made a note of the detainee's allegations in his logbook), nor an investigating officer from the department -- to which the formal complaint had been submitted -- had sought access to it. The CPT also notes that only one out of over two hundred video-tapes recorded at Castlereagh in 1999 had been seen by an outside body.

THE TERRORISM ACT 2000 (Articles 2, 9, 14, 19, 26)

Amnesty International has expressed serious concerns about the *Terrorism Act* which was enacted in July 2000, and which makes permanent, temporary or emergency measures. Amnesty International considers that this legislation contains provisions which either directly contravene international human rights treaties to which UK is a party, or may result in violations of the rights not to be subjected to torture or ill-treatment, to fair trial and to freedom of expression and association. Some of these provisions were drawn from previous emergency or temporary legislation, which in the past facilitated serious abuse of human rights, as extensively documented by the organization throughout the years.

The creation of a permanent distinct system of arrest, detention and prosecution relating to "terrorist offences" may violate the internationally recognized right of all people to be equal before the courts. This different treatment is not based on the seriousness of the criminal act itself but rather on the alleged motivation behind the act, defined in the Act as "political, religious or ideological". Some of the provisions that Amnesty International is concerned about in particular are the following:

- the wide definition of "terrorism" includes not only the use but also the threat of action involving serious violence against a person or serious damage to property or designed to seriously interfere or disrupt an electronic system. The purpose qualifying such an action or threat as terrorist, i.e. advancing a "political, religious or ideological cause", is also very wide and open to subjective interpretation. The definition is vaguely worded and could be extended to include supporters of, for example, animal liberation or anti-nuclear campaigns and others. The lack of a clear definition gives cause for concern because the decision to bring a prosecution for such offences could be seen to be political;
- wide-ranging powers of arrest without warrant;
- denial of a detainee's access to a lawyer upon arrest: the right to legal assistance can be delayed, up to 48 hours, if the police believe the granting of this right may impede the investigation;
- the Act allows for a consultation between lawyer and detainee to be held "in the sight and hearing" of a police officer, if a senior police officer has reasonable grounds to believe that such consultation would lead to interference with the investigation. Separate provisions, in relation to Scotland, similarly allow for an officer "to be present during a consultation". These powers breach international standards which require respect for the confidentiality of communications between lawyers and clients;
- the maximum period of detention without charge is seven days, with an extension of up to five days being granted by a judicial authority after the initial 48 hours. The provisions regarding judicial supervision of detention are still significantly weaker than under ordinary legislation. Under ordinary legislation, the maximum period of detention without charge is four days, with further 36-hour and 24-hour extensions being granted by a judicial authority after the initial 36 hours;
- the shifting of the burden of proof from the prosecution to the accused who must prove their innocence in various provisions of the Act; such provisions undermine the fundamental right to a presumption of innocence. For example, it is a criminal offence to collect or make a record of or possess information likely to be useful to a person committing or preparing an act of terrorism, including a photographic or electronic record; it is a defence for the accused to prove that he had a reasonable excuse for his action or possession;
- possible infringement of the right to freedom of expression and of association in some provisions of the Act, e.g. in the new offence of "inciting terrorism

overseas" which could be committed by words alone. There is a danger that prosecuting such "inciters" may be prompted by overseas repressive governments targeting opponents based in this country. Thus these provisions may infringe the rights to freedom of expression and of association. Furthermore, there is concern that the right to fair trial may be infringed if people are charged on the basis of intelligence information provided by other governments or on the word of informants, if this information is then kept secret from the defendant through the use of public interest immunity certificates;

- Part VII of the Act, which extends for up to five years additional emergency powers applicable only in Northern Ireland, undermines the spirit of human rights protection in the Multi-Party Agreement of April 1998, in which the government committed itself "to make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat". These provisions, which have resulted in unfair trials and other human rights violations, include the non-jury, single-judge "Diplock Court" trials (see also below, the section on the Right to Fair Trial); a lower standard of admissibility for confessions as a basis for prosecution and conviction than in ordinary courts; the admissibility as evidence of the opinions of senior police officers that an accused person belongs or belonged to a proscribed organization and the possibility for a court to draw inferences on the matter from the failure of the accused person to mention "a fact which is material to the offence" and which he or she could "reasonably be expected to mention"; and general police and armed forces powers of arrest, entry, search and seizures without a warrant.
- provisions allowing police officers to obtain court orders to force journalists to hand over to the police information in their possession which the police claim may be useful to their investigation. Amnesty International has been concerned in the past that the police have used similar emergency powers in order to intimidate journalists from pursuing certain lines of inquiry which may be embarrassing for the authorities; these cases have mainly involved investigative journalists who have refused to hand over information which was obtained in confidence from their sources or who have refused to reveal the name of their source. These journalists were exposing possible human rights violations by agents of the state and the attempts by the authorities to force journalists to reveal their sources or confidential information could have a chilling effect on freedom of expression.

* Amnesty International is concerned that provisions in the Terrorism Act contravene UK obligations under international human rights law. Furthermore, many provisions are open to abuse by law enforcement officials, and the Act fails to provide adequate safeguards against such abuse.

THE RIGHT TO FAIR TRIAL (Article 14)

Equality of arms: the case of Samar Alami and Jawad Botmeh

On 1 November, the Court of Appeal denied all grounds of the appeal against conviction and sentencing by Samar Alami and Jawad Botmeh. Amnesty International believes their convictions are unsafe and that they have been denied their right to a fair trial because of the failure to fully disclosure, both during and after the trial, all information, including intelligence information, that may have been relevant to the investigation of the bombings.

Samar Alami and Jawad Botmeh were sentenced in 1996 to 20 years' imprisonment after being convicted of conspiracy to cause explosions in 1994 at the Israeli Embassy and Balfour House in London. There was no direct evidence connecting them to the attacks and both had alibis. They stated that they were innocent of the charges. Amnesty International sent an observer to the trial in 1996 and to appeal hearing held in October 2000 and October 2001. The appeal was based on the grounds that the convictions were unsafe in light of the evidence adduced at trial and material appearing in the public domain since the trial, and of material available at trial which had not been shown to the defence or had been subjected to Public Interest Immunity certificates, thus blocking its disclosure. One of the grounds was based on revelations made by former MI5 agent, David Shayler, that the security services had received a warning before the bombing that an attack on the Israeli embassy was being planned and that this information had not been acted upon. The Court of Appeal judges decided to hold an *ex-parte* (closed to the defence) hearing to examine documents which had not been previously disclosed; after the hearing the judges ordered the disclosure of one piece of evidence. This consisted of a handwritten note outlining information received by the security services and Special Branch before the bombings that a terrorist organization, unconnected to Samar Alami and Jawad Botmeh, was seeking information about the location and defences of the Israeli Embassy in London for a possible bombing attack. The note added that related intelligence after the bombings indicated that this particular organization had not carried out the bombing. The note also explained that this information had not been disclosed to the trial judge by MI5 and Special Branch because of at least six counts of "human error" and "oversight". After four days, the appeal hearing was adjourned, and it resumed in October 2001.

Amnesty International is concerned that the two convicted people have been denied full disclosure, both during and after the trial, not only of the above information, but also of other crucial evidence which had been blocked by Public Interest Immunity certificates. The organization believes that failure to disclose crucial evidence violates the appellants' right to a fair trial. Amnesty International was also concerned that the appeal court proceeded with an *ex parte* hearing, ie in the absence of the defence team, which was not followed by full disclosure. The case of Samar Alami and Jawad Botmeh also

highlights some of the dangers of issuing Public Interest Immunity certificates and raises disturbing questions about the accountability of the intelligence services.

The "Diplock Courts" (Northern Ireland)

Amnesty International is concerned that the *Terrorism Act 2000* contains, under Part VII of the Act, additional emergency powers which are applicable only in Northern Ireland. Some provisions, which have resulted in unfair trials, include the non-jury, single-judge "Diplock Court" trials, and a lower standard of admissibility for confessions as a basis for prosecution and conviction than in ordinary courts. The "juryless" system, combined with the lower standard for the admission of evidence, is incompatible with the right to a fair trial.

> * Amnesty International has documented, since the early 1980s, concerns about unfair procedures in the "Diplock Courts" and has, more recently, called for them to be abolished. The organization believes that the continuing existence of a special court is normalizing what is intended under national law to be an exceptional and temporary measure and is contrary to international law.

Fair trial concerns: justice delayed

Amnesty International has been concerned about the long delays for victims of miscarriages of justice in obtaining justice. In Northern Ireland, one of the particular problems has been the difficulties people have faced in obtaining access to trial documents, in particular police interview notes, in order to carry out ESDA (electrostatic deposition analysis) tests on them to verify whether they were written contemporaneously. In October 1999, the Northern Ireland Appeal Court quashed the convictions of Billy Gorman and Paddy McKinney, who had been convicted for the murder of a police officer in 1974, after ESDA tests showed that police officers had rewritten and significantly altered interview notes. Gorman was 14 and McKinney 17 at the time of the killing. The case was re-opened because they had been convicted on the basis of these notes. Although the results of the ESDA tests were available in December 1994, the two appellants waited another five years before their convictions were quashed.

Fair trial concerns: the right to silence

Amnesty International has been concerned about the curtailment of the right of an accused to remain silent when questioned or charged and at trial. Under the *Criminal Justice and Public Order Act 1994*, a court or jury can draw inferences from an accused person's failure to mention facts when questioned before or on being charged. Inferences can also be drawn from an accused person's silence at trial, if he or she refuses to give evidence or to answer any question "without good cause".

Amnesty International believes that the right to remain silent during interrogation and at trial is a safeguard for the international standard of the presumption of innocence. Its curtailment can lead to the shifting of the burden of proof and to a form of coercion to give information or to testify.

"National security" Detention/Deportations

The European Court of Human Rights ruled in November 1996 that the government's attempt to deport Karamjit Singh Chahal to India was in violation of the European Convention on Human Rights. He had been detained since 1990 on a decision by the Secretary of State that he should be deported on "national security" grounds. As a Sikh activist, believing that he would be a victim of torture or death if he was returned to India, Karamjit Singh Chahal applied for asylum. This application was refused.

Due to the claim of national security, he had no rights of appeal. Instead, he was only able to seek review by a panel, known as the "three wise men", whose advice on the matter to the Secretary of State was not binding. In addition, he was not informed of the details of the allegations against him, was not entitled to representation by lawyers at the hearing and was not given a copy of the advice that the three wise men gave to the Home Secretary.

The European Court stated that the prohibition of torture was paramount and that allegations of national security risk were immaterial to a determination of whether a person faced risk of torture if refouled. The Court further ruled that the hearing before an advisory panel of three people did not satisfy the Convention's right to have one's detention scrutinized by a judicial authority, and that Karamjit Singh Chahal's detention had therefore been unlawful. Karamjit Singh Chahal was released immediately after the judgment. Subsequently, other people detained under the same provisions were released, including Sezai Ucar and Raghbir Singh.

In response to the judgment of the European Court in the Chahal case, new legislation, the *Special Immigration Appeals Commission Act*, was enacted in December 1997. This Act establishes a right of appeal where the Home Secretary has made a decision to deport or exclude a person, including on national security grounds. The appeal is heard by a three person Commission. Its decision is binding on the Secretary of State, though it may grant leave to appeal its decisions to a court. Under the Act, the Lord Chancellor has the authority to make rules for the conduct of the appeals, which are assented to by Parliament. Amnesty International has noted with concern that the statute and rules permit the proceedings to take place without the potential deportee or their counsel being provided with all of the reasons for the decision to deport or exclude. In addition these rules permit the Commission to hold all or part of the proceedings without

either the potential deportee or their counsel being present. If such *in camera* proceedings are held, an advocate is appointed from a panel chosen by the Attorney General to represent the interests of the potential deportee. The advocate, however, may not communicate with the deportee or their counsel, after s/he has been provided with information about the case, without leave from the Commission. Before decisions are made on the basis of proceedings from which the deportee and their counsel have been excluded, a summary of the submissions and evidence and absent information about sensitive material must be provided.

THE RIGHT TO FREEDOM OF EXPRESSION (Article 19)

Amnesty International is concerned that the government is attempting to prosecute former members of intelligence units and journalists under the *Official Secrets Act 1989*; such threats of prosecutions may have a chilling effect on whistleblowers, journalists and newspapers from investigating and making public claims of human rights violations or illegal activities by state agents.

Amnesty International has been monitoring the case of David Shayler, a former MI5 (intelligence) officer who made a series of allegations in 1997 and thereafter about the activities of security and intelligence agencies. Some of the allegations concerned illegal activities by the security services. His allegations were printed in the newspaper the *Mail on Sunday* in August 1997. The government sought to extradite David Shayler from France to face a criminal prosecution from the publishers of the *Mail on Sunday* for causing "injury to the national interest". In March 2000, a court ordered the *Guardian* and the *Observer* to comply with an MI5 order to hand over documents and e-mails relating to contacts with David Shayler, and to assist in the prosecution of David Shayler. The *Observer* had published information about an alleged MI6 plot to assassinate Libyan leader Mu'ammar al-Gaddafi. *Observer* journalist Martin Bright and its editor Roger Alton were investigated for contravening the *Official Secrets Act* by receiving and publishing the damaging disclosures. In May 2000 the newspapers were granted the right to challenge the court orders. David Shayler returned to the UK in August 2000 to face charges under the *Official Secrets Act*.

In April Amnesty International sent a legal observer to the preliminary hearing of the trial of David Shayler. At the preliminary hearing the defence, claiming that the *Official Secrets Act* is inconsistent with the *Human Rights Act*, maintained that David Shayler should be entitled to argue at trial that the disclosures which he had made were in the public interest. The judge ruled that the defendant was not entitled to argue in court that his revelation of state secrets was in the public interest. The appeal court in September also rejected David Shayler's application; he was granted permission to appeal to the House of Lords on a point of law.

Charges under the *Official Secrets Act* were also brought in 1998 against a former army general, Nigel Wylde, who provided information to journalist Tony Geraghty. Geraghty was charged for his book, "The Irish War", which included information about the extent of computer-assisted surveillance of the population in Northern Ireland. The charges were dropped against journalist Tony Geraghty. Nigel Wylde was acquitted in November 2000 after the prosecution offered no evidence.

In May 2000, the UN Special Rapporteur for Freedom of Expression and Opinion, Abid Hussein, issued a lengthy report which was critical of provisions and practices which limit freedom of expression in the UK.

The *Freedom of Information Act* was passed in November 2000 and may come into force in 2002. Campaigners who called for stronger legislation noted that the Act provides for a "public interest" test for disclosure of requested information. However, they were also critical of the provisions for exemptions from disclosure in some areas, including the formulation of government policy and all information gathered during an investigation which could have led to a prosecution. Decisions by public authorities are reviewed by the Information Commissioner. If the Information Commissioner orders disclosure in the case of decisions made on the basis of prejudice-tested exemptions, such an order cannot be vetoed by ministers, but where the Commissioner orders disclosure on public interest grounds from government departments, cabinet ministers can veto such an order. Campaigners were critical of the existence of the veto and of the class exemptions, both of which had been rejected in the government's original white paper. The devolved government in Scotland was preparing its own legislation on freedom of information which would pertain to those issues which are under its devolved responsibility.

The *Regulation of Investigatory Powers Act 2000,* enacted in July 2000, legalized a variety of intrusive surveillance techniques, covert use of informants and agents, and the interception of communications.

* Amnesty International criticized the legislation for failing to provide sufficient safeguards, including judicial oversight (e.g., judicial scrutiny of warrants), to ensure accountability and protection of human rights. AI believes that some provisions could violate the rights to privacy and fair trial, and could have a chilling effect on the rights to freedom of expression and association.

FAILURE TO PROTECT VULNERABLE GROUPS

Child Soldiers (Articles 6, 7)

In November 2000 Amnesty International called on the UK to stop its policy of deploying under-18s into hostilities, as it launched a new report United Kingdom: U-18s:Report on the Recruitment and Deployment of Child Soldiers (AI Index: EUR 45/57/00). The UK has the lowest deployment age in Europe and it is the only European country to routinely send under-18s into armed conflict situations. The report gave examples of how recruitment and deployment of under-18-year-olds threatened their right to life and to their physical and mental integrity. Children can be recruited into the armed forces from the age of 16 and can be deployed into the battlefield from the age of 17.

Two 17-year-old soldiers and one 18-year-old on the day of his birthday died in the Falklands war. One of them, Jason Burt, who was killed in 1982 in the battle of Mt Longdon, while serving in the Parachute Regiment, soon after getting 'his wings' at 17, had tried to donate blood. He was told that he was too young. He was also told he was too young also when he asked to join 1 Para (a different battalion in the Parachute Regiment), which was about to be deployed in Northern Ireland. Two 17-year-olds died during the Gulf war. One was Conrad Cole, who was deployed and died a few weeks after completing his training.

Other risks included injuries and deaths during strenuous training exercises, and being subjected to bullying and ill-treatment by other soldiers and by superiors. Reported cases of bullying included the following:

· In May 2000 a court martial heard the case of a 17-year-old rifleman from the King's Regiment, Stuart William Newton, who deserted reportedly following a brutal initiation rite and a campaign of systematic violent bullying, including from his superiors. The initiation rite occurred when he was sent to Cyprus with his unit. One night he was dragged out of his room, forced to strip with two other

recruits and to sing with a crowd of soldiers jeering at his genitals. He was then forced to run naked around the barrack block. In the following months he was subjected to organized bullying by his superiors, who punished him for the slightest infractions with punches to the head, on occasions while he stood with his eyes shut. When he accidentally heard about a money-lending ring among his fellow soldiers, with 100 percent interest rate enforced by beatings by non-commissioned officers, he decided to go absent without leave. The court martial found him not guilty because of duress.

- In February 1999, a court martial sentenced two senior riflemen of the regiment's 1st battalion at Bulford camp to 140 days' detention and ordered them to leave the army. They were found guilty of disgraceful conduct of an indecent kind for having mistreated, in October 1997, three teenage recruits who had joined the army a few weeks before. The recruits had their heads completely shaved, were beaten, stripped and forced to dance a naked conga in front of soldiers from their unit, and were then 'touched up'. Reportedly, one of the children fled the barracks as a consequence of the ill-treatment.

- In 1999, a court martial in Aldershot, Hampshire, heard the case of five army instructors accused of having ill-treated some teenage recruits, all aged 18 or under, between 1 September and 12 November 1996. The recruits were allegedly subjected to humiliating practices such as a mock execution, simulating sexual acts, eating disgusting substances, bathing with scouring powder and various forms of physical assault, during their basic training at the Army Training College, Winchester, Hampshire. The instructors were cleared of the charge of ill-treatment and subjected only to minor discipline.

- In November 1998 an army instructor who raped a 17-year-old recruit in the barracks of Fremington Adventure Camp, Barnstaple, Devon, was sentenced to seven years' imprisonment and dismissed from the army. The sergeant was drunk when the assault happened and the girl went absent without leave for a while, before returning to report the rape. A friend and colleague of the victim told the court that she did not want to report the assault initially because their report of a different incident the week earlier had not been taken seriously, and they had been charged and fined.

- In 1997, an inquiry was opened into the death of David McKenna, a 19-year-old who killed himself at Dreghorn barracks in 1995, in Edinburgh, after allegedly being bullied by his fellow soldiers. The family lawyer maintained that the soldier's death may have been avoided, had an adequate system of dealing with complaints been in place; he called for a review of army procedures.

In recent years there has been a sharp increase in the annual recruitment of under-18s in the UK where there is no conscription, and children have been openly targeted by recruitment campaigns of the Ministry of Defence, for example, through the distribution of video-games. Between March 1998 and March 1999, 9,466 under-18s were recruited to the UK armed forces. In September 2000, the UK signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, and added a declaration which Amnesty International believes undermines the spirit of the Optional Protocol.

* Amnesty International believes the UK should ratify the Optional Protocol promptly without any reservation.

Asylum-Seekers (Articles 7, 10 and 14)

Determination Process

Amnesty International believes that every asylum claim should be looked at on its individual merits and is gravely concerned that 26,630 asylum applicants in 2000 were refused asylum on non-compliance grounds. This is 25,545 more than recorded during the previous year. Applicants are refused on non-compliance grounds for procedural reasons including failing to meet the tight deadlines on returning their Statement of Evidence Form rather than on the merits of their claim. There are many reasons as to why individual applicants may have difficulty in returning their Statement of Evidence Form in time, including being dispersed to a location where there is little access to quality legal advice and representation and the form having to be completed in English.

Detention of asylum-seekers in the UK

Hundreds of asylum-seekers are detained in the UK at any given time, many at the initial stages of their asylum claim, but current detention statistics do not distinguish between asylum-seekers and others detained under Immigration Act 1971 powers. Amnesty International believes that large numbers of asylum-seekers are detained for reasons which are contrary to those set out in international legal standards.

*Oakington detention centre opened in March 2000 and b*y early May 2001, 7000 people had been processed at Oakington. Applicants from one of a list of countries may be referred to Oakington, where it appears that in addition to the existing detention criteria, their application can be decided quickly including those which may be certified as manifestly unfounded and there are not other circumstances which would make them unsuitable for the Oakington process. As of April 2001 the list of nationalities considered potentially suitable for Oakington are: Albania, Bangladesh, Bolivia, Brazil, Cameroon, China, Ivory Coast (temporarily suspended) Czech Republic, Estonia, Ghana, Hungary, India, Iraq, Kenya, Latvia, Lithuania, Nigeria, Pakistan, Poland, Romania, Slovakia, Slovenia, Tanzania, Ukraine, Uganda, Federal Republic of Yugoslavia, Zimbabwe. Operational constrains, for example, the availability of interpreters and limits the range of nationalities that can in practice be dealt with at Oakington at any one time. The decision-making process at Oakington is completed in seven days except for exceptional cases (legal advice and representation with interpretation facilities are on site). The majority of asylum applicants are refused. In February 2001, 20 percent of those who chose to appeal against refusal were transferred to other detention centres.

The government announced that by the autumn of 2001 there should be 2,790 detention centre places (including Oakington). However, many asylum-seekers are also detained in ordinary prisons; the government has set aside 500 additional places in prisons for immigration detention.

In September 2001 the High Court held that the detention of four Iraqi asylum-seekers detained at Oakington had been unlawful and in breach of their right to liberty. The High Court judge stated: "Once it is accepted that an applicant has made a proper application for asylum and there is no risk that he will abscond or otherwise misbehave, it is impossible to see how it could reasonably be said that he needs to be

detained to prevent his effecting an unauthorised entry." He went on to say that the detention was unlawful because it was imposed solely to allow a faster determination of their proceedings.

On appeal, the Court of Appeal held the Home Secretary acted legally in detaining asylum-seekers for up to ten days, finding the period of detention justified given the number of claims the government was required to process. The appeal court held that "a short period of detention is not an unreasonable price to pay in order to ensure the speedy resolution of claims" but added "a significant length of time" would be objectionable. Leave to appeal to the House of Lords was granted.

The two automatic bail hearings for those detained under *Immigration Act* powers due to come into force in April 2001 were initially deferred until October and then deferred again.

APPENDIX

CCPR/CO/73/UK
CCPR/CO/73/UKOT
HUMAN RIGHTS COMMITTEE
Seventy-third session

Advance unedited version

Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding Observations of the Human Rights Committee

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND OVERSEAS TERRITORIES OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Part I

1. The Committee considered the fifth periodic report submitted by the United Kingdom of Great Britain and Northern Ireland (CCPR/C/UK/99/5) and the fourth and fifth combined report on the Overseas Territories of the United Kingdom and Northern Ireland (CCPR/C/UKOT/5) at its 1960th, 1961st, 1962nd and 1963rd meetings, held on 17 and 18 October 2001. The Committee adopted the following concluding observations at its 1976th and 1977th meetings, held on 29 October 2001.

Introduction

2. The Committee has examined the reports of the United Kingdom of Great Britain and Northern Ireland, and on the Overseas Territories of the United Kingdom and Northern Ireland. The Committee appreciates the extensive supplementary report covering events since the submission of the primary report, and the responses, provided in advance, to the Committee's written questions. (It regrets that these documents were supplied too late for them to be made available to Committee members in more than one working language.) In particular, the Committee commends the inclusion in the State Party's responses of a comprehensive account of the legal and practical actions taken to follow up on each of the Committee's Concluding Observations on consideration of the last report. In respect of the overseas territories, the Committee regrets that it did not receive the entirety of the documentation referred to in the corresponding report, which prevented Committee members from fully examining the report.

Part II

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Positive aspects

3. The Committee welcomes the entry into force of the Human Rights Act 1998. The Committee considers the resulting enhanced judicial scrutiny of executive and legislative action, and the legal duty placed upon the authorities to act consistently with rights which

are similar in substance to many Covenant rights, to be an important step towards ensuring compliance with, and remedies for breaches of, those Covenant rights.

4. The Committee welcomes the conclusion of the Belfast Agreement in April 1998, and the changes adopted in Northern Ireland based upon the agreement, as the State Party and other signatories have sought to move away from the extraordinary measures in place in that jurisdiction, towards higher promotion of respect for human rights and fundamental freedoms. In particular, the Committee commends the establishment of an independent Police Ombudsman with jurisdiction over complaints in regard to all uses of force on the part of the police and with significant powers of investigation and enforcement, as well as the creation of a Human Rights Commission in Northern Ireland. Consonant with these developments, the Committee also welcomes the State Party's recent withdrawal of its notice of derogation relating to article 9, paragraph 3, of the Covenant.

5. The Committee also welcomes the extension of the Race Relations Act to cover all public bodies, and the adoption of a Disability Discrimination Act.

Principal subjects of concern, and Recommendations

6. The Committee notes with concern that the State Party, in seeking inter alia to give effect to its obligations to combat terrorist activities pursuant to Resolution 1373 of the Security Council, is considering the adoption of legislative measures which may have potentially far-reaching effects on rights guaranteed in the Covenant, and which, in the State Party's view, may require derogations from human rights obligations.

> The State Party should ensure that any measures it undertakes in this regard are in full compliance with the provisions of the Covenant, including, when applicable, the provisions on derogation contained in article 4 of the Covenant.

7. The Committee regrets that the State Party, while incorporating many Covenant rights into its domestic legal order through the Human Rights Act 1998, has failed to accord the same level of protection to other Covenant rights, including the provisions of articles 26 and 27.

> The State Party should consider, as a matter of priority, how persons subject to its jurisdiction may be guaranteed effective and consistent protection for the full range of Covenant rights. It should consider, as a priority, accession to the first Optional Protocol.

8. The Committee is deeply disturbed that, a considerable time after murders of persons (including human rights defenders) in Northern Ireland have occurred, a significant number of such instances have yet to receive fully independent and comprehensive investigations, and the prosecution of the persons responsible. This phenomenon is

doubly troubling where persistent allegations of involvement and collusion by members of the State Party's security forces, including the Force Research Unit, remain unresolved.

> The State Party should implement, as a matter of particular urgency given the passage of time, the measures required to ensure a full, transparent and credible accounting of the circumstances surrounding violations of the right to life in Northern Ireland in these and other cases.

9. Although the Committee appreciates the establishment of specialist bodies to deal with various specific areas of discrimination, such as the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission, the Committee considers that the establishment of a national Human Rights Commission with comprehensive jurisdiction to receive complaints of human rights violations would be a valuable addition to the remedies available to persons complaining of such violations. This is particularly so for persons for whom recourse to the courts is, as a practical matter, too costly, difficult, or impossible.

> The State Party should consider the establishment of a national Human Rights Commission to provide and secure effective remedies for alleged violations of all human rights under the Covenant.

10. The Committee is concerned at the State Party's maintenance of an old law that convicted prisoners may not exercise their right to vote. The Committee fails to discern the justification for such a practice in modern times, considering that it amounts to an additional punishment, and that it does not contribute towards the prisoner's reformation and social rehabilitation, contrary to article 10, paragraph 3, in conjunction with article 25 of the Covenant.

> The State Party should reconsider its law depriving convicted prisoners of the right to vote.

11. Although the Committee appreciates the introduction of new criminal offences of racially aggravated violence, harassment or criminal damage, it is deeply disturbed by the recent repeated, violent outbreaks of serious race and ethnicity-based rioting and associated criminal conduct in some major cities. These incidents seriously affected the enjoyment of rights under articles 9 and 26 of many persons of different ethnic groups.

> The State Party should continue to seek to identify those responsible for these outbreaks of violence, and to take appropriate measures under its law. It should also work to facilitate dialogue between communities and between community leaders, and to identify and remedy the causes of racial tension in order to prevent such incidents in the future.

The State Party should also consider facilitating inter-political party arrangements to ensure that racial tension is not inflamed during political campaigns.

12. The Committee is disturbed at the sharply increased number of racist incidents within the criminal justice system, particularly those reported as having been committed by police and prison staff against inmates. Racist violence between prisoners inappropriately located together has also resulted in serious violations of prisoners' rights under the Covenant, including at least one case of murder.

The State Party should encourage the transparent reporting of racist incidents within prisons, and ensure that racist incidents are rapidly and effectively investigated. It should ensure that appropriate disciplinary and preventative measures are developed to protect these persons of particular vulnerability. Towards this end, the State Party should pay particular attention to improving the representation of ethnic minorities within the police and prison services.

13. Although the Committee appreciates the variety of improvements over the reporting period in the representation of ethnic minorities in various walks of public life, as well as the extension in the Race Relations (Amendment) Act 2000 of a positive duty on certain public bodies to promote racial equality, the Committee remains concerned at the disproportionately low levels of participation by members of minority groups in the government and the civil service, particularly the police and prison service.

The State Party should take appropriate measures to ensure that its public life better reflects the diversity of its population.

14. The Committee is concerned by reports that, since recent terrorist attacks, persons have been the object of attack and harassment on the basis of religious beliefs, and that religion has been utilised to incite to the commission of criminal acts. The Committee is also disturbed that incidents of violence and intimidation on the basis of religious affiliation in Northern Ireland continue to recur.

The State Party should extend its criminal legislation to cover offences motivated by religious hatred, and should take other steps to ensure that all persons are protected from discrimination on account of their religious beliefs.

15. The Committee notes that, despite recent improvements, the proportions of women participating in public life, particularly at senior levels of the executive and judiciary and in Parliament, and also in the private sector, remain at low levels.

The State Party should take the steps necessary towards achieving an appropriate

representation of women in these fields.

16. The Committee is concerned that asylum-seekers have been detained in various facilities on grounds other than those legitimate under the Covenant, including reasons of administrative convenience. In any event, the Committee considers unacceptable any detention of asylum- seekers in prisons. The Committee notes moreover that asylum-seekers, after final refusal of their request, may also be held in detention for an extended period when deportation might be impossible for legal or other considerations. The Committee is also concerned that the practice of dispersing asylum-seekers may have deleterious effects on their inability to obtain legal advice and upon the quality of that advice. Dispersal, as well as the voucher system of support, have on occasion led to threats to physical security of asylum-seekers.

> The State Party should closely examine its system of processing asylum-seekers in order to ensure that each asylum-seeker's rights under the Covenant receive full protection, being limited only to the extent necessary and on the grounds provided for in the Covenant. The State Party should end detention of asylum-seekers in prisons.

17. Although the Committee appreciates the recent prohibition of drawing negative inferences from a suspect's silence while his or her lawyer is absent, the Committee remains troubled by the principle that juries may draw negative inferences from silence by accused persons.

> The State Party should reconsider, with a view to repeal, this aspect of criminal procedure, in order to ensure compliance with the rights guaranteed under article 14 of the Covenant.

18. The Committee remains concerned that, despite improvements in the security situation in Northern Ireland, some elements of criminal procedure continue to differ between Northern Ireland and the remainder of the State Party's jurisdiction. In particular, the Committee is troubled that, under the so-called 'Diplock court' system in Northern Ireland, persons charged with certain "scheduled offences" are subjected to a different regime of criminal procedure, including the absence of a jury. That modified procedure applies unless the Attorney-General certifies, without having to justify or explain, that the offence is not to be treated as a scheduled offence. The Committee recalls its interpretation of the Covenant as requiring that objective and reasonable grounds be provided by the appropriate prosecution authorities to justify the application of different criminal procedure in particular cases.

> The State Party should carefully monitor, on an ongoing basis, whether the exigencies of the specific situation in Northern Ireland continue to justify any

such distinctions. In particular, it should ensure that, in each case where a person is subjected to the 'Diplock' jurisdiction, objective and reasonable grounds are provided, and that this requirement is incorporated in the relevant legislation (including the Northern Ireland (Emergency Provisions) Act 1996).

19. The Committee notes with concern that, under the general Terrorism Act 2000, suspects may be detained for 48 hours without access to a lawyer if the police suspect that such access would lead, for example, to interference with evidence or alerting another suspect. Particularly in circumstances where these powers have not been used in England and Wales for several years, where their compatibility with articles 9 and 14 inter alia is suspect, and where other less intrusive means for achieving the same ends exist, the Committee considers that the State Party has failed to justify these powers.

The State Party should review these powers in the light of the Committee's views.

20. The Committee is concerned that provisions of the Criminal Procedure and Investigations Act 1996 enable prosecutors to seek a non-reviewable decision by a court to the effect that sensitive evidentiary material, which would otherwise be disclosed to a defendant, is withheld on public interest/immunity grounds. The Committee considers that the State Party has failed to demonstrate the necessity of these arrangements.

The State Party should review these provisions in the light of the Committee's remarks and previous concluding observations in respect of article 14, in order to ensure that the guarantees of article 14 are fully respected.

21. The Committee is concerned that powers under the Official Secrets Act 1989 have been exercised to frustrate former employees of the Crown from bringing into the public domain issues of genuine public concern, and to prevent journalists from publishing such matters.

The State Party should ensure that its powers to protect information genuinely related to matters of national security are narrowly utilised, and limited to instances where it has been shown to be necessary to suppress release of the information.

Part III

OVERSEAS TERRITORIES OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

22. The Committee welcomes the abolition of the death penalty for all offences in all of the overseas territories; it notes its retention in Turks and Caicos for piracy and treason.

23. The Committee is deeply concerned that the protection of Covenant rights in the overseas territories is weaker and more irregular than in the metropolitan area. The Committee regrets that the provisions of the Human Rights Act 1998, which significantly improve the protection of many rights contained in the Covenant, do not extend to the overseas territories (except, to an extent, Pitcairn and St Helena). The Committee regrets that the Covenant rights are not incorporated into the legislation of the territories, and that its provisions cannot be invoked directly before or applied by the judiciary. The consequences are especially regrettable in those overseas territories (British Virgin Islands, Cayman Islands, St. Helena and Pitcairn) whose constitutions do not contain chapters on fundamental rights. In this regard, the Committee would welcome answers to the questions not dealt with by the delegation.

> The State Party should give priority to incorporating Covenant rights into the respective domestic legal orders of the overseas territories.

24. The Committee is concerned at the absence throughout the overseas territories of appropriate training on the Covenant for public officials, a situation recognised by the State Party.

> The appropriate authorities should establish programmes of training and education for their public officials, aimed at inculcating a human rights culture for persons exercising governmental powers within the various overseas territories.

Positive Aspects, Principal subjects of concern, and Recommendations

(a) Bermuda

25. The Committee welcomes the establishment of a Human Rights Commission of Bermuda, with powers of investigation, prosecution, conciliation and education.

(b) British Virgin Islands

26. The Committee appreciates the elimination of constitutional rules inconsistent with articles 3 and 26 of the Covenant, which discriminated between the rights accorded to spouses of male and female British Virgin Islanders.

(c) Cayman Islands

27. The Committee appreciates the passage of the Youth Justice Law providing a regime for juvenile offenders, which focuses on the specific needs of that group.

28. The Committee is concerned that the categories of persons for which Cayman law provides for deportation, in particular "undesirable" or "destitute" persons, are defined in terms that are vague and unclear, and that deportation of such persons may violate articles 17 and 23 of the Covenant. Moreover, the Committee considers that, since deportation occurs pursuant to an order by the Governor after having considered a magistrate's report, there is insufficient review of the appropriateness of such a measure in terms of article 13.

> The State Party should review its law on deportation to provide clear criteria, and effective and impartial review of any deportation decision, to ensure compliance with articles 17, 23 and 26.

(d) Falkland Islands/Malvinas

29. The Committee welcomes the enactment of the Race Relations Ordinance 1994 (adopting the provisions of the Race Relations Act 1974 (UK)) and the Sex Discrimination Act 1998, aimed at eliminating discrimination on the grounds of race and sex.

30. The Committee is concerned that, while "seek[ing] to remove any avoidable discrimination against, or stigma attaching to, children born outside of marriage", the Family Law Reform Ordinance does not abolish the status of illegitimacy. The Committee also considers that the absence of any right of compensation, in the circumstances of article 14, paragraph 6, of the Covenant, violates that provision.

> The State Party should amend these aspects of its law to bring them into line with its obligations under article 24 taken together with article 26, and article 14, of the Covenant.

(e) Gibraltar

31. The Committee appreciates the Domestic Violence and Matrimonial Proceedings Act 1998 and the Maintenance (Amendment) Ordinance 1998, which provide protection orders and exclusion orders for vulnerable parties in matrimonial relationships.

(f) Montserrat

32. The Committee commends the State Party for its emphasis on maintaining observance of its human rights obligations despite the eruptions of 1995, 1996 and 1997. In

particular, the Committee commends the holding of elections for the Legislative Council in October 1996.

33. The Committee is concerned over the situation of long-term prisoners, who have had to serve sentences in other overseas territories.

> The State Party should ensure that, consistent with articles 10, 17, 23 and 24 of the Covenant, long-term prisoners may serve their sentences in its territory; alternatively, it should investigate non-custodial means of punishment.

(g) St. Helena

34. The Committee takes note of the adoption of Public Order Ordinance 1997, providing an up-to-date legal scheme governing public processions and assemblies. The Committee also appreciates the appointment of a Public Solicitor in 1998 providing free legal advice, assistance or representation, to persons so requiring.

35. The Committee is concerned at the mixing of accused and convicted prisoners, especially since St. Helena is not one of the overseas territories to which a reservation to article 10, paragraph 2(a), of the Covenant has been applied.

The State Party should ensure that accused and convicted prisoners are appropriately segregated.

(h) Turks and Caicos

36. The Committee takes note of the construction and opening of a new detention facility, with female prisoners wholly segregated from male prisoners and supervised by female staff. It appreciates the sharp drop of infant mortality (from 30% to 13% over two years), following the adoption of a series of primary health measures.

37. The Committee is concerned that in Turks and Caicos, alone among the overseas territories, capital punishment for the offences of treason and piracy has been retained. It considers that such retention may raise issues under article 6 of the Covenant, particularly since the death penalty has been abolished for the offence of murder.

> The State Party should take the necessary steps to abolish the death penalty for treason and piracy.

(i) British Indian Ocean Territory

38. Although this territory was not included in the State Party's report (and the State Party apparently considers that, due to an absence of population, the Covenant does not apply

to this territory), the Committee takes note of the State Party's acceptance that its prohibition on allowing the return of Ilois, who had left or been removed from the territory, was unlawful.

> The State Party should, to the extent still possible, seek to make exercise of the Ilois' right to return to their territory practicable. It should consider compensation for the denial of this right over an extended period. It should include the territory in its next periodic report.

Part IV

39. The State Party should publicize the text of its fifth periodic reports, the written answers it has provided in responding to the list of issues drawn up by the Committee, and these concluding observations.

40. The State Party is asked, pursuant to rule 70, paragraph 5, of the Committee's rules of procedure, to forward information within 12 months on the implementation of the Committee's recommendations regarding the State Party's policy and practice in paragraphs 6, 8, 11 and 23. The Committee requests that information concerning the remainder of its recommendations be included in its sixth periodic reports to be presented by 1 November 2006.

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