£UNITED KINGDOM
@Summary of Human Rights Concerns

INTRODUCTION

Amnesty International has identified laws, procedures and practices of law enforcement officials which have led to human rights violations and which the organization believes do not conform with international standards. The internationally recognized rights include the right to life, the right to freedom from torture or cruel, inhuman or degrading treatment, the right to a fair trial, and the rights to freedom of expression and assembly. In particular Amnesty International is concerned about the government's failure to investigate independently and fully serious allegations of human rights violations; to make public the results of internal investigations; and to bring perpetrators of human rights violations to justice. The United Nations Human Rights Committee, after its examination of the United Kingdom's Fourth Periodic Report in July 1995, stated: "The Committee notes that the legal system of the United Kingdom does not ensure fully that an effective remedy is provided for all violations of the rights contained in the Covenant [International Covenant on Civil and Political Rights]". [1]

Although the United Kingdom (UK) is party to the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), it has not incorporated the rights, as recognized in these treaties, into UK legislation. Furthermore the UK has not ratified the Optional Protocol of the ICCPR which would allow individuals to submit complaints to the UN Human Rights Committee. The government argues that this is unnecessary because individuals can petition the European Commission on Human Rights; however, the ICCPR is more comprehensive than the ECHR and would provide greater choice and scope for people alleging that their human rights had been violated. Because there is no right to individual petition, the existence of the ICCPR is largely unknown within the UK, not only by the general public but also by professional bodies dealing with relevant matters.

ENGLAND and WALES

Ill-Treatment during Forcible Deportations

Amnesty International has documented allegations of cruel, inhuman or degrading treatment during forcible deportation of refused asylum-seekers and immigrants from the UK. Home Office orders for deportations are enforced by immigration officials with the assistance of police or private security guards. Concerns have been expressed about the accountability and the training of such personnel, the permissible methods of restraint and the authorization of such

[1] Comments of the Human Rights Committee on the United Kingdom, 27 July 1995, Geneva. For full comments, see Appendix of this document.

methods. Concerns have also been raised about the increasing use of private security firms to carry out forcible deportations; these firms are not statutorily regulated.

In the documented cases, equipment used to restrain deportees included mouth gags, adhesive tape and plastic straps to bind limbs, and body-belts. The use of this equipment constituted cruel, inhuman or degrading treatment. Internal Home Office investigations into the allegations of ill-treatment made by the deportees have concluded that there was no evidence of excessive use of force. As a result of the death of Joy Gardner (see below) the Home Office banned mouth-gags as a form of restraint.

Joy Gardner

At 7.40am on 28 July 1993, three police officers from the Alien Deportation Group, two police officers from the local police station and an immigration officer arrived unexpectedly at Joy Gardner's home in north London to deport her and her five-year-old son that same day to Jamaica. At that time Joy Gardner was still awaiting a Home Office reply to her solicitor's application for the deportation order to be rescinded. She was not expecting to be deported on that day. She reacted by shouting; when she attempted to telephone her solicitor a police officer unplugged the telephone. A struggle ensued and, according to the police, she became so violent that she needed to be restrained. At 7.45am she was thrown to the ground and placed in a body-belt with her hands cuffed to a buckle of the body belt; two leather straps were bound around her thighs and ankles. A police officer then wound more than 13 feet of adhesive tape seven times around her head over the mouth and chin as she lay face down on the ground. Within minutes an officer noticed that she had gone limp and attempts at resuscitation were made. She was brought to hospital where she lay in a coma for four days before she died.

The three police officers from the deportation squad were charged with manslaughter and stood trial between 15 May and 14 June 1995. They were all acquitted. At the trial the prosecution relied on the testimony of four pathologists who carried out extensive tests and stated that Joy Gardner died as a result of brain damage caused by asphyxiation. Officers from the Alien Deportation Group testified that mouth-gags had been used on previous occasions by them and that body-belts, leather straps and surgical tape were part of their regular equipment. However, it became clear at the trial that mouth-gags had not been used by police officers in any cases other than forcible deportations. The use of gags and other restraints did not have to be officially recorded by members of the deportation squad even though police officers in other circumstances are required to make a note of the use of handcuffs. The trial raised questions about the monitoring of the use of restraints and the authorization for such restraint usage.

The evidence at the trial highlighted the need for an independent inquiry into the role and accountability of all agencies involved in the deportation process. It is the government's responsibility to ensure that deportations are carried out – in accordance with international standards – in a manner which respects the human rights of the deportees.

Amnesty International investigated the death of Joy Gardner and serious allegations made by other deportees about ill-treatment and the use of unauthorized methods of restraint. The organization made the following recommendations to the government:

Given that the Home Office is responsible for outlining the methods of restraint which could be authorized for use in exceptional circumstances,

- the guidelines on which methods of restraint can be used and in what circumstances must be published and circulated widely;
- the guidelines on who can authorize various methods of restraint must be published and circulated widely;
- the medical advice on the dangers of methods of restraint should be published;
- the medical advice on the use of body-belts on deportees in aeroplanes should be published;
- The Home Office should now explain how the usage of the mouth-gag was authorized in the case of Joy Gardner and in previous cases.

Given that private security firms are currently carrying out most forcible deportations,

- all private security firms should be statutorily regulated;
- there should be independent monitoring of the training of personnel to ensure that it is at least equivalent to that received by the police;
- the Immigration Service should be accountable to an independent body;
- private security firms should be accountable to an independent body;
- an independent complaints procedure should exist to investigate complaints of misconduct by the Immigration Service and by private security guards.

The Home Affairs parliamentary Select Committee held a public inquiry into the private security industry. In June 1995 it recommended that there should be a statutory licensing procedure for private security firms. The licensing authority would be independent of the industry itself, self-financing and responsible for laying down minimum standards of training.

Ill-treatment of road protesters

The controversial Criminal Justice and Public Order Act became law in November 1994. Under it, courts can draw adverse inferences against defendants remaining silent during interrogation and at trial in England and Wales. Amnesty International opposed this provision as well as similar legislation in Northern Ireland (see below) on the grounds that it was inconsistent with the right to be presumed innocent, guaranteed by Article 14(2) of the ICCPR, and the right not to be compelled to testify against oneself or to confess guilt, guaranteed by Article 14(3)(g) of the ICCPR. The Act also gave police new powers to stop and search and created criminal sanctions against protesters, travellers, hunt saboteurs, "ravers" and squatters.

Civil rights activists believe that the effect of the Act is to curb legitimate protests and freedom of assembly, guaranteed by Article 20 of the Universal Declaration of Human Rights, Article 21 of the ICCPR, and Article 17 of the ECHR. Furthermore, even before the Act came into force, Amnesty International received allegations that the police and private security guards were abusing their powers in trying to stop protests, and that in some instances they ill-treated protesters when removing them from sites.

One example of police officers abusing their powers in curtailing the freedom of assembly is the case of 10 people who were arrested while peacefully demonstrating against the M3 extension near Winchester. They received £53,350 compensation in an out-of-court settlement for their unlawful arrest, false imprisonment and malicious prosecution in May and June 1993.

Amnesty International has also received witness statements from a number of people claiming to have been ill-treated during peaceful protests. Ill-treatment is in violation of Article 7 of the ICCPR, Article 3 of the ECHR, the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Zoe Chater

Zoe Chater states that she was physically and sexually ill-treated by a private security guard on 13 June 1994 during an attempt to remove her from a road construction site in London. She claims that she was chased by a security guard who stopped her by grabbing her by the hair and throwing her into a patch of nettles. He then reportedly stood on the base of her spine to restrict her movement, and pulled her trousers down to her knees. The guard reportedly told her he wished he "had a video camera so [he] could watch this later". She managed to wriggle away from the man and ran to the entrance of the site. She later attempted to enter the site once again but was dragged off and reportedly thrown to the ground and kicked in the mouth by a security guard. A few hours later she was again attempting to return to the construction site when two security guards picked her up, one holding her by the arms and another by the thighs, and dropped her to the ground. One guard allegedly pushed her forcefully, causing her to lose her footing and fall forward head-first to the pavement. She was then taken to hospital by ambulance, where she received medical attention for concussion. Zoe Chater did not report these incidents to the police because she was unsure of the identity of the guards who had assaulted her.

George Monbiot

George Monbiot sustained serious physical injuries on 12 June 1994 when he was reportedly dragged from the construction site and then thrown on to metal spikes and fencing materials by two private security guards at a road construction site outside Bath, causing his foot to be impaled on a spike. A bone in his foot shattered and he required surgery for the injury. He sought to bring assault charges against the security guards but met resistance from local police authorities

and is considering civil action against the firm hired to remove road protesters from that construction site.

Alex Begg

Alex Begg claims to have been subjected to great pain inflicted by police officers who restrained him with a pair of "quick-cuffs" (a type of hand-cuff) on 30 May 1995. He had locked himself to a piece of construction equipment at a road building site in an attempt to prevent further work being carried out. Two uniformed police officers approached Alex Begg and politely discussed possible means of removal. They then proceeded to saw through the lock with his cooperation. Once removed from the equipment, Alex Begg stated to the police officers that although he would not resist them, he also would not offer them any assistance in removing him from the site either. The officers reportedly then hoisted him with great difficulty into the digger they were in and applied quick-cuffs to his right wrist. Once they were all lowered to the ground, the officers told Alex Begg that they would use quick-cuffs and pressure points to force him to walk to the police van. His left hand was then reportedly placed in the quick-cuffs behind his back and tightened and he was lifted by his wrists, while at the same time pressure was applied to a point below his right ear. He was allegedly forced to walk some thirty yards to the police vans, experiencing significant pain as a result of the restraints. He began to scream and asked the police officers to allow him to walk on his own, which he eventually was able to do. The cuffs were then loosened and one hand released in order to allow him to enter the police vehicle.

Deaths in custody

There have been repeated allegations that there is a disproportionately high number of deaths of black people following violent incidents; many of these deaths occurred after the use of excessive force by police or prison officers. Although the police have launched internal investigations into these deaths, such investigations do not satisfy international standards, such as those in the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, requiring thorough, prompt and impartial investigations.

Omasese Lumumba

Omasese Lumumba, the nephew of former Zairian Prime Minister Patrice Lumumba, applied for political asylum in September 1991. He was detained pending a determination of his asylum claim, first in a police cell for four days and then in Pentonville prison. No one informed him why he was being detained or explained what his rights were - a violation of international standards. At Pentonville prison he was locked in a cell for more than 20 hours a day. Prison records confirm that he was depressed and anxious. He rarely ate and was seen frequently holding his head in his hands and repeating over and over again in French that he could not

understand why he was being held in prison. On 8 October 1991, while being escorted to the prison hospital (on the instructions of the prison doctor), he stopped, refusing to move. In response, he was forcibly taken to an unfurnished cell in the segregation unit. Prison officers ordered him to lie on the floor of the cell and proceeded to pin his arms, legs and head down. They then stripped him of his clothing, though no prison rules or regulations authorized this. He struggled violently when the officers began to strip him; prison officers used force to remove all of his clothing except his underpants. During the 10 to 15 minute struggle, prison officers held his arms, legs and head, and two were at his sides. The officers continued to restrain him even after his body had gone limp. When the prison doctor arrived, efforts to resuscitate him were ineffective.

In July 1993 the inquest into the death in custody of Omasese Lumumba found that he had been "unlawfully killed" as a result of the "use of improper methods and excessive force in the process of control and restraint" by the prison officers. No disciplinary or criminal proceedings were brought against any of the prison officers involved.

Brian Douglas

Brian Douglas and Stafford Soloman were arrested by south London police on 3 May 1995, allegedly for possessing a knife, CS gas and some cannabis. Stafford Soloman, whose wrist was broken during the arrest, alleged that they were both beaten with the newly introduced US-style long baton. Brian Douglas, a well-known black community member, was taken to the police station where he was examined four times by the police doctor who thought him to be either intoxicated or drugged. However, when he was taken to the hospital 15 hours later his face was reportedly partially paralyzed and his speech slurred. He died five days later from haemorrhages and a fractured skull. Two officers allegedly responsible are back at work after spending some time on compassionate leave; the police are investigating the incident, supervised by the Police Complaints Authority.

Shiji Lapite

Shiji Lapite, a 34-year-old Nigerian father of two, died during arrest by north London police on 16 December 1994. The police stated that he was stopped for "acting suspiciously", and that a violent struggle ensued. But within minutes of being arrested and restrained, his body went limp and he was taken to hospital where he was pronounced dead. The autopsy report showed that he had a fractured voice-box; he is said to have died of asphyxiation. The officers involved in the death of Shiji Lapite have been suspended from work pending the internal police investigation supervised by the Police Complaints Authority.

The alleged export of torture equipment

A television documentary on international trade in electro-shock and other security equipment was shown on UK's television station Channel 4 on 11 January 1995. The program raised the following key points:

- A member of sales staff at Royal Ordnance (British Aerospace's defence division) was secretly filmed, in the presence of his manager, talking about how they had arranged for the sale of 8000 electro-shock batons to Saudi Arabia as part of the Al-Yamamah program (which was part of a government trade deal).

- Both the salesperson at Royal Ordnance and the agent he worked with at a company called International Procurement Services claimed that the UK police are secretly testing electro-shock equipment, such as electronic riot shields. The Home Office made a statement to the program that "No police force in Great Britain possesses or plans to possess electric-shock weapons". However, in a written parliamentary answer shortly after the program a Home Office minister admitted that a number of police forces do have electro-shock shields and prods, and explained that they would only be used against ferocious dogs.

- The managing director of a Glasgow company called ICL Technical Plastics admitted selling electro-shock batons to China in 1990, at a time when a UK embargo on defence equipment to China was in force, and claimed that the sales trip was supported by the Department of Trade and Industry.

- A Birmingham company called Hiatts, one of the exhibitors at the UK 1994 Covert and Operational Procurement Exhibition (COPEX), offered to supply leg-cuffs to the undercover television team via its US associate Hiatts Thompson. The television team purchased leg-cuffs in Chicago marked "made in Birmingham, England". A man imprisoned in Saudi Arabia identified Hiatts leg-cuffs as having been used by the Saudi security service to torture prisoners. In 1983 Hiatts were found to be selling leg-irons, and in 1991 were found to be evading changes in legislation introduced in 1984 by describing their product as leg-cuffs.

Amnesty International called for the UK Government to hold an investigation into the serious allegations raised in the program. The government responded that the allegations were unfounded; they have been denied by the companies concerned and the Department of Trade and Industry. A full and independent investigation has not been carried out into all the allegations.

The Home Office has confirmed that unauthorized possession, manufacture and sale of electro-shock batons is prohibited in Great Britain under Section 5(1b) of the Firearms Act 1968, and that no company has been granted this authority in the past three years, and no licences are currently held. Police are currently conducting investigations into the companies concerned with regard to possession of electro-shock weapons in contravention of the Firearms Act.

Strip-searching

Amnesty International is concerned about the arbitrary practice of strip-searching prisoners, who are held in maximum security conditions, in circumstances where security cannot be at issue. There are currently a number of women being held in Holloway prison, London, who are regularly strip-searched before and after legal and family visits, even when those visits take place in a "closed" situation, meaning that the prisoner and the visitor are separated by a glass screen, the visits take place within the sight and sometimes hearing of a prison officer, and no physical contact is possible. Amnesty International believes that strip-searching carried out in such circumstances amounts to cruel, inhuman and degrading treatment and that this policy is being applied as a form of punishment.

Asylum-seekers

The Government has repeatedly stated its commitment to the 1951 UN Convention relating to the Status of Refugees. However, Amnesty International is concerned that, in concert with its European Union partners, the Government has in recent years adopted a number of restrictive measures aimed at reducing the number of refugees gaining entry to the United Kingdom. The central thrust of these measures has been to circumvent the Government's obligation's under the 1951 UN Convention, by preventing or deterring new arrivals of asylum-seekers and by categorising some types of asylum claims as inadmissible or otherwise not deserving full examination.

Since the mid-1980s, for example, visa requirements have been imposed on nationals of all significant refugee-producing countries (eg Sri Lanka in 1985, Turkey in 1989, and the former Yugoslavia in 1992), and have been enforced by the levying of fines on transport operators bringing passengers - including those who subsequently apply for asylum - without a visa or valid passport.[2] In order to avoid incurring fines, airlines and shipping companies now carry out checks of passengers' documents prior to embarkation, with a view to preventing those without the necessary visa from boarding. This works to prevent many would-be asylum-seekers - ineligible for visas and often unable even to obtain national passports from their own authorities - from travelling to the United Kingdom (other than by the use of forged documents and indirect or clandestine means of travel). A senior Immigration Service official

[2] The Immigration (Carriers' Liability) Act 1987 provides for the imposition of a fine, currently £2,000 per passenger, on any transport operator bringing passengers lacking valid travel documents or a valid visa where one is required. Since the Act came into force, in March 1987, fines totalling over £79 million have been imposed on airlines and shipping companies.

has publicly cited the obstructive effect of these measures as the principal cause of the fall in the number of persons refused leave to enter the United Kingdom at ports of entry in recent years.[3]

At the same time, asylum-seekers' access to the welfare benefits system has been restricted, and increasing numbers have been detained in immigration detention centres and criminal prisons while their claims are examined, a measure which imposes severe hardship on the individuals concerned and which can act only as a deterrent to new arrivals. And in July 1993, the Government enacted new legislation - the Asylum & Immigration Appeals Act - which, whilst introducing new rights of appeal, provided for stricter application of the criteria for granting asylum and the rapid expulsion of rejected asylum-seekers. Despite no apparent change in the nature or quality of applications, the proportion of applicants granted asylum or exceptional leave to remain has since fallen substantially.

Detention of asylum-seekers under Immigration Act powers

The Immigration Act 1971 provides Immigration Officers with extraordinary and largely unrestrained powers to detain asylum-seekers pending a decision on their asylum claim by the Home Office or the Immigration Appellate Authority (IAA), without reference or effective accountability to any court or independent review body. Those so detained may be held indefinitely, are not properly informed of the reasons for their detention, and have no effective opportunity to challenge those reasons before a court or similar review body. At any one time, some 650-700 asylum-seekers are detained under these powers, mostly in Immigration Service detention centres but also in a number of criminal prisons.[4] Amnesty International has long argued that such practice is in violation of international human rights standards, such as Article 5 of the European Convention on Human Rights, Article 9 of the ICCPR, the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, and recommendations of the intergovernmental Executive Committee of UNHCR.

In response, the Government has repeatedly rejected any suggestion that its detention policy is in breach of its international obligations, arguing that detention is used "only as a last resort" in those cases where, in the view of the Immigration Officer, the applicant would otherwise abscond, and that the right to apply to the Immigration Appellate Authority for bail or

[3] The Deputy Director (Enforcement), Immigration Service, speaking at a conference on Foreign Nationals in British Prisons, HMP Wormwood Scrubs, 7 June 1995.

[4] On 3 July 1995, for example, a total of 690 asylum-seekers, including 48 women, were held in detention under Immigration Act powers. Of these detainees, at least 226 were held in criminal prisons, and 127 had been held for longer than six months (source: House of Commons Parliamentary Debates, 5 July 1995, col. 284-286).

to the courts for a writ of *habeas corpus* provide "adequate safeguards to ensure the proper application of this policy". In mid-1993, therefore, Amnesty International British Section set out to test the Government's defence of its detention policy and practice by monitoring the cases of 50 detained asylum-seekers. The findings of this study were published in a report *Prisoners without a voice: asylum-seekers detained in the United Kingdom* (second edition, May 1995).

This research demonstrates that the lack of any obligation on Immigration Officers to give reasons for their decisions to detain, and the absence of judicial control over such decisions, results in arbitrary decision-making by Immigration Officers and - in a large proportion of cases - wholly *unnecessary* detention. It demonstrates that the average duration of such detention has increased significantly - to over five months - since the coming into force of the Asylum & Immigration Appeals Act 1993, despite the Government's claim that the new asylum procedures introduced under the Act would *reduce* time spent in detention. It indicates that among those so incarcerated are many men and women who will eventually be granted asylum or exceptional leave to remain (16% of the detainees in Amnesty International's study). And it strongly suggests that the debilitating effects of such prolonged detention induce a disproportionately large number of asylum-seekers to withdraw their asylum application and make a voluntary departure from the United Kingdom, despite their application not having been fully determined.

This research further demonstrates that the minimal safeguards on detention that do exist do not satisfy international standards, and are defective in practice. The value of the right to apply to the courts for a writ of *habeas corpus*, for example, is wholly negated by the narrow scope of this mechanism, which provides a jurisdictional review only and simply does not allow for scrutiny of the *merit of* the Immigration Officer's decision to detain the individual in question. In short, to obtain release by means of a writ of *habeas corpus*, a detainee would have to demonstrate to the court's satisfaction not only that his or her detention is unlawful, but that *all* detention under Immigration Act powers is unlawful. It is unrealistic to suppose that the Government would tolerate any such ruling and, in the unlikely event of any such ruling being upheld by the higher courts, it could be expected to amend the Immigration Act in such a way as to nullify the ruling's effect.

The value of the right to apply to the Immigration Appellate Authority (IAA) for bail is also severely diminished by the ineligibility for bail of those detained as an "illegal entrant" (approximately half of all detainees) until such time as they have been refused asylum and have lodged an appeal to the IAA, and by the "convention" of some IAA Special Adjudicators to require *minimum* bail guarantees of £4,000 - a sum beyond the means of most asylum-seekers. As a result of this "convention", the majority of detainees do not even apply to the IAA for bail, as they have no friends or relatives able to provide such bail guarantees. Accordingly, in practice, none of these mechanisms offers - much less guarantees - adequate independent scrutiny of the merit of the original decision to detain.

In short, policy and practice in respect of the detention of asylum-seekers under Immigration Act powers violate international human rights standards in two principal respects:

detainees are not properly informed of the reasons for their detention, and of their rights and how to exercise them; and there is no automatic scrutiny and review of those reasons by a court or similar review body.

Home Office practice in "safe third country" asylum cases

The Asylum & Immigration Appeals Act 1993 established a truncated and accelerated procedure - with stringent time limits on the lodging and hearing of limited-scope appeals - for cases of asylum-seekers arriving at the United Kingdom's borders not directly from the country of persecution, but via one or more transit ("third") countries. This procedure effectively enables the Home Office to seek to return asylum-seekers to so-called "safe third countries" - that is, countries through which they passed in transit to the United Kingdom and where, it is held, they should have sought asylum - without examining the *substance* of their asylum claims and without any guarantee that the "third country" in question will do so. In general, the Home Office follows the common international practice of returning such asylum-seekers to the *last* transit country through which they passed before reaching the United Kingdom, regardless of whether or not that country will itself accept responsibility for examining the substance of the asylum claim.

It has previously been demonstrated - by Amnesty International and others - that such practice has led to asylum-seekers being bounced successively between two or more States unwilling to accept responsibility for dealing with their claim, in some cases ending up back in the country of persecution.[5] More recent research by Amnesty International demonstrates that this "fast-track" procedure is manifestly failing to perform to the Government's predictions; that it imposes immense hardship on those individuals unfortunate enough to fall within its scope; and that it seriously compromises the Government's upholding of its obligations under the 1951 UN Convention on Refugees.[6]

For example, the organisation has documented the case of an Iraqi man who was refused asylum on "safe third country" grounds and removed to France in March 1995, despite his claim to have travelled from Turkey to the United Kingdom, then to France and then - a mere four hours later - back to the United Kingdom. The basis of his asylum claim - never examined by the Home Office - was that he had deserted from the Iraqi army in 1990 (at the time of the invasion of Kuwait) and that, further, his family had been the target of repression by the Iraqi authorities (his father and a brother having been executed on account of their imputed political beliefs). Upon his arrival at *Gare du Nord* railway station, Paris, following his removal

[5] See *Passing the buck: deficient Home Office practice in "safe third country" asylum cases,* Amnesty International British Section (July 1993).

[6] See *Playing human pinball: Home Office practice in "safe third country" asylum cases,* Amnesty International British Section (June 1995)

from the United Kingdom via the Channel Tunnel, this man apparently attempted to apply for asylum to an unidentified station employee (there being no French immigration officials present), but was simply told to leave the station. He has subsequently been unable to seek, much less obtain, asylum in France and is currently believed to be living, destitute and homeless, in Paris.

Detention without charge or trial in National Security cases

The law and procedure on detaining and deporting people on national security grounds are in violation of international standards, including the right to a fair trial. Under UK law, the government does not have to give specific reasons for why people who are detained pending deportation are considered a threat to national security. International treaties and other instruments, including Article 9 of the ICCPR and Principle 10 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, however, require that anyone who is detained must be told the *specific* reasons for the detention and must have the right to challenge this before a judicial hearing with legal representation. Although the detainees have the right to apply for a *habeas corpus* writ, the courts have stated that they are not in a position to question the specific reasons for the detention, once the government cites national security.

Detainees threatened with expulsion on national security grounds are not entitled to appeal against the decision, but can "make representations to an independent advisory panel". This consists of three people appointed by the Home Secretary. It makes non-binding recommendations to the Home Secretary after a closed hearing. The advisory panel does not satisfy the requirement of a judicial hearing; the detainees are not allowed to have a lawyer present while being cross-examined by the panel and they are not given the details of the "evidence" against them. The unavailability in advance of the particulars of the reasons for detention and deportation, as well as the lack of legal representation, obstructs the detainee from preparing a proper defence. The detainee is unable to challenge effectively possible untruths, inaccuracies, or distortions in intelligence information.

Karamjit Singh Chahal

Karamjit Singh Chahal, a Sikh separatist, has been detained without charge since August 1990. He had lived in the UK for 20 years before being arrested and detained pending deportation to India on "national security" grounds. After his arrest, he sought political asylum in the UK, claiming that he would face torture if forcibly returned and alleging that he had already been tortured by the security forces during a visit to India in 1984. Amnesty International has urged the government not to deport Karamjit Singh Chahal to India where he would be at risk of serious human rights violations. The government has stated that it is satisfied with an assurance given by the Indian Government that he would "be safe from ill-treatment if taken into custody by the Indian authorities".

Raghbir Singh

Amnesty International is also concerned about reports it has received about Raghbir Singh, who has been detained without charge or trial pending his deportation from the UK for reasons of "national security". If forcibly returned to India, he would face possible persecution as a result of his active promotion of demands for a separate Sikh state ("Khalistan") in Punjab. On 29 March 1995 Raghbir Singh, an editor of the *Awaze Quam Punjabi Weekly* and General Secretary of the International Sikh Youth Federation, was detained after being questioned by police about the murder of a Punjabi newspaper editor in London in January 1995. Although he was not charged, he continues to be detained pending his deportation from the UK. His lawyers lodged an application for political asylum on 3 April 1995. Raghbir Singh has lived in the UK since 1980. The government's claim that his "continued presence in the UK would not be conducive to the public good" and that he should be deported "for reasons of national security and other reasons of a political nature, namely the fight against international terrorism", labels him as a "terrorist" without providing any evidence to substantiate that claim.

Fair trial concerns

In several highly publicized miscarriages of justice people have been found to have been wrongly convicted after serving long prison sentences. In several cases it emerged that police officers had falsified written notes of interrogations; that police officers had given false testimony at trials; and that police officers and others had suppressed the disclosure of crucial evidence to the defence. No one has been found responsible for these miscarriages of justice.

The prosecutions in these cases were based mainly if not solely on confessions which the accused alleged had been obtained through ill-treatment or duress during interrogation. Police officers, charged with attempting to pervert the course of justice in such cases, have been acquitted in the following cases: the Birmingham Six, the Guildford Four, the Tottenham Three and the UDR Four.[7]

As a result of a report by the Royal Commission on Criminal Justice, the government is proposing to set up a Criminal Cases Review Authority. This will not have its own investigative powers and will have to rely on the police to carry out further investigations. Given that many miscarriages of justice have occurred due to police misconduct, Amnesty International believes that the Authority should be given investigative powers to ensure its impartiality and independence.

[7] For detailed information about these and other cases, see Amnesty International, *Human Rights Concerns in the United Kingdom*, June 1991.

NORTHERN IRELAND

Human Rights Abuses by Paramilitary Groups

Current human rights concerns in Northern Ireland arise against a background of 25 years of civil conflict during which over 3000 people have been killed by political violence. Most of those were killed by armed political groups. The Republican armed groups, notably the Irish Republican Army (IRA) and the Irish National Liberation Army (INLA), come mainly from the Catholic community. They support the creation of a united Ireland. The paramilitary Ulster Defence Association (UDA) and the Ulster Volunteer Force (UVF) come from the Protestant community, and are known as Loyalists because they favour Northern Ireland remaining a part of the UK. Between 1969 and 1994, 3349 people were killed as a result of political violence. Republican groups have been responsible for 1953 deaths (58 per cent); Loyalist groups for 948 (28 per cent); and security forces for 358 deaths.

The IRA declared a cessation of military operations as of 1 September 1994; (INLA has not to date made a similar statement). The Joint Loyalist Military Command (speaking for the UDA and UVF) did likewise as of 14 October 1994. However, even though killings have virtually stopped since that time, paramilitaries from both sides have increasingly engaged in so-called "punishment beatings", which are carried out by paramilitary groups on members of their own community. Between September 1994 and May 1995 there were 118 punishment beatings: 49 carried out by Loyalists and 69 by Republicans. Large groups of masked men have beaten defenceless men, women and children, although the main group targetted is young men, from the age of 14 onwards. They have been attacked with baseball bats, hammers, cudgels with protruding nails etc., causing severe injuries and maimings. In other instances, people have been forced to leave their homes, their communities and often Northern Ireland under threat of violence.

One weekend in May 1995 demonstrates the nature of such beatings. Five people were assaulted in Belfast and Derry. On Friday night on 19 May, a 19-year-old man was attacked in a house in Derry by a gang carrying hand-guns, iron bars and wooden clubs. He suffered severe cuts and bruising to his elbow, legs, arms and face. Also in Derry that same night a gang of masked men armed with handguns and baseball bats assaulted a 30-year-old man in his flat; he suffered broken ribs and bruising. On Saturday night, 20 May, a 19-year-old man was beaten by three masked men in Derry; he was treated in hospital for cuts and bruises to his face and ribs. Early on Saturday morning in east Belfast, three masked men attacked a 42-year-old man who suffered a suspected fractured skull and a broken right arm. Early on Sunday morning, 21 May, a 26-year-old man was beaten in east Belfast with sticks by four men, causing cuts and bruising.

Amnesty International opposes human rights abuses carried out by armed political groups, namely the torture or killing of prisoners, other deliberate and arbitrary killings and hostage-taking.

Killings by members of the security forces

Over 3000 people have been killed in Northern Ireland between 1969 and 1994. Of these, 358 have been killed by the security forces. Many of those killed by the security forces were civilians; about half were unarmed. Most of those killed came from the Catholic community. Seventeen people were killed by the use of plastic or rubber bullets, of whom eight were children under the age of 16 years. Many killings took place in suspicious circumstances. The authorities have failed to conduct prompt, thorough and impartial inquiries into these killings as required by international standards, such as those in the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Very few prosecutions have taken place, with only six convictions.

In 1993 the inquest into the death of Seamus McElwaine, who was killed in 1986, found that he had been wounded and incapacitated, questioned by soldiers, and, within five minutes, shot dead. Although the Director of Public Prosecutions requested a further report from the police after the inquest, no prosecutions were subsequently brought.

Over the years Amnesty International has investigated a number of disputed killings such as the above, where evidence indicates that security force personnel deliberately killed people as an alternative to arresting them. Amnesty International remains unconvinced by government statements that such a policy did not exist, because such statements have not been substantiated by any evidence of an official will to investigate fully and impartially each incident, to make the facts publicly known, to bring the perpetrators to justice or to bring relevant legislation into line with international standards. The failure of the authorities - which have almost exclusive access to the evidence in each case - to conduct investigations which are consistent with international standards undermines government claims that such a policy did not exist.

Amnesty International's investigation identified a disturbing pattern which showed that disputed killings were not being investigated fully and impartially and that the results of internal police investigations were only (partially) made known publicly if a prosecution was brought. The results of one of the most extensive investigations by a British senior police officer, John Stalker, into six disputed killings in 1982, remain secret to this day. Deputy Chief Constable John Stalker believed that he had uncovered evidence to show that the six victims had been unlawfully killed by members of a specially trained anti-terrorist police squad. However, an attempt was made to discredit him (it emerged in 1995 that a secret police memo had been written in 1986 claiming that he was possibly sympathetic to the IRA) and he was removed from the inquiry before its completion. The inquiry was completed by Chief Constable Colin Sampson. No prosecutions were brought, even though prosecutions had been recommended.

Because very few prosecutions are brought, it has become impossible for the families of the deceased to discover the full circumstances of any disputed killing. Once a decision not to

prosecute has been made, the only procedure left to examine publicly the circumstances of the death is the coroner's inquest.

The Coroner's Inquest

The scope of an inquest in Northern Ireland is much more restricted, both by legislation and by judicial interpretation, than elsewhere in the UK and it fails to satisfy the requirements of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. It cannot be seen as a procedure to examine the full circumstances of any disputed killing. This has been confirmed by a recent High Court judicial review (in the case of McNeill, Hale and Thompson) which set out clearly the parameters of an inquest hearing:

a) the inquest can only determine the "who, how and where" of a death;
b) the "how" should determine "by what means" and not "in what broad circumstances";
c) the jury cannot express any opinion on the killing;
d) the jury cannot make any recommendation to avoid similar occurences from happening;
e) it is not the function of the inquest to answer questions raised by the families of the victim or by public concern;
f) the function of the inquest is not to allay public concern or suspicions about the circumstances of the death.

The already existing legislative restrictions, particularly in Northern Ireland, have been compounded by the increased use by the government of Public Interest Immunity certificates. These are issued to effectively block the disclosure to the inquest of evidence which is crucial to a full examination of disputed killings. In the case of the inquests concerning the 1982 deaths mentioned above, the coroner was forced to close the inquests in 1994 because the government refused to release the report of the Stalker/Sampson inquiry into the deaths.

Given that the existing procedures have been found to be totally inadequate in examining the full circumstances of any disputed killing, Amnesty International is particularly disturbed that the government has refused to conduct wide-ranging and independent inquiries into disputed killings.

The organization has also urged the government to introduce legislation which would incorporate the basic minimum international standards on lethal force: that law enforcement officials cannot deprive anyone of his or her right to life except in circumstances in which it is strictly unavoidable in order to protect life.

Collusion

Serious allegations have been made that collusion between members of the security forces and Loyalist paramilitary groups has operated at different levels. These include: that intelligence officers aided and abetted Loyalist attacks; that members of the security forces regularly handed over security information on Republican suspects to Loyalist groups; and that members of the security forces have taken part in or assisted in Loyalist attacks. The government has consistently refused to carry out a thorough, impartial and wide-ranging inquiry into the extent of collusion. The terms of reference of the first inquiry carried out in 1989 by senior British police officer John Stevens were limited to investigating specific incidents within a specific time frame and cannot be used by the government to conclude that collusion was "neither widespread nor institutionalized". The results of the second inquiry by John Stevens, completed in 1995, remains a total secret: no report has been published, no statement has been issued. It has been reported that the inquiry compiled detailed evidence of the involvement of four members of the security forces in killings, but a decision has been taken by the Northern Ireland Director of Public Prosecutions not to bring any prosecutions (again without any public explanation). The lack of prosecutions and public explanation fuel public suspicion that the authorities are "covering-up" crucial information about illegal activities by government agents.

Brian Nelson, a military intelligence agent who was also chief intelligence officer for the UDA, was convicted of four conspiracies to murder and 28 other charges in January 1992. He was sentenced to ten years' imprisonment. His duties for the UDA included obtaining information on Republican suspects and providing it to gunmen. At the same time he provided information about planned killings to military intelligence. After his trial, he alleged that his army handlers had taken an active role in some cases, and that he had informed his military handlers that Patrick Finucane, a lawyer, was being targeted by the UDA.

Patrick Finucane was shot dead in February 1989 by the UDA. No one has been convicted of his murder. Amnesty International has monitored allegations of collusion concerning his death. These include: that members of the security forces used their official status to target Patrick Finucane for murder; that the killing took place in the context of frequent allegations that police officers made regular threats against defence lawyers to detainees, that Brian Nelson alleged that he had directly assisted in the targeting of Patrick Finucane. The results of John Stevens' inquiry into all the circumstances of this killing remain unknown. The killing of Patrick Finucane and the apparent lack of a thorough investigation into his killing has had wide ramifications for the public perception of the rule of law in Northern Ireland.

Amnesty International has been concerned that the government has not taken adequate steps to halt collusion between members of the security forces and Loyalist armed groups, to investigate thoroughly and make known the full truth about political killings of suspected Republicans, and to bring to justice the perpetrators or otherwise to deter such killings.

Paul Thompson was killed by UDA gunmen in West Belfast in April 1994 gunmen. According to information received by Amnesty International, a resident of the street on which he was killed notified both the RUC and the Northern Ireland Office that the security fencing at the top of the street had been broken through. She appealed for protection and action. Eight hours

later Paul Thompson was shot dead at close range by gunmen who had apparently entered through the breach in the security fencing. No public explanation has been offered by either the RUC or the Northern Ireland Office as to why this information had not been acted upon immediately in order to avert a possible death. The street itself was the site of many previous Loyalist shootings. One of the RUC's main West Belfast stations is situated at the bottom of the street.

Ill-treatment

Amnesty International has received many allegations of ill-treatment by police officers of detainees at the special interrogation centres (known officially as police holding centres), which are used to detain people arrested under emergency legislation. Although these allegations decreased substantially after international protests in 1991, they have not been eliminated. In 1993 there were 138 formal complaints of assault, and in 1994 there were 140. Besides allegations of physical ill-treatment, detainees have alleged that they have been subjected to psychological ill-treatment, verbal abuse, and threats of violence.

The organization has repeatedly urged the government to implement full safeguards to ensure that ill-treatment could not occur. These safeguards include prompt access to a lawyer and the lawyer's presence during interrogation (current practice in England)[8]; some form of audio and visual recording of the interviews (both are practised in England and Wales for suspects arrested under emergency legislation); the right of a detainee to be brought promptly before a judge; the right of a detainee to notify immediately someone of his or her arrest and detention; the right of access to family and the detainee's own doctor; and an effective and independent complaints procedure.

The European Committee for the Prevention of Torture (ECPT) issued a report of an *ad-hoc* visit in July 1993 which concluded that detainees held under emergency legislation ran a significant risk of psychological forms of ill-treatment and on occasion, of physical ill-treatment. In relation to the current system of the closed circuit television monitoring system, the ECPT stated " [it] is not a foolproof means of detecting physical ill-treatment of persons detained at the holding centres or of preventing unjustified allegations of physical ill-treatment". It emphasized the need for the introduction of further safeguards, including the presence of lawyers and video-recording during interviews.

Although the special interrogation centres have no statutory basis, suspects arrested under emergency legislation continue to be interrogated at such centres, in particular at

[8] This right is expressly guaranteed in Rule 42 of the Rules of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia, UN Doc. IT/32/Rev.4, 5 May 1995.

Castlereagh (Belfast). The Independent Commissioner for Holding Centres, Sir Louis Blom-Cooper, was critical in his reports of the conditions at Castlereagh and believes that it should not function any longer than absolutely necessary. The ECPT was also critical of conditions at Castlereagh, noting that there is no natural light in the cells and interview rooms, and no exercise facilities. It also found that the inability of the Independent Commissioner to be present at interrogations "could prove difficult for the Commission effectively to advise the Secretary of state as to whether persons detained at the Centres are being treated fairly".

In the past, all independent reviews of Castlereagh have recommended some type of audio- or video-recording of interrogations. In June 1995 the government stated that it would be proposing legislation in June 1996 for an electronic recording system in the holding centres. This is disturbing for two reasons: a) it shows that government thinking assumes the holding centres will still be in operation in a year's time; and b) although the government has now conceded the need for such recording, it will be another year before legislation is presented.

Access to Legal Advice

Suspects detained under emergency legislation can be denied access to a solicitor for the first 48 hours, leaving the detainees incommunicado with the outside world. Once access is allowed, detainees are denied the presence of their solicitor during interrogation. A recent decision by the European Commission on Human Rights, in the Murray v. United Kingdom case, found that the denial of access to a solicitor, including the presence of a solicitor during interviews, violated the accused's right to a fair trial. The Commission stated:

"Restrictions on an accused's access to his lawyer and the refusal to allow the lawyer to attend during examinations of his client may influence the material position of the defence at trial, and therefore also the outcome of the proceedings. The Court and the Commission have accordingly considered that guarantees of Article 6 [of the European Convention on Human Rights] normally extend to an accused the right to assistance and support by a lawyer throughout the proceedings..."[9]

Codes of Practice

The 1994 Codes of Practice on the detention, treatment and interrogation procedures for suspects held under emergency legislation in Northern Ireland do not conform with international standards. Firstly, they institutionalize the situation in which safeguards for detainees held under emergency legislation in Northern Ireland fall short of those in force for detainees in England

[9] Para 69 of the European Commission of Human Rights report on the *Murray v. United Kingdom* case, 27 June 1994

and Wales. Secondly, they do not provide adequate safeguards against cruel, inhuman or degrading treatment; nor do they ensure that all fair trial rights are guaranteed.

International standards require detainees to be immediately allowed to inform their families of their detention and arrest and that they be given prompt access to a judicial authority, to a lawyer and to their family; in addition detainees should be given access to a doctor of their own choice.[10] The Codes of Practice do not ensure the rights of detainees to any of the above. Incommunicado detention provides the opportunity for abuse of detainees by law enforcement officers; therefore all measures possible must be taken to ensure that detainees are not held in incommunicado detention. The UN Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment stated in his January 1995 report: "Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay."

The Codes also violate international standards by allowing consultations between a lawyer and a detainee to be held in the hearing of a police officer. Moreover, the Codes have not addressed the very real problem that exists in the attitude that many detectives have towards defence solicitors, as shown in the many allegations made by detainees and solicitors of detectives' abusive, derogatory and threatening comments against solicitors. The Human Rights Committee stated that lawyers must "be able to counsel and represent their clients in accordance with their professional standards and judgment without any restrictions, influences, pressures or undue influence from any quarter".

Derogation

In 1989 the UK derogated from Article 9(3) of the ICCPR which requires that anyone arrested or detained be brought promptly before a judicial officer. The derogation was the government's response to the ruling of the European Court of Human Rights that detention for up to seven days without judicial scrutiny violated Article 5(3) of the ECHR. The UK derogated on the grounds of a "public emergency" threatening "the life of the nation". Amnesty International believes that certain minimum guarantees are inherent in the non-derogable right of freedom from torture or ill-treatment; these guarantees include prompt access to a judicial officer. The organization considers that a crucial safeguard against ill-treatment, namely that of judicial scrutiny, should not be the subject of derogation, especially during states of emergency.

[10] See UN Body of Principles for Protection of All Persons under Any Form of Detention or Imprisonment; the UN Standard Minimum Rules for the Treatment of Prisoners and Basic Principles on the Role of Lawyers.

Complaints procedure

The ineffectiveness of the current police complaints procedure is highlighted by the fact that out of the many complaints registered throughout the years by detainees at the special interrogation centres, none has been substantiated by the Independent Commission for Police Complaints. However, the number of complainants that have then received compensation in out-of-court settlements or court hearings is high. One large solicitor's firm in Belfast alone received damages payments for 75 clients in the four-year period up to May 1995. Amnesty International is not aware of any case where damages have been awarded in which the police officers involved in the complaint have then been disciplined. Among these is the example of Martin McSheffery. He alleged that he had been ill-treated in Castlereagh in 1991; he was awarded £7500 compensation in 1994. The subsequent disciplinary tribunal dismissed all charges against the four officers allegedly involved.

The military complaints procedure was criticized by the government-appointed Independent Assessor of Complaints against the Military, David Hewitt. He found that of the 606 complaints lodged in 1993 (which included 142 charges of harassment or abuse), only 26 cases (12 per cent of formally investigated cases and 4 per cent overall) were substantiated. In assessing the procedure, David Hewitt stated "these statistics are bound to create dissatisfaction among many observers. In my opinion, much of this dissatisfaction is justified...". He concludes, "the bottom line is that in 1993, out of 336 complaints informally investigated and 210 complaints formally investigated, disciplinary action was taken in a very small number of cases, and was severe in only one case".

Emergency legislation

In June 1995 the government stated that it would establish, at an unspecified time in the future, an authoritative and independent review of all emergency legislation with a view to creating "permanent counter-terrorism legislation". The government said this review would not be completed in time for June 1996, when parliament would be called upon to renew emergency legislation. Thus in June 1996 the government would propose temporary legislation which would include the suspension of some current provisions.

Amnesty International believes that the government should repeal all provisions which are not in conformity with international standards. The organization also considers that an independent review should be started immediately, and that its brief should be a wide-ranging and thorough review of the whole criminal justice system.

Fair trial concerns

Amnesty International has had longstanding concerns about a number of features of the "Diplock Court" system, established by emergency legislation. In particular the organization is concerned

about the lower standard of admissibility of confession evidence under emergency legislation than under ordinary legislation. As a result of this lower standard of admissibility, in Northern Ireland people are often convicted solely on the basis of uncorroborated and contested confession evidence. The use of confession evidence as the basis for prosecution was highlighted in two recent prominent cases: the Beechmount Five and the Ballymurphy Seven. In both cases the predominantly young people alleged that they had been coerced or ill-treated into making false confessions. They were interrogated at Castlereagh in the absence of their lawyers; in fact many of them were denied access to their lawyers until after they had made their confessions.

In July 1992 the Court of Appeal quashed the murder convictions of three soldiers from the Ulster Defence Regiment after hearing evidence that the police had falsified interview notes and lied at the trial of first instance. This decision encouraged other prisoners, who alleged that their statements of confession had been falsified, to try to get access to the original police interview notes in order to contest their authenticity through forensic testing. These attempts have been blocked by the police authorities. For example, Billy Gorman was 14 at the time of his arrest. He served a 14-year sentence for murder. Since his release he has been attempting to prove his innocence, claiming that he had been convicted on the basis of a false confession. It took him over 18 months to gain access to his interview notes, after two judicial reviews of the police decision not to release them.

Amnesty International has also been concerned about the group trials of 41 people charged in connection with the killing of two plainclothes soldiers during a funeral in 1988. Many convictions were based on disputed, uncorroborated confessions, the drawing of adverse inferences against defendants for remaining silent, controversial helicopter-video evidence and the disparate application of the "common purpose" principle. In particular, Amnesty International has urged the government to review the cases of Patrick Kane, Michael Timmons and Sean Kelly, who were given life sentences for murder even though they were not present during the shooting of the soldiers by IRA men.

In 1990 the government introduced the Criminal Evidence (Northern Ireland) Act which curtailed the right of an accused to remain silent during interrogation or at trial. Pursuant to this Act, adverse inferences may be drawn at trial from a person's silence during police interrogation (if he or she was arrested under emergency legislation, he/she may have been denied access to legal counsel and would have been denied the presence of a lawyer during the interrogation). Adverse inferences may also be drawn at trial from a person's failure to testify on his or her own behalf at trial. Amnesty International has opposed this legislation because it believes that the right of silence is a safeguard for the international standards of the presumption of innocence and the right not to be compelled to testify against oneself or confess guilt. The organization believes that in several cases the application of this Act has led to the shifting of the burden of proof and to a form of coercion to give information or to testify.

Since the ceasefires were declared in the autumn of 1994, there has not been any introduction of further safeguards in order to ensure the protection of human rights or conformity of legislation and practice with international standards. There have been no significant

changes in those laws or institutional practices which have led, and in some instances continue to lead, to human rights violations. Amnesty International believes that a lasting peace can only be maintained if it is based on the understanding that there is a fundamental need to protect human rights.