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HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE 2541st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 7 July 2008, at 3 p.m.

Chairperson: Mr. RIVAS POSADA

CONTENTS

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6)

Sixth periodic report of the United Kingdom of Great Britain and Northern Ireland (CCPR/C/GBR/6; CCPR/C/GBR/Q/6, CCPR/C/GBR/Q/6/Add.1)

1. *At the invitation of the Chairperson, Ms. Collins-Rice, Mr. Kissane, Mr. Preston, Ms. Hardy, Mr. Finch, Ms. Vass, Mr. Nye, Mr. Bramley, Ms. Pettifer, Mr. Lynch, Ms. Moore, Mr. Williams, Ms. Akiwumi, Mr. Barrett, Mr. McLean, Ms. Elliot, Mr. Daw, Ms. Revell, Ms. Dickson, Ms. Cameron, Ms. Upton, Ms. Ashby and Mr. Burton (United Kingdom of Great Britain and Northern Ireland) took places at the Committee table.*

2. Ms. COLLINS-RICE (United Kingdom), presenting the sixth report (CCPR/C/GBR/6), said that the Ministry of Justice, whose legal service she headed, was responsible for United Kingdom human rights policy. For that reason, it played a primary role in the United Kingdom's performance of its obligations under the International Covenant on Civil and Political Rights. The delegation, which included, among others, representatives of the Ministry of Justice, the Home Department, the Northern Ireland Office and the Foreign and Commonwealth Office, was happy to have the opportunity to discuss with the Committee how the United Kingdom fulfilled its obligations under the Covenant.

3. The United Kingdom considered the work of the Human Rights Committee and other treaty bodies to be of great value. The monitoring they provided was an essential component of the promotion and protection of human rights throughout the world and had a catalytic effect on the achievement of programme in that sphere. The British Government was attentive to the guidance provided by the Human Rights Committee on the implementation of the Covenant and took full account of it in the elaboration of policies relating to civil and political rights.

4. The concluding observations formulated by the Committee following the examination of the previous report, in 2001 (CCPR/CO/73/UK and CCPR/CO/73/UKOT), had been given careful consideration. The action taken in response to it was summarized in the sixth periodic report, which had been drafted following extensive consultations with members of civil society and largely reflected the suggestions made by them for improving it. The Government was convinced that such consultations had strengthened the report and that they benefitted the whole monitoring process.

5. The Committee had raised many issues. Preliminary responses, also prepared in consultation with members of civil society, had been communicated to the Committee (CCPR/C/GBR/Q/6/Add.1). After the sixth periodic report had been sent, some new developments relating to human rights had taken place. Since they were not mentioned in the replies to the list of issues to be taken up, it might be useful to mention them to the Committee.

6. Freedom under the law had long been considered the foundation of the constitution of the United Kingdom. In the United Kingdom there was no bill of rights in the modern sense nor was there a written constitution contained in one document. However, the possession of constitutional rights, freedoms and responsibilities was an inherent part of being a member of British society. The

United Kingdom took its obligations under the International Covenant on Civil and Political Rights and other major human rights instruments extremely seriously. The 1998 Human Rights Act had given direct effect in domestic legislation to the fundamental rights contained in the European Convention on Human Rights.

7. One of the greatest challenges currently facing Governments was the protection of public safety and security while safeguarding individual rights. It had been exactly three years since the terrorist attacks on the London Underground system in which 52 people had died and 700 had been injured. The terrorist threat to the security of the United Kingdom remained, and like all Governments faced with such threats, the United Kingdom Government had a profound responsibility to reduce the danger to the public and to consider all options for doing so. Even—perhaps especially—in the face of the most serious challenges, commitment of the United Kingdom Government to human rights remained firm. The Government remained determined to sustain the promotion and protection of human rights both in United Kingdom and abroad. When increasing limits for pre-charge detention in terrorism cases, it had been scrupulous to maintain safeguards that protected the human rights of anyone detained on suspicion of terrorism.

8. The United Kingdom Government continued to see the Human Rights Act as a vital means of transforming the country's political culture and improving public services. The sixth report mentioned the review of the Act carried out in July 2006 after it had become evident that some public sector officials lacked the necessary confidence to apply the Act in their day-to-day work. The review had revealed the need for an urgent programme of training and awareness-raising. To date, the Ministry of Justice had distributed 100,000 copies of a new handbook entitled *Human Rights: Human Lives* to other Government departments, their sponsored bodies and other public-sector organizations. Reactions from officials had indicated that they found the handbook helpful to them in carrying out their duties. Since its entry into force in 2000, the Human Rights Act had been subject to hostility and misrepresentation from certain sections of the media. Although research commissioned by the Government had found that in 2006, 84 per cent of the people surveyed believed that there should be a law to protect human rights in the United Kingdom, 43 per cent thought that too many people took unfair and unreasonable advantage of the Act. Since then, a new Human Rights Press Officers Network had been established to improve the capability of Government departments to respond to inaccurate or misleading media coverage of human rights issues, including by identifying and rebutting incorrect or misleading stories in the press and other media.

9. In association with experts in education and human rights, the Government had developed new educational material for 11-to-14-year-olds on human rights protection within the United Kingdom, which had been launched on 1 July 2008. The Government believed that giving young people the chance to learn about and value their own human rights and the rights of those around them was a crucial step in building a wider culture of respect for human rights.

10. To further that overall aim, on 1 October 2007 the Government had established a standing Equalities and Human Rights Commission. The Commission brought together the work of the three previous equality commissions (for racial quality, gender equality and the rights of disabled people) and also took on responsibility for new strands of discrimination law relating to sexual orientation, religion or belief.

Its mandate was to champion quality and human rights for all, working to eliminate discrimination, reduce inequality and build good relations between communities and ensuring that everyone had a fair chance to participate in society. It had powers to enforce quality legislation and a mandate to encourage compliance with the Human Rights Act.

11. In November 2006 the Scottish Parliament had passed legislation to establish a Scottish Commission for Human Rights, which was currently being set up and was expected to commence operations by the end of 2008. The main purpose of the Commission was to promote human rights and to encourage best practices in that field. It would also be able to review and recommend changes to Scottish law and to the policies and practices of Scottish public authorities. It would have legal powers to obtain information, enter places of detention and intervene in legal proceedings in human rights cases.

12. Though the United Kingdom did not have a Bill of Rights, its unwritten constitution had been an historic guarantee of the fundamental rights and liberties that characterized United Kingdom society, which themselves had been a model for many other democracies. Moreover, many constitutional rights and responsibilities had come to be recognized in statute. The Government was currently considering whether further codification of constitutional rights and responsibilities would have a beneficial effect on the country's society and political life. In 2007 it had begun a consultation process on whether there should be a Bill of Rights and Responsibilities. The Government was keen to encourage discussion about how responsibilities corresponding to the enjoyment of individual rights might be articulated in a new Bill, just as they were in the Covenant. Ministers were looking at broadening the base of human rights protection in the United Kingdom by including, for example, an articulation of rights to education, health care and good administration of justice, which were not fully covered by the Human Rights Act alone. Various options were under consideration and it might be that different approaches could ultimately be taken to different kinds of rights. The Government hoped to publish the proposals for the Bill in the near future.

13. In advance of the examination of the report, the United Kingdom delegation had answered questions posed by the Committee on a range of issues, including legal and constitutional issues, and on the Government's continuing work to integrate fully the constitutional rights of each member of United Kingdom society and protect that society as a whole.

14. Mr. KISSANE (United Kingdom), responding to the question whether the United Kingdom contemplated adopting legislation to incorporate the International Covenant on Civil and Political Rights into its domestic law (question 1), said that several sources of law were recognized in the United Kingdom and that in general, treaties and international instruments were not incorporated directly into domestic law. In practice, the Government had not observed any gap in the protection provided by domestic law that would be filled by incorporating the Covenant. It therefore felt that such incorporation was not necessary, but remained seized of the question nevertheless.

15. As to the intentions of the United Kingdom regarding the First Optional Protocol to the Covenant, the Government had given much consideration to the mechanism whereby individuals could submit requests to the treaty bodies on the occasion of the study of international human rights instruments it had carried out

in 2004. The Government had then decided to accede to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in order to collect empirical data on the operation of the mechanism of complaints filed by individuals. It was currently assessing the experience acquired during the previous three years in connection with that protocol and hoped to report its conclusions by the end of 2008.

16. The Overseas Territories had their own Constitutions and legislation and many of them enjoyed broad powers for conducting their internal affairs. New Constitutions had entered into force in some of those territories, all of them containing a chapter on fundamental rights that reflected the provisions of the Covenant and of the European Convention on Human Rights, a necessary criterion for approval by the United Kingdom.

17. The Committee would like to know whether the United Kingdom was considering withdrawing the reservations it had made with respect to various articles of the Covenant (question 2). Apart from the reservation to article 11, the withdrawal of which, having been requested by the Bailiwick of Jersey, was in progress, the Government did not intend to withdraw any of the reservations made regarding articles of the Covenant. The reservation to article 10 was still required because it might be necessary, on an exceptional basis, to place a young detainee in an adult facility for reasons of security or to meet the needs of the minor. It was also necessary to maintain that reservation in Scotland, where minors aged at least 16 years were held in facilities for young delinquents with youths aged up to 21 years, although in so far as possible persons aged less than 18 years were placed in separate quarters. The reservation to paragraphs 1 and 4 of article 12 reflected provisions applicable to inhabitants of the Overseas Territories, who had the right to a British passport and to British consular protection but who, unless they also had British nationality, did not have the right to reside in the United Kingdom. The Government interpreted the provisions of article 20 in the spirit of the rights granted by articles 19 and 21 of the Covenant. It felt that the current legislation maintained a just balance between the preservation of the right to freedom of expression and the protection of every person against violence and hatred. As for the reservation to article 24, paragraph 3, there existed a number of legal restrictions on the possibility for minors to acquire British nationality, all of which were compatible with the United Kingdom's obligations under the 1961 Convention on the Reduction of Statelessness. The reservation was needed to make sure that any obligation contracted by the United Kingdom under the International Covenant on Civil and Political Rights, in particular its article 24, paragraph 3, did not go any further than its obligations under the 1961 Convention. The Government considered that the general reservation concerning the maintenance of military and penitentiary discipline must not be removed, for its withdrawal might have repercussions on the operational efficacy of the armed forces of the United Kingdom.

18. Mr. LYNCH (United Kingdom) said that the human rights situation in Northern Ireland (question 3) was special because it was governed both by the United Kingdom Human Rights Act, which incorporated the provisions of the European Convention on Human Rights into domestic law, and by the 1998 Belfast Agreement, which contained a number of specific commitments and guarantees in the area of human rights. The situation in Northern Ireland was also characterized by the active presence of the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland as well as by an extensive legal

protection system. The latter included, in particular, specific mechanisms for monitoring the police and criminal justice services.

19. The Northern Ireland Human Rights Commission had been created in 1999 and had broad powers. It had been charged by the Government with the communicating to the Secretary of State for Northern Ireland, by 10 December 2008, an opinion on the possibility of elaborating a Bill of Rights that took into account the specific situation of Northern Ireland. The Government had pledged to conduct an extensive public consultation on that opinion before deciding how to proceed with the proposed Bill.

20. With regard to the Northern Ireland police, one of the Government's main objectives was to make it more representative of the diversity of the society. The effort to combat racism was one of the three main focuses of police strategy for the promotion of diversity and equality, which aimed at meeting the specific needs of ethnic minorities and other immigrant communities. The strategy also provided mechanisms for compelling police officers to account for their acts. The heads of the department of professional standards and the county and district command teams were responsible for all breaches of the police code of ethics. Moreover, any complaint by an individual regarding the behaviour of a police officer gave rise to an inquiry by the Office of the Police Ombudsman for Northern Ireland.

21. Violence against women was not peculiar to Northern Ireland. Nevertheless, the problem was given all the requisite attention. The Northern Ireland Department of Health, Social Services and Public Safety had budgeted nearly 4 million pounds for implementing its three-year strategy against sexual violence and abuse. Among the other measures adopted in that area, mention should be made of the appointment of police officers specialized in the field of domestic violence in each police command unit in Northern Ireland, the setting up of specialized training courses for the staffs of the public organizations concerned and the establishment of a Government-financed telephone hotline for victims of domestic violence.

22. Mr. KISSANE (United Kingdom), speaking of the possible impact of the Sex Discrimination Act 2002 on the representation of women in public life (question 4), said that the percentage of women in Parliament had already increased considerably over the previous 25 years and that the trend had continued following the adoption of the Act, due in particular to the use of exclusively female pre-selection lists for elections. The percentage of women in Parliament had reached 19.3 per cent, as opposed to 9.2 per cent in 2002. At the same time, a clear-cut increase in the number of women holding political office at all levels was observable. On 3 July 2008, the Government had decided, on the proposal of the Minister of Justice, to extend the application of the provisions of the 2002 Act beyond 2015.

23. In the area of measures to increase the ratio of woman performing judicial functions, the Lord Chancellor, the Lord Chief Justice and the chairman of the Judicial Appointments Commission (Baroness Prashar) had jointly adopted a strategy to promote diversity of the magistracy, the general objective of which was to encourage more diversified representation within the magistracy in England and Wales, with special emphasis on representation of women, ethnic origin, disability and professional experience. In 1999, only 24 per cent of all persons appointed to judicial functions had been women. According to the Judicial Appointments Commission, however, out of the 27 selections made from 1 April 2007 to 31 March 2008, 48.2 per cent of the candidates chosen had been women. The overall

ratio of women judges had gone from 14 per cent to 19 per cent over the previous five years. In Scotland, the Judicial Appointment Board had established a working group on diversity, charged with collecting information showing diversity in the legal profession in Scotland and checking whether such diversity was found among the candidates for judicial posts.

24. Mr. NYE (United Kingdom) said that section 44 of the Terrorism Act 2000 gave the police the power to conduct stop-and-search operations in a given area, even in the absence of reasonable suspicion, in which case that power could be exercised only when a serious terrorist threat existed. Like the powers granted the police by section 1 of the Police and Criminal Evidence Act 1984 and section 60 of the Criminal Justice and Public Order Act 1994, those defined in section 44 of the Terrorism Act were not directed towards any particular racial, religious or other community. They were aimed solely at terrorists and criminals, including potential ones, independently of their origin or social group. Stop-and-search operations were more likely to be effective and well viewed by the population if they were conducted on the basis of definite, up-to-date information. Any arrest under the provision concerning terrorism must be founded on an objective evaluation of the danger which the person concerned represented and not on racial considerations. The Government felt that stop-and-search procedures, when used in strict compliance with the rules established by law and with the genuine threat duly taken into account, effectively helped to dissuade potential terrorists and improved the chances of stopping them in time. Furthermore, searches required the authorization of a superior officer and were authorized only to the extent necessary to prevent acts of terrorism. The legality of the practice had been confirmed by a decision of the House of Lords in 2006. The Government was not unaware of the concerns to which such practices gave rise in certain sectors of society, especially in Muslim communities, and was anxious to preserve good relations with and among the different communities within the framework of the effort to combat terrorism. It worked toward that end with the police, making sure that it in using the powers conferred on it by law it maintained a just balance. Efforts were also made to strengthen cooperation with Muslim communities in the counter-terrorism context. Parliament kept a close watch on the impact of the application of counter-terrorism law on different communities, especially Muslim communities, and the Home Affairs Committee of the House of Commons continued to examine and report on the question.

25. Mr. DAW (United Kingdom) said that the National Penitentiary Administration in the United Kingdom was made up of three different components: the Penitentiary Administration of Northern Ireland, the Scottish Penitentiary Administration and the Penitentiary Administration of England and Wales. The plan of action for racial equality in prisons (question 6) had been developed in 2003 jointly by the Penitentiary Administration of England and Wales and the Commission for Racial Equality. It reflected the recommendations that had emerged from the Zahid Mubarek Inquiry and the conclusions of the report of Her Majesty's Chief Inspector of Prisons and took into account the changes made in the legislation concerning racial equality. A study was to be conducted upon the expiration of the plan, in December 2008, to assess any progress made. In the prisons of England and Wales several avenues of internal recourse were open to detainees who wished to file complaints. Once those internal recourses were exhausted, prisoners who had not obtained satisfaction could appeal to the Prisons and Probation Ombudsman. In

addition, a separate internal procedure existed for complaints relating to racist incidents, also providing for a right of recourse to the Ombudsman. The plan of action had brought an improvement in the training of the staff in charge of inquiries with respect to racial problems as well other issues related to diversity. In every prison there was an officer in charge of racial-equality issues and a certain percentage of the inquiries carried out were subject to external review. In November 2005 the Scottish Penitentiary Administration had launched a programme on racial equality. The measures it had adopted within that framework to promote racial equality in all its facilities had resulted in considerable progress. The Penitentiary Administration of Northern Ireland dealt with prisoner complaints through a three-stage internal procedure, but no separate procedure existed for complaints relating to racist incidents. If a detainee was not satisfied with the result of the internal procedure, he could bring the matter before the Prisoner Ombudsman for Northern Ireland. The Penitentiary Administration of Northern Ireland was currently carrying out a survey of complaints filed due to racist incidents and seeking to establish a system whereby the grounds of the complaints could be ascertained from the information provided by the complainant, so as to record them by category. The system would be based in all likelihood on the nine criteria set forth in section 75 of the Northern Ireland Act 1998 (religious belief, political opinion, racial group, age, marital status, sexual orientation, sex, disability and the fact of having/not having dependants).

26. Ms. PETTIFER (United Kingdom) pointed out that public inquiries had been opened regarding the deaths of Robert Hamill, Billy Wright and Rosemary Nelson in November 2004 and were still in progress. They were being conducted by independent judges with the full collaboration of the Government, which had provided a considerable amount of information, and they should be completed in 2010. It should be borne in mind that the purpose of those inquiries was not to identify or prosecute the culprits. In any case, in the Wright and Hamill cases prosecutions had already been commenced before the opening of those inquiries.

27. No step had yet been taken to open a public inquiry into the death of Patrick Finucane. The Government had clearly indicated that the only possible basis on which to open a public inquiry in that case was the Inquiries Act 2005. The allegations made in the Finucane case involved activities of national security and any related inquiry would imply the examination of highly sensitive information whose confidentiality would absolutely have to be preserved because of the risk of jeopardizing national security and the lives of several individuals. The Inquiries Act authorized the competent minister to issue a restriction notice to prevent the disclosure to the public or to other parties of evidence or documents that came to light in the inquiry. However, that measure could be taken only if the law or the public interest so required and only following a rigorous examination of several factors defined by law, and it was subject to appeal. The Finucane family had opposed the conducting of an inquiry based on the Inquiries Act 2005, but the Government was negotiating with the family in an effort to find a way to conduct the inquiry while taking the public interest fully into account.

28. Ms. MOORE (United Kingdom) said that blunt-impact projectiles (question 8) had been introduced in June 2005 for all police forces in the United Kingdom. The material used in Northern Ireland had given rise to sharp controversies and on the recommendation of the Independent Commission on Policing for Northern Ireland, a Steering Group headed by the Secretary of State for the Home Department (“Home

Secretary") and composed of a large number of experts in different fields, including the medical field, had been charged with finding conflict-management means that were effective and potentially less lethal than the plastic bullet ("plastic baton round" - PBR). From June 2005 to October 2007 those projectiles had been used on four occasions in Northern Ireland (427 shots) and on 28 occasions (36 shots) in Great Britain. In Northern Ireland, their use must always be reported to the Police Ombudsman, who had received only two complaints on that score, in 2005. They had been used mainly during the serious unrest of September 2005, during which the public security forces had been attacked with Molotov cocktails and real bullets, and only after the use of other means such as water cannons had failed. The use of blunt-impact projectiles was governed by strict guidelines which included, for example, the obligation to make certain that no child or other vulnerable person was present, as required by article 3 (c) of the Code of Conduct for Law Enforcement Officials, to which they expressly referred. The authorities were convinced that the use of such projectiles contributed to respect for the right to life guaranteed in article 6 of the Covenant and also felt that their law enforcement approach was in keeping with principles 2 and 3 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Notwithstanding, they had no intention of relaxing their efforts and would continue to seek other, still less harmful, methods.

29. Mr. BRAMLEY (United Kingdom) recalled that at the conclusion of the inquiry into the death of Jean Charles de Menezes (question 9), the Independent Police Complaints Commission had concluded that the 16 police officers involved had not been personally responsible and that there were no grounds for disciplinary sanctions. In March 2006 the Association of Chief Police Officers, which reviewed the methods employed by the police in responding to threats of suicide attacks, had concluded that those methods were well suited to the objective sought. The Government had not taken part in decisions relating to the tactics used, which should in any case be known solely to the police services so as to prevent their being easily foiled. Chief police officers were required to apply the Code of Practice on Police Use of Firearms and Less Lethal Weapons, published by the Home Department ("the Home Office") and approved by Parliament, which laid down in particular the basic principles relating to the choice, testing, acquisition and use of weapons. The Code was supplemented with the guidelines of the Association of Chief Police Officers. Once the use of firearms was authorized, it was up to each officer individually to act in accordance with the law. Police officers could be called upon to justifier their acts in court.

30. Mr. KISSANE (United Kingdom) said that no information obtained by torture, whether within British territory or elsewhere, was admissible as evidence in a criminal or civil proceeding, with the exception of the cases specified in article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In the case of *A. and others* v. *Secretary of State for Home Department* (question 10), the House of Lords had concluded that the tribunal – in the case in question the Special Immigration Appeals Commission – should not give consideration to any pieces of evidence it thought had been obtained through torture; in case of doubt, it could accept them and keep that doubt in mind when evaluating them. British courts were required to abide by the precedents established by higher jurisdictions and all judges were supposed to know the relevant decisions of the House of Lords.

31. The United Kingdom resorted to memorandums of understanding (question 11) to expel aliens suspected of terrorism. That approach was by no means a way of shirking human rights obligations; rather, diplomatic assurances guaranteed that the rights of the returned person would be respected and in particular that the person would receive treatment in accordance with article 7 of the Covenant. The Government was not contemplating any change in its policy in the light of the decisions handed down in the case of *DD and AS* v. *Secretary of State for Home Department* because neither the Special Immigration Appeals Commission nor the court of appeal had concluded that recourse to diplomatic assurances was not acceptable: they had simply considered that at that specific point in time, in the case of the two Libyans in question, the assurances had not been sufficient. In the case of *Saadi* v. *Italy*, the United Kingdom had argued before the European Court of Human Rights that account must be taken not only of the possible risks to the persons threatened with expulsion but also, to a certain extent, of the risks that those same persons posed to others. It had also requested that, in view of the gravity of the cases in question, a higher level of proof should be required to attest the risks to which such persons were exposed. The European Court had rejected those arguments, but had not concluded that recourse to diplomatic assurances was inappropriate. It had simply considered that such assurances must be examined carefully by the tribunal on a case-by-case basis,. The United Kingdom respected that decision.

32. Ms. AKIWUMI (United Kingdom) recalled that the United Kingdom reserved its position on the application of the provisions of the Covenant outside the country and, consequently, on their application to persons in British army detention centres abroad (question 12). However, British soldiers abroad were duly trained in their obligations toward detainees. Torture and mistreatment were explicitly prohibited by customary international law and by British criminal law, the provisions of which were applicable to British soldiers at all times and in all places. Any allegation of torture or mistreatment was examined by the military police, which was independent of the hierarchical structure in its investigative functions. If misconduct had been committed, prosecution was commenced by another body, also independent of the military hierarchical structure. The victim or the victim's family could obtain reparations pursuant to various texts, depending on whether death, bodily injury or violation of human rights had occurred.

33. Mr. KISSANE (United Kingdom) said that prolonged holding without charge of persons suspected of terrorism (question 13), permitted by the Terrorism Act 2006, did not raise any question in respect of article 9, paragraph 3, of the Covenant, since every suspect in that situation was brought before a judge within 48 hours. The judge must make certain that the suspicions of terrorism were sufficient and could not prolong the detention unless it was necessary with a view to obtaining or preserving evidence, and then only for maximum periods of seven-days. The detention of persons suspected of terrorism was strictly regulated and it had never happened that it was judged illegal or incompatible with the human rights obligations of the United Kingdom or even contested in court.

34. With regard to the prevention of terrorism, the Government's preferred approach was pressing charges or, if the suspect was an alien, expulsion. Where neither of those measures was possible, it resorted to control orders (question 14). Such orders were aimed only at a small, narrow group of individuals: as of June 2008, only 15 orders were in effect and a total of 37 persons had been the

object of control orders since the adoption of the Act three years earlier. Each such order must be examined by the High Court, which must verify that there existed valid grounds for suspecting the person of participation in a terrorist activity and that the measure was necessary to protect the population. In October 2007, the House of Lords had decided to maintain the system of control orders and considered that one should not soften the terms of any of them. It had rejected the 18-hour curfew desired by the Government, but had felt that a 12-to-14-hour curfew was not incompatible with the right to freedom, which confirmed that the system was fully in agreement with the Covenant and the European Convention on Human Rights. For the time being, the Government did not contemplate any derogation from the right to freedom, but that did not mean that the situation of public danger had ceased to threaten the nation's existence. Actually the terrorist threat had grown steadily since 2001. As for changes made in orders by the House of Lords, the Government could not provide information on individual cases.

35. Mr. BARRETT (United Kingdom) explained that an asylum-seeker might be placed in detention (question 15) in the following cases: while his identity and the reasons backing up his application were being established; whenever there were good reasons to believe that he would not respect the terms of temporary admission or release; within the framework of an accelerated asylum process; or because he was to be expelled. Detention was decided case by case, account being taken of the individual's specific situation. The law did not provide any maximum duration, but detention was never unduly prolonged beyond the time absolutely necessary. The measure was regularly re-examined by a judicial authority and the interested party could contest it by means of a request for judicial examination or an application for habeas corpus; he could also apply for release on bail. The conditions of detention were checked locally by independent organizations and at the national level by the Penitentiary Administration. Since 2002, in Great Britain, and since 2006, in Northern Ireland, persons arrested under the immigration laws were no longer detained in penitentiary institutions. With the exception of those who had been convicted or who posed security problems, all were now held in special immigration-service centres. All were immediately informed of the reasons for their detention and had access to a legal counsel service.

36. Mr. DAW (United Kingdom) explained that the Penitentiary Administration no longer came under the Home Office but under the new Ministry of Justice created in May 2007. The figures cited in question 16 represented an average of 187 penitentiary employees guilty of misconduct per year, while the Penitentiary Administration employed 48,000 people. Moreover, they included all instances of misconduct committed, ranging from minor infractions, such as unwarranted sick leave or insults to a colleague or a detainee, to serious violations (such as aggression against a colleague or a detainee or bringing in mobile telephones or drugs), which resulted in the employees concerned being dismissed or even having charges pressed against them. The Penitentiary Administration was aware that those numbers, however low they might be as compared with the number of employees, were likely to shock public opinion; nevertheless it thought they should be made public. In addition, they served as a reminder that misconduct on the part of penitentiary personnel was not tolerated. The standards of conduct applicable to all staff were defined in regulations published on the Penitentiary Administration Web site. A special team was charged with preventing corruption of staff by detainees.

37. The CHAIRPERSON thanked the delegation for its replies and invited Committee members to ask any additional questions they might have.

38. Mr. SHEARER said he would like return to question 3 on the list. Despite the information provided by the delegation, he still could not clearly see how the protection of human rights in Northern Ireland differed from that in the rest of the United Kingdom. He had taken note of the fact that the Northern Ireland Human Rights Commission was to submit a report to the Secretary of State for Northern Ireland in December 2008 on the possibility of defining, within Westminster legislation, other rights, additional to those of the European Convention on Human Rights, to take into account the specific circumstances of Northern Ireland. In the meantime, it would be interesting to have more detailed information on the Belfast Agreement (1998), under which a complete system of legal protections had reportedly been established.

39. In paragraph 104 of the report, mention was made of violence inspired by hatred, but nothing was said of sectarian violence, which in Northern Ireland was without a doubt the most prevalent form of violence stemming from hatred. It would be helpful, therefore, to have some statistics on that form of violence as well as information on the measures adopted to combat it. He noted that the percentage of blacks or members of ethnic minorities among the members of the Northern Ireland police was extremely low (0.31) and wondered whether that percentage was simply a reflection of their equally low representation in the region's population or whether there was some other explanation. He would also like to know whether there were any provisions relating to exceptions applicable in Northern Ireland but not in the rest of the United Kingdom and what the timetable was for the transfer of powers from Westminster to Northern Ireland, in particular with regard to the protection of human rights.

40. With regard to question 7, he would like to know why the hearings concerning the deaths of Billy Wright et Rosemary Nelson had just begun in 2008, when independent inquiries had been announced in November 2005. The hearings relating to Robert Hamill had not even begun. The inquiry into the Finucane case, moreover, was subject to the new Inquiries Act 2005, the limitations of which had been the object of intense international criticism. The delegation had said that the Act did not prevent the collection of information, but only its publication, on grounds of security. It would also be interesting to know whether, in the Finucane case, the Act would also prevent the family from knowing the underlying facts and what security considerations would come into play.

41. On the question of blunt-impact projectiles (question 8), the State party affirmed in its written replies that they had not cause any wound from June 2005 to May 2006, but said nothing of the period from May 2006 to October 2007, during which they had also been in use. According to an independent source, 14 people had been admitted to Belfast Hospital for wounds due to blunt-impact projectiles. Nor did the State party specify whether the use of Taser-type stun weapons delivering electrical charges was already authorized or contemplated.

42. He noted that in the tragic Menezes case (question 9) no judicial prosecution had been instituted and only a collective fine had been imposed under the Health and Safety at Work etc. Act, a text whose application in that case appeared strange to say the least. It would be interesting to know whether police officers could be prosecuted upon the completion of the criminal investigation opened to look into the

causes of death or whether the conclusions of the initial inquiry conducted by the Independent Police Complaints Commission ruled out that possibility. It would also be useful to know whether the 16 recommendations made by the Commission had been made public. Finally, even if, as stated by the delegation, it was necessary to keep police tactics secret, it would be useful to know whether the police had changed its methods in the aftermath of that case.

43. In reply to question 16, the delegation had explained that professional misconduct on the part of penitentiary employees more often involved breaches of discipline than acts of violence against detainees. That, however, raised the more general question of overcrowding of prisons. In that regard, he would like to know what progress had been made in introducing alternatives to imprisonment and how judges were kept informed of them, and also what measures had been taken or were being contemplated for preventing suicide, self-mutilation and death during detention, such as safer cells, mentioned in the report, or the possibility for inmates to receive private visits.

44. Mr. AMOR said that the impression that emerged from a reading of the report (CCPR/C/GBR/Q/6) and written replies (CCPR/C/GBR/Q/6/Add.1) was that the Covenant ranked second, and perhaps in some respects even had a second-rate position, with respect to the Convention for the Protection of Human Rights and Fundamental Freedoms. It would be a good thing if the delegation of the United Kingdom could undo that impression. The question of incorporation of the Covenant into domestic legislation was a matter of sovereign choice of the State party, but it was essential for all rights protected by the Covenant to be guaranteed under domestic law. That did not appear to be entirely the case, notably with regard to the right to non-discrimination and the rights mentioned in article 27 of the Covenant. He trusted that the United Kingdom delegation would remove that doubt.

45. As far as accession to the Optional Protocol was concerned, he respected the choice of the British authorities but noted that they had acceded to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. As he saw it, accession to that protocol ought perhaps to have been preceded by accession to the Optional Protocol to the Covenant. In any case, he would like to understand the reasoning behind the State party's choices.

46. He had noted that all the Constitutions of the Overseas Territories must include a chapter on rights and freedoms and that the central authorities made certain that the relevant provisions were in accord with the international commitments subscribed to by the State party. He would like to know, however, whether that process of ascertainment related solely to European instruments or applied also to all the provisions of the Covenant.

47. In its concluding observations following the consideration of the fifth periodic report of the United Kingdom (CCPR/CO/73/UK CCPR/CO/73/UKOT), the Committee had formulated a recommendation concerning the British Indian Ocean Territory. The population of what constituted the Chagos Archipelago had been driven from the territory where it had been living. In its concluding observations, the Committee had requested the State party, to the extent possible, to seek to make the exercise of the Ilois' right of return to their territory practicable. He would like to know what action had been taken in that regard and what the situation and status of the archipelago's former inhabitants were. He recalled that in comments on the Committee's concluding observations (CCPR/CO/73/UK CCPR/CO/73/UKOT/Add.1)

the Government of Mauritius had mentioned a letter addressed to it by the British authorities on 1 July 1992 in which they had given an undertaking to cede Chagos back to Mauritius once its occupation was no longer needed for the defence purposes of the United Kingdom. He would like some clarification regarding that point and would like to know the legal basis of the position of the British authorities on the status of the Chagos Archipelago, the logic of which was not clearly evident to him.

48. He referred to a new and constantly evolving situation to which the States parties to the Covenant, the Committee, non-governmental organizations and other stakeholders did not yet accord enough importance and which might represent a threat to human dignity, a value consecrated on two occasions in the preamble to the Covenant. He was alluding to the situation created by the development of biomedical science and bioethics. In those fields, the United Kingdom accorded to research considerable freedom of action, which had made extraordinary advances possible and placed the State party in the vanguard of science. He noted, for example, that the British Parliament had recently adopted a law permitting the creation of hybrid embryos. He considered that the evolution of biomedical research, notably with regard to reproductive cloning, and questions of bioethics, especially as far as the preservation of leftover embryos was concerned, were not without problems, even more so when a commercial dimension was combined with them. The State party should take special pains to prevent the risk of biomedical sciences getting out of control and the untoward effects they were liable to have on respect for human dignity. He would like to know the position of the United Kingdom on those questions, which warranted immediate attention.

49. Finally, he wished to go back to a matter referred to within the framework of the examination of a periodic report of Algeria. The Committee had been worried about the fate of a person who had been expelled from the United Kingdom to Algeria. The head of the Algerian delegation had pointed out that the person had been held for two years without charge in the United Kingdom and had been subjected to torture before being sent back to Algeria. On returning, after naturally being interrogated by the Algerian authorities, the person had not been the object of any charge and had therefore been set free. Mr. Amor would like to hear the comments of the delegation of the United Kingdom concerning that case.

50. Ms. WEDGWOOD said she was concerned over the very large number of reservations to the Covenant made by the State party. The reservation to article 10, paragraph 2 (b), of the Covenant, for example, was dictated by understandable considerations, mainly the shortage of resources for creating detention centres, but one might wonder whether, paradoxically, it was not likely to perpetuate the current situation. The reservation to article 12 seemed to date from a time when concerns with equality were not so great, and the reservation to article 24, paragraph 3, too, seemed no longer to match current-day realities. With regard to the reservation to article 20, the State party had argued that articles 19 and 21 of the Covenant constituted in a sense the framework for the application of article 20. If that was the case, one could hardly see the point of the reservation to article 20. The reservation that was the greatest cause of concern, however, was that relating to discipline in the case of the armed forces and prisoners. With respect to article 10 of the Covenant, the Government of the United Kingdom had declared that it reserved the right to apply to members and personnel of the armed forces of the Crown as well as to persons legally detained in penitentiary institutions such laws and procedures as it might from time to time consider necessary for the maintenance of military and

penitentiary discipline. That statement was all the more disturbing in that it might imply that the protection provided by the Covenant did not extend to the area coming under military law. One might ask oneself, for example, whether by virtue of the reservation to article 10 the protection of the Covenant might not apply to prisoners captured by the United Kingdom in an armed conflict such as that taking place in Afghanistan. She invited the United Kingdom authorities generally to consider withdrawing all the reservations made to the Covenant or at least to reduce them to the absolute minimum.

51. She noted with satisfaction that the number of women judges had increased. She noticed, however, that that increase gave an idea of the number of women in the profession having the "desired experience", and would like to know what those words implied. In addition, she would like to know the number of women lawyers and how many black women were judges or lawyers.

52. Concerning the question of the acceptability of evidence obtained through torture, she noted that evidence that appeared to have been obtained by torture was not considered by the courts. The rule was good, but its formulation was vague. It should be specified how it was established that a piece of evidence had been obtained through torture, what type of inquiry made it possible to determine how information had been obtained and what was meant by "such inquiry as it was practicable to carry out, and on the balance of probabilities".

53. The issue of control orders raised some questions. First of all, she wondered whether what was involved was a kind of immigration law or measures coming under civil law, or even criminal law. She would also like to know whether control orders had ever been imposed on United Kingdom nationals and under exactly what conditions such orders could be issued. The criteria stated in paragraph 42 of the report were quite vague and gave the impression that the Home Secretary or the courts enjoyed discretionary powers that might compromise strict compliance with certain provision of the Covenant. She also noted, in paragraph 121 of the written replies, that the United Kingdom Government did not intend to make any comment on individual cases or indicate what changes might have been made following the decisions of the Lords, and she would like to know for what reasons the Government did not wish to refer to those questions.

54. Given the State party's position on the application of the Covenant in the case of persons detained in British army detention centres outside the United Kingdom, she would like to know whether, by definition, the habeas corpus procedure did not apply to such persons. If that was the case, it would be alarming: indeed, the importance of the guarantee of an independent examination of detention was well known.

55. Mr. JOHNSON LOPEZ asked how the State party justified that a reasonable degree of suspicion was not required for exercising stop-and-search powers. He asked the delegation to communicate to the Committee statistics on the number of complaints to which stop-and-search procedures had given rise and how hey had been handled.

56. Regarding the plan of action for racial equality in prisons, he noted that the proposed periods for assessing the results were very long and said he would like to know what measures the authorities intended to take to give effect to the recommendations formulated to put an end to racial discrimination in prisons.

57. Mr. IWASAWA, reverting to the question of the expulsion of persons suspected of terrorism, noted that the State party had signed memorandums of understanding with several countries on expulsion accompanied by diplomatic assurances guaranteeing respect for the rights consecrated in the Covenant. In the written replies (CCPR/C/GBR/Q/6/Add.1), mention was also made of "arrangements for verifying the assurances in the destination country" and "monitoring bodies" to safeguard against ill treatment. He would like to have particulars on what those terms covered. He would also like to know whether, in a case where the State party had received diplomatic assurances or signed a memorandum of understanding with the State concerned, it was required to send back a persons suspected of terrorism even if there was a risk that he or she might be subjected to torture. With regard to the case of *DD and AS* v. *Secretary of State for Home Department*, he would like to know for what reasons the United Kingdom Government had decided not to appeal against the decision of the Special Immigration Appeals Commission and the judgement of the court of appeal. Given the fact that the Government and the courts had different assessments of the adequacy of the assurances given by the Libyan authorities in that affair, he asked by what criteria the British authorities were able to determine that the assurances given offered sufficient guarantees. In the case of *Saadi* v. *Italy*, the Grand Chamber of the European Court of Human Rights had expressly rejected the State party's view that it was appropriate to take into account risks to national security when considering the compatibility of an expulsion and stressed the absolute nature of the right to protection provided for in article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The delegation of the United Kingdom had indicated that the country's authorities intended to respect the ruling by the European Court of Human Rights, and Mr. Iwasawa wondered whether that meant they had given up advocating in favour of the search for a balance between the different risks.

58. It would be important to know precisely whether the authorities of the State party recognized that the Covenant applied to persons detained in British army detention centres outside the United Kingdom. He would also like to know the views of the British authorities concerning the application of the provisions of international law relating to human rights within the framework of the military actions conducted in Iraq. In addition, he would like to know their views regarding the decision rendered by the House of Lords in 2007 in the case of *Al-Skeini and others* v. *Secretary of State For Defence*. Various sources indicated that the inquiries conducted by the Royal Military Police into grave violations of the human rights of Iraqi civilians committed by the British armed forces did not measure up to the relevant international standards, be it in respect of promptness, impartiality, exhaustiveness or efficacy. He noted also that it had been suggested that a civilian mechanism should be set up to investigate violations of the human rights of the population committed in Iraq by the British armed forces, and he would be happy to hear what the United Kingdom delegation had to say on all those points.

59. Persons seeking to immigrate might be imprisoned under four different criteria: national security, criminality, security and control. It would be interesting to know how many people had been placed in detention on the basis of each of those criteria. In any event, inasmuch as the detention of a potential immigrant could not be unlimited, he would like to know whether a person imprisoned for any of the

above-mentioned four criteria was released when his or her expulsion could not take place within a reasonable period.

60. He asked whether it was true that since 2002, persons detained by the Immigration Service were no longer placed in penitentiary institutions and whether there was a plan to establish a maximum duration for the detention of such persons. He would also like to know whether they were clearly informed of the reasons for their detention and of their rights, and whether they had ready access to a handbook that explained the procedure to be followed for bail. He wished to know how many persons detained by the Immigration Service in Northern Ireland had been transferred to detention centres in Great Britain and by what means the British Government guaranteed that such persons could have access to a lawyer.

61. Mr. O'FLAHERTY said it troubled him that the maximum duration of detention without charge, which had already been lengthened from 14 to 28 days, might be raised to 48 days. Inasmuch as the maximum duration of 28 days had been applied in only six cases, only three of which had resulted in charges being filed, one might wonder what the need for such lengthy detention was. The State party had failed to present any convincing argument to justify a new prolongation to 48 days for the maximum period of detention without charge, to which many people were opposed. What was more, there was room to fear that such new powers would be used against ethnic or religious minorities, with the danger that members of those communities might become radicalized. Other solutions could surely be envisaged, and the delegation's comments would be helpful. In particular, he wondered how maximum periods of detention without charge could be reconciled with the provisions of the Covenant. The delegation had argued that the new law was in keeping with article 9, paragraph 3, of the Covenant, but article 9, paragraph 2, which provided that anyone who was arrested must be informed in the shortest possible time of any charges against him, also came into play. General comment No. 8, on the right to personal freedom and security, in which the Committee had underscored that the period in question must not exceed "a few days", must also be borne in mind. The expression lent itself to interpretation, to be sure, but there was every reason to believe that it was not intended to mean such lengthy periods. Even the current maximum duration, 28 days, was excessive and perhaps there was some thought of reducing it. If that duration was maintained, one would have to know whether the State party intended to give notice of a derogation under article 4 of the Covenant. He would also like to know whether there was any plan to abolish the right accorded to judges to prevent detainees and their counsel from participating in review hearings or examining the documents on which the extension of detention was founded.

62. Reverting to the issue of persons detained by the Immigration Service in Northern Ireland and subsequently transferred to Great Britain, he would like to know the effects of that transfer on the right to be at all times represented by counsel. He wished to know whether it was true that such persons were held in police custody cells and that a minor aged 15 years had actually remained there for eight days awaiting his transfer to Great Britain, and if so, what steps were being taken to prevent such events from recurring.

63. He considered bodily punishment as contrary to several articles of the Covenant. He would like to know whether it was true that physical punishment doled out in the home was always permitted by law and that an adult who inflicted corporal

punishment on a child might plead in his defence that it was a "justifiable measure", in Scotland, and a "reasonable punishment", in Great Britain. He asked whether measures had been adopted to prohibit corporal punishment at home, whether initiatives had been taken to remedy the situation in the Overseas Territories, of which only Pitcairn and St. Helena had prohibited that form of punishment at school, and the situation in Bailiwick of Guernsey, where corporal punishment was still in force in the penal system. He also wished to know whether it was true that on the Isle of Man, corporal punishment against persons aged over 17 years was prohibited by law but only as a matter of principle for young detainees in internment centres and, if that was the case, what was being done to remedy that situation.

64. He noted with satisfaction the adoption of the Civil Partnership Act 2004, the Gender Recognition Act 2004, the Equality Act 2006 and the Sex Discrimination Regulations 2008 and asked whether there was any plan to extend the protection guaranteed by those texts to the Overseas Territories and Crown Dependencies.

65. Ms. CHANET said she regretted the adoption of the Counter Terrorism Act. As far as the place of the Covenant was concerned, she would like to know the reasons why the United Kingdom refused to incorporate the instrument into its legislation and which articles of the Covenant it was that stood in the way of such incorporation and of accession to the Optional Protocol. The State party said that it reserved its position on the extent to which the Covenant applied outside British territory. Article 2, however, provided that the rights recognized in the Covenant must be ensured to all individuals within the State party's territory and subject to its jurisdiction. It was therefore essential to know the United Kingdom's exact position on that point.

66. With regard to article 7 of the Covenant, relating to torture, it was difficult to see how, given the absolute nature of the prohibition against torture, one might defend the notion of "balance" between the different risks as the United Kingdom had attempted to do before the European Court of Human Rights in the case of *Saadi* v. *Italy*. The Committee would like to know whether the United Kingdom had given up that relativistic conception of the prohibition against torture, which showed up in the weights applied in the system of evidence.

67. On the question of diplomatic assurances, she asked what happened when a State, such as Algeria, asserted its sovereignty in order to reject any system of control when a person was turned over to it by a third State.

68. Mr. LALLAH said he would like to know the reasons why the United Kingdom maintained reservations to the Covenant and the State party's opinion on the application of article 2 outside British territory. The delegation's replies to questions 12 and 13 related more to counter-terrorism than to the question to what extent it was permissible to restrict a person's fundamental rights on the grounds that he was suspected of terrorism. It was stated in the Covenant that States parties were required to "adopt such laws or other measures" as might be necessary to give effect to its provisions, which meant that they could not merely adopt legislative texts, but must also set foreign policy objectives. Considering the restrictions imposed on human rights from the standpoint of the fight against terrorism alone, one was liable to bypass the essential point, which was to determine the real causes of the problem in order to deal with them. This issue had affected many activities conducted in the United Kingdom, whether those of the judicial system, NGOs, political leaders or people liable to become victims of that fight, such as Muslims.

69. Mr. SANCHEZ-CERRO said that he would deal mainly with the situation of aliens. The European Parliament had adopted a directive on the return of immigrants aimed at harmonizing measures for expelling illegal immigrants that had elicited strong feelings owing to the harshness of some of its provisions, which were clearly contrary to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, to which the majority of European States, in any case, were not parties. Inasmuch as the States of the European Union were free to apply more favourable rules, he wondered whether the British Government had plans to adapt the provisions of the directive in accordance with its own legislation.

70. On the question of asylum, the Immigration, Asylum and Nationality Act 2006 contained norms that might exclude from the protection guaranteed by the Convention on the Status of Refugees asylum-seekers claiming political persecution. The facts showed that there was a current tendency in the United Kingdom towards massive rejection of applications for asylum, with the result that thousands of rejected individuals who had not left the country found themselves without access to work, social security or medical care. The European Court of Human Rights had considered that the United Kingdom was violating the rights of asylum-seekers to be informed promptly of the reasons for their detention or to have access to a lawyer. Seeking asylum was not a crime and any legislation governing asylum must not have a penal character but simply establish administrative rules. He therefore asked whether the British Government had taken steps to bring the country fully into compliance with international standards on asylum.

71. Ms. MAJODINA, referring to article 9 of the Covenant, brought up the question of "illegal rendition" and asked the delegation for its observations concerning proposals aimed at improving the protection of detainees transferred from the United Kingdom or passing through its territory and at rendering the process more transparent. In connection with the same article, she felt there was a flaw in the definition of the concept of "public authority" in the Human Rights Act. According to a recent decision of the House of Lords concerning the municipal council of the city of Birmingham, the act did not cover cases where public services were subcontracted to private organizations, which were not considered public authorities. The consequence was that persons harmed by such organizations were unable to obtain compensation. She wondered whether there was any plan to amend the law, considering that it was more and more common to have recourse to private companies, specifically in the fields of health care and the holding of immigrants.

72. Ms. MOTOC asked whether the law prohibiting insurance companies from engaging in discrimination based on a person's genetic data had been amended, since that possibility had been mentioned. She would also like to know whether in the area of employment there had been any cases of discrimination having to do with genetic characteristics. With regard to patents relating to biotechnology and genetics, the situation was clear, since the United Kingdom was required to follow the relevant European legislation.

73. The CHAIRPERSON thanked the delegation and the members of the Committee and invited them to continue the consideration of the sixth report of the United Kingdom at a subsequent meeting.

The meeting rose at 5.55 p.m.