Human Rights Committee
114th session

Summary record of the 3169th meeting
Held at the Palais Wilson, Geneva, on Thursday, 2 July 2015, at 10 a.m.

Chairperson: Mr. Salvioli

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

Seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, the British Overseas Territories, the Crown Dependencies (continued) (CCPR/C/GBR/7; CCPR/C/GBR/Q/7 and Add.1)

1. At the invitation of the Chairperson, the delegation of the United Kingdom of Great Britain and Northern Ireland took places at the Committee table.

2. The Chairperson requested the delegation to continue its replies to questions raised by Committee members at the previous meeting.

3. Mr. Herberg (United Kingdom) said that, in addition to statistical data, information on seven different categories of taser use, ranging from drawing a taser to firing a taser, was available through a Government portal; however, he noted Mr. Iwasawa’s suggestion that more information could be given in the future.

4. Turning to the questions from Mr. Bouzid on the representation of ethnic minorities in the criminal justice system, he said that approximately 86 per cent of the United Kingdom population identified itself as white, while the remaining 14 per cent were from Asian, black or other ethnic backgrounds. The arrest figures from 2013–2014 showed that 79 per cent of persons arrested by the police in England and Wales were white and 8 per cent were black. With respect to stop and search procedures under the Police and Criminal Evidence Act 1984, 71 per cent of persons stopped were white and 11 per cent were black.

5. Concerning the questions on violence against women and girls raised by Mr. Seetulsingh, the volume of rape cases referred by the police to the Crown Prosecution Service had risen to 5,850 in 2013–2014, a rise of 8.3 per cent from the previous year. Between 2007–2008 and 2013–2014, Crown Prosecution conviction rates for rape had risen from 57.7 per cent to 60.3 per cent. An increase of 32 per cent with respect to recorded sexual offences in the year ending December 2014 compared with the previous year, and a rise in recorded figures for rape of 40 per cent, demonstrated both the increased confidence of victims in coming forward and improved recording by the police. Police referrals and prosecutions of domestic violence had risen to their highest ever level in 2013–2014, representing an increase of 21 per cent compared with 2012–2013. A review by HM Inspectorate of Constabulary would monitor statistics on reports of rape, on referrals to the Crown Prosecution Service and on trial outcomes. The National Rape Action Plan had been launched by the Crown Prosecution Service and the police in April 2015 as a result of a drop in the number of rape referrals with a view to: ensuring a proper understanding of the relevant legislation, particularly on the issue of consent; developing a strategy to assess risks of offending or reoffending in cases where no further action was taken and assessing what safeguard measures were needed for victims; finalizing guidance to prosecutors; and researching reasons why victims withdrew complaints.

6. The United Kingdom Government was committed to ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and it already complied with the majority of the articles under the Convention; primary legislation would be required to deal with the extraterritorial jurisdiction provisions and the Government was currently liaising with the devolved administrations about ratification.
7. Only one prosecution had been brought for female genital mutilation and the defendant had been acquitted. A post-case review of the prosecution had been conducted and lessons learned had been disseminated to lead prosecutors. Since 2014, some 14 cases had been submitted to the Crown Prosecution Service and, in 2015, the extraterritorial jurisdiction of the offences had been extended to habitual residents of the United Kingdom. Mandatory reporting was expected to drive up the number of referrals to the police. A total of £40 million had been set aside by the previous Government to fund domestic and sexual violence support services.

8. Ms. West (United Kingdom) said that, under the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015, guidance would be issued to local authorities and a comprehensive programme of education measures would support its implementation.

9. Ms. McAlpine (United Kingdom) said that the Police Ombudsman in Northern Ireland had the same powers as the police service regarding compulsion, although they could only be exercised as part of a criminal investigation. The Chief Constable could reject recommendations from the Police Ombudsman, but the latter had the statutory power to compel the Chief Constable to bring disciplinary proceedings. The Police Ombudsman could send a report to the Director of Public Prosecutions where it considered that a police officer had committed a criminal offence. The Police Ombudsman could take up a historical case that was more than 12 months old based on published guidance on the gravity of the case and any exceptional circumstances.

10. Mr. Shany said that he wished to draw attention to the position of the Committee on the extraterritorial application of article 2, paragraph 1, of the Covenant, which had first been adopted in Optional Protocol cases some 30 years previously and had also been accepted by the International Court of Justice in its 2004 Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory; consequently, the Committee would expect States parties to report to it on the conduct of military forces stationed overseas where those forces exercised authority over an area or individuals. He noted that the United Kingdom had responded to the questions of the Committee on allegations involving its forces overseas and on the exercise of positive investigation obligations. He wished to underscore, however, that the United Kingdom was internationally responsible for the implementation of the Covenant in all jurisdictions that fell under its authority or control; hence, the position taken on human rights issues by the local government authorities in Bermuda did not relieve the United Kingdom from its international obligations.

11. Regarding the doubts express by the United Kingdom Government about the usefulness of the complaints mechanism under the Optional Protocol to the International Covenant on Civil and Political Rights, he pointed out that the fact that all cases submitted to date against the United Kingdom to United Nations complaints mechanisms had been held inadmissible merely demonstrated that those mechanisms had safeguards against abuse and operated with a degree of common sense. Furthermore, out of deference to national decision-making processes, the remedies formulated for implementation of the Covenant were recommendatory in nature.

12. Concerning the reservations of the United Kingdom with respect to articles 10 and 14 of the Covenant, he found it difficult to accept that a developed country could not introduce measures to segregate minor offenders from adults for budgetary or operational reasons. The Committee expected strong and rich States parties that legitimately claimed a leadership role in human rights to foot the bill for upholding them. He did not understand the observation that minors sometimes needed to be detained with adults. Concerning the reservation on article 24, he referred the State party to the Committee’s general comment No. 17 on the rights of the child, in which
it was stated that the right of every child to acquire a nationality did “not necessarily make it an obligation for States to give their nationality to every child born in their territory”, although States were required to adopt every appropriate measure to ensure that every child had a nationality when he was born. Similarly, with the possible exception of the enlistment of minors, he did not see anything in the Covenant that was incompatible with the policies stipulated in the explanation by the State party for its reservation with regard to the armed forces. The Committee was concerned that multiple reservations by large numbers of States parties would call into question the applicability of important international standards and the commitment of States parties to them.

13. With respect to the Inquiries Act, he had reviewed the report of the House of Lords Select Committee of 2014 and he had been impressed by the balanced approach taken in reconciling the needs of national security with the need to protect the independence of an inquiry. Nevertheless, further information was required on the safeguards that existed against abuse of executive power with respect to the ability to suppress the publication of an inquiry report.

14. He commended the approach of the State party on the need to investigate the conduct of British forces overseas. He had been impressed by the number of mechanisms reviewing criminal liability, State responsibility in civil proceedings and the strategic issues that might be learned. He requested updates on the adequacy of the mechanisms employed, which would enable the Committee to analyse the effectiveness of the remedies provided. Concerns had been expressed about the slowness of the Detainee Inquiry headed by Sir Peter Gibson and about the ability of the Government to suppress the publication of inquiry materials and withhold sensitive information from the Intelligence and Security Committee of Parliament. Was it true that such information had been withheld, and did the arrangements in place ensure a balance between security interests and the need for accountability? Given the existence of doubts about the adequacy of the Intelligence and Security Committee as an investigative mechanism, he wished to know whether the delegation could anticipate a full judicial investigation into any of the detainee cases.

15. With respect to the Iraqi cases, he noted the progress made in specific investigations, including the Danny Boy incident, but was concerned at the slow progress of the Iraq Historic Allegations Team. The Committee believed that, in the light of the number of cases and the slow pace of investigations, more robust accountability measures might be sought. He called for the provision of statistics on the number of pending investigations of alleged human rights violations in Iraq and on the number of convictions and acquittals. He requested an update on the progress in the Libya rendition criminal investigation and on the civil proceedings that were pending.

16. With respect to the allegations that United Kingdom Special Forces had handed over detainees to United States custody at Camp Nama, the response by the State party that it did not comment on Special Forces personnel was difficult for the Committee to accept since no State and no State agency was above the law. He asked the State party to reconsider its position on the matter and to provide a proper response.

17. The United Kingdom Government should reconsider its policy on prisoner voting rights since it was out of step with international standards.

18. Mr. Iwasawa recalled that he had raised questions about the applicability of the Covenant in the British Indian Ocean Territory and he associated himself with the remarks of Mr. Shany on extraterritoriality.

19. He noted that the State party had no plans to repeal section 134 (4) and (5) of the Criminal Justice Act 1988, despite having been requested to do so by the Committee.
against Torture, since its wording could operate as an escape clause to the absolute prohibition of torture. He sought assurances from the State party that the provisions of the Act would not result in impunity for torture.

20. Noting the State party’s acknowledgement that the physical and sexual abuse of children was an appalling crime, he expressed concern that corporal punishment was still not prohibited in schools in Bermuda, the British Virgin Islands, Gibraltar, Montserrat and the Crown Dependencies.

21. With respect to implementation of the Terrorism Act 2000 and, more specifically, powers of arrest without warrant and availability of bail, the head of delegation had stated that a review of the police service of Northern Ireland had not uncovered any misuse of powers. It would be helpful to receive statistical data on section 41 of the Act, since the number of persons arrested in Northern Ireland who had subsequently been charged with a terrorism-related offence appeared to be very low. The short duration of detention mentioned by the head of delegation did not justify misuse of the power of arrest. The view expressed by the State party, in paragraph 165 of its replies to the list of issues (document CCPR/C/GBR/Q/7/Add.1), that bail should not be available for terrorist suspects in pre-charge detention did not appear to be in keeping with the provisions of article 9, paragraph 3, of the Covenant which stated that it should not be the general rule that persons awaiting trial should be detained in custody. He asked the State party to explain how the restriction on bail was justified.

22. Ms. Waterval, referring to paragraph 18 of the list of issues, requested more information on implementation of the Managing and Minimizing Physical Restraint (MMPR) system, including how often it had been used, especially with regard to physical restraint of minors, in what circumstances, and whether any review of that new system had been undertaken. She suggested that the system in fact often resulted in injury and should be abandoned. She noted that, despite the Committee’s concerns, the State party had made a commitment only to restrict but not to prohibit the use of pain-inducing techniques on children and requested an explanation. The delegation should provide more information on the guidance being prepared by the Attorney General for Northern Ireland to align physical restraint and single separation measures with international standards, including when that guidance would be finalized and implemented. She also enquired about any measures taken to ensure that in Scotland physical restraint was not used as a form of punishment in residential childcare settings. With regard to the Complaints Programme Board’s oversight of projects to better manage health and social care complaints, she requested more information in particular on investigations of cases of abuse of vulnerable adults and on any evaluation done of the projects and the Board’s work.

23. With regard to prison overcrowding (paragraph 22 of the list of issues), she welcomed the steps being taken by the State party, which she looked forward to reviewing in the future. She asked whether the Northern Ireland step-down facility for women had opened and enquired as to the status of the Fines and Enforcement Bill. More information should be provided on the effectiveness of the Reducing Reoffending Programme 2012–2015 and she asked whether that programme would be renewed.

24. Turning to the issues referred to in paragraph 26 of the list of issues, she said that she would welcome more information on progress made towards implementation of the recommendations of the independent review of the National Referral Mechanism for victims of human trafficking and urged speedy adoption of the Modern Slavery Bill. Information should be provided on the implementation of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and on when the Human Trafficking and Exploitation (Scotland) Bill might be adopted. The delegation should also provide information on the status of the
Independent Anti-Slavery Commissioner Designate and on any work already undertaken by the latter.

25. Referring to the replies to paragraph 29 of the list of issues, she requested more information on the results of the consultation on defamation law in Northern Ireland that had concluded in February 2015 and on when the Scottish Government would undertake a review of libel laws in the light of the provisions of the Defamation Act 2013. She recalled the Committee’s view that the Official Secrets Act 1989 violated article 19 of the Convention and requested clarification from the delegation on the avenues available for any employee who had concerns about information protected by that Act. According to the State party’s replies, prosecution for violating the Official Secrets Act would proceed only where the evidence was sufficient, but she wondered how an accused could prepare a defence if the relevant information was protected and could not be referred to. She requested more information on the use of undercover operations in the context of security legislation and on any progress made by the judge-led statutory inquiry into undercover policing announced in March 2015.

26. The Committee was concerned that in Scotland the lengthy notification period for marches and parades, which had been extended from 7 to 28 days in 2006, and the conditions relating to cost recovery constituted restrictions on freedom of assembly and association. Those measures should be repealed.

27. Mr. Bouzid requested information on any steps taken to deal with the problem of hate speech and discriminatory declarations. Referring to paragraph 171 of the replies to the lists of issues, he called on the delegation to provide a fuller explanation of legal guarantees for the protection of the rights of persons in Scottish psychiatric institutions who were deemed to have impaired capacity, including whether decisions about such persons’ care could be appealed to the courts and, if so, by what agencies or interested individuals. Statistics relating to the number of appeals as well as information on measures aimed at strengthening protection of the rights of such vulnerable individuals should also be provided.

28. Turning to paragraph 24 of the list of issues, he regretted that recent reforms limited eligibility for legal aid. Those reforms, coupled with pressure to reduce spending on legal aid, had undermined the legal aid system. It was, for example, more difficult for non-governmental organizations to seek legal rulings from the courts. While legal aid could be granted on an extraordinary basis, he was concerned that a narrow interpretation of the eligibility criteria would mean that extraordinary funding would rarely be granted. He welcomed the recent High Court decision striking down the residency requirement for receiving legal aid, but deplored the fact that barely twenty of the nearly four hundred Ministry of Justice legal aid consultation centres had sufficient funding to provide services in languages other than English.

29. The reduction in legal aid services constituted a violation of the Covenant’s guarantee of the right to a fair hearing (art. 14) and he enquired whether the State Party was considering repealing or limiting the effects of those reforms, in particular by making it easier to receive extraordinary funding for legal aid and reviewing the residency criterion for eligibility. The delegation should also provide more information on the situation of legal aid in Scotland.

30. He wondered why the State party did not intend to raise the minimum age of criminal responsibility in England, Wales or Scotland and was also concerned about the overnight detention of minors in police holding cells, due to the lack of any alternative solutions. The delegation should provide statistics on the number of children held overnight in police facilities and on any measures envisaged to prevent that practice.
31. Mr. Seetulsingh said that, despite the assurances offered by the State party in regard to judicial safeguards in closed material procedures (paragraph 23 of the list of issues), the Committee was concerned that the restrictions on the disclosure of information that might damage national security, which was often second or third-hand information and/or tantamount to hearsay, made it difficult for the accused’s legal counsel to prepare an adequate defence including thorough cross-examination. The delegation should explain how the judicial safeguards did in fact provide adequate protection for the accused’s human rights. He was also concerned that the Anti-social Behaviour, Crime and Policing Act 2014, referred to in paragraph 197 of the replies to the list of issues, placed the burden of proof on the accused, not the Crown, to show that he had been the victim of a miscarriage of justice and was entitled to compensation pursuant to article 14, paragraph 6, of the Covenant. He welcomed the measures taken to address delays in the criminal justice system in Northern Ireland, although much improvement was still needed, and said that new safeguards to replace the corroboration of evidence requirement in Scotland were especially important in cases involving security offences and minors.

32. He had concerns about the Deportation with Assurances policy referred to in paragraphs 233–235 of the State party’s replies to the list of issues, and requested more information about the countries to which the 12 individuals in question had been removed and whether a monitoring body for each individual had been designated in each destination country. More information should also be provided on the review of the Deportation with Assurances policy undertaken by the Independent Reviewer of Terrorism Legislation.

33. While the State party’s replies on the treatment of aliens (paragraph 27 of the list of issues) indicated that detention should be used only as a last resort and that periods of detention should be kept as short as possible, he recalled the recommendations of the Committee against Torture in that regard (CAT/C/GBR/CO/5 paras. 30–31) and requested information on the number of detention centres and the number of detainees as well as the average length of detention. Turning to the Detained Fast Track System, he requested information on measures adopted following the recent High Court judgement to make bail more readily available, better protect vulnerable people and asylum seekers and review the Government’s Rule 35 processes.

34. Turning to surveillance programmes in connection with the replies to paragraph 28 of the list of issues, he noted that the legal framework governing surveillance was complicated and lacked transparency; the general public had concerns about the intrusiveness of surveillance and there was a lack of remedies in cases of abuse, including the possibility of appealing decisions of the Investigatory Powers Tribunal. He stressed the importance of requiring judicial authorization of communications interception warrants rather than leaving such authorizations to civil servants. The Tribunal had recently revealed that two NGOs and possibly Amnesty International had had their communications intercepted, raising concerns that human rights defenders might be put at risk if their communications were not secure. He asked whether the delegation could confirm that Amnesty International had been under surveillance.

35. He took note of the delegation’s explanation of the provisions of the Protection of Freedoms Act 2012 relating to retention of DNA evidence and fingerprints, but wondered why in Northern Ireland DNA and fingerprints could be retained indefinitely and looked forward to the result of the judicial challenge of that provision currently before the Supreme Court. The Committee was of the view that lengthy retention of such evidence was a human rights violation.

36. Mr. de Frouville welcomed the progress made on issues relating to Northern Ireland (paragraph 13 of the list of issues) but stressed the importance of adopting a comprehensive approach to complaints about the police and conflict-related deaths,
rather than relying solely on a case-by-case approach, which would reassure the public that the authorities were committed to ensuring that the truth was revealed. With regard to restrictions on the availability of abortion in Northern Ireland (paragraphs 129–131 of the replies to the list of issues), he welcomed the recent consultations on abortion reform and wondered why the issue of abortion in the case of a pregnancy resulting from a sex crime was considered to be complicated and complex. He noted that between one and two thousand women travelled outside Northern Ireland every year to get an abortion and added that, according to the World Health Organization, restrictive abortion laws did not lower the abortion rate or prevent birth rates from falling; the sole result was an increase in illegal abortions, with all their attendant risks for the women involved. In that regard, he urged the State party to take steps to prevent intimidation and harassment of health-care workers who provided information about abortion and of women who had a pregnancy terminated.

37. Ms. Seibert-Fohr, referring to paragraph 28 of the list of issues, said that the delegation should indicate what offences were covered by the Data Retention and Investigatory Powers Act, what institutions could request access to communications data under the Act and what safeguards were in place regarding privileged information. She asked how the State party reconciled its previous denial of extraterritorial jurisdiction with the statement in paragraph 242 of the replies to the list of issues that jurisdiction under the Regulation of Investigatory Powers Act extended beyond United Kingdom territory. Noting that that Act provided for untargeted warrants to intercept external communications, she wished to know what safeguard measures had been adopted to ensure that surveillance activities both inside and outside the State party were in line with its obligations under the Covenant and what the legislative basis was for sharing communications data with foreign agencies.

38. Raising a matter not covered in the list of issues but relevant to article 14 of the Covenant, she noted that section 34 of the Criminal Justice and Public Order Act 1994 did not provide for a suspect’s right to remain silent; she enquired how the State party ensured compliance with the Covenant in that regard.

39. Ms. Cleveland, referring to the State party’s replies to the matters raised in paragraph 11 of the list of issues, commended the State party for establishing the position of the Independent Reviewer of Terrorism Legislation, which was a model and a significant contribution to transparent oversight of national security issues. Recalling that the State party’s definition of terrorism was among the broadest in the world and could include politically motivated action designed to influence a government or international organization, she noted that two independent reviewers had expressed the concern that it was unduly restrictive of political expression. She asked why the State party did not find it appropriate to align its legislation with the law of comparable countries, international treaties and its own Supreme Court rulings by introducing the element of intent to coerce, compel or intimidate, in order to establish a criminal offence. The potential breadth of the definition had been seen in the 2014 Miranda case. She wished to know what concerns about the proposal for a Privacy and Civil Liberties Board had led the Government to reconsider its establishment, particularly since the proposal had been endorsed by an independent reviewer.

The meeting was suspended at 11.35 a.m. and resumed at 11.50 a.m.

40. Ms. Ziaulla (United Kingdom) replying to a question about the report of the House of Lords Select Committee on the Inquiries Act 2005, said that the Government agreed that the right balance needed to be struck between accountability and transparency and that proceedings under the Act should be sufficiently independent from Government. It nevertheless believed that the Act contained the necessary safeguards. Regarding online hate crimes, she said that the Government was working
with the police and an independent advisory group to build ties with leading social media in order to improve the response to offensive and hate-related content on the Internet. Linkages were also being forged internally to address cross-cutting themes at the policy and operational levels. The Office of the Director of Public Prosecutions had published guidelines on the prosecution of cases involving communication via social media, giving the police and prosecutors the discretion to determine the threshold for criminal prosecution.

41. **Ms. McAlpine** (United Kingdom), replying to questions regarding Northern Ireland, said that the Attorney General’s guidance on the restraint and detention of juvenile offenders had been published in 2014. The construction of the six-bed step-down facility for female offenders was expected to be completed in the autumn of 2015. The adoption process for the Fines and Enforcement Bill, which had recently been submitted to the Northern Ireland Assembly, should be completed by the spring of 2016. Regarding the reduction of reoffending, the prison service had set up a prisoner development unit in every detention facility. Teams made up of prison officials, psychologists, probation officers and community workers designed personal development plans based on individual needs and risk factors with a view to preparing prisoners for release and rehabilitation. The main provisions of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) had come into force.

42. **Mr. Lincoln** (United Kingdom) said that the Government was reviewing the substantive proposals of the independent reviewer regarding the Privacy and Civil Liberties Board, in particular with respect to oversight, powers of interception and communications data. Referring to the Miranda case, he recalled that the materials found in the defendant’s possession had included more than 58,000 highly classified documents not considered by the authorities to constitute journalistic materials, the public disclosure of which could ultimately have endangered lives.

43. **Ms. Ede** (United Kingdom) recalled that the Committee had been provided with the Intelligence and Security Committee’s response to the report of the Detainee Inquiry as well as the views of the Intelligence Services Commissioner on compliance with the recommendations contained in the report. Regarding the independence of the Intelligence and Security Committee, she said that the Committee could see classified material and only a government minister could refuse to provide it with specific information. The Committee reported directly to the Parliament and produced an annual report. Its nine members were selected from both houses of Parliament, and nominations were agreed between the Prime Minister and the leader of the opposition and approved by a motion of each house. The Committee appointed its own chairperson from among its members. It had been allocated additional resources in response to the widening of its remit pursuant to the Justice and Security Act 2013. The Government would take its final decision regarding the need for a judicial inquiry into detainee matters once the Committee had issued its findings and the outcome of the police investigation had been made public.

44. The civil proceedings in the Belhaj case were ongoing and the preliminary issues would be considered by the Supreme Court in November 2015. While it was true that the Government had a long-standing policy of not commenting on the Special Forces, no distinction was made between regular and special forces for the purposes of Service Police investigations into the conduct of their members. A number of prosecutions on charges of abuse by military personnel in Iraq and Afghanistan had been initiated and had resulted in convictions. The Iraq Historic Allegations Team had been allocated a life-time budget of nearly 60 million pounds, and a designated judge was monitoring progress to avoid any undue delays. The definition of torture under the Criminal Justice Act 1988 left no room for impunity and no national court would
consider abuse of power on the orders of a superior as lawful. As the definition was broader than the one contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it was necessary to establish mechanisms to prevent the criminalization of certain situations, such as where someone suffered mental anguish as a result of lawful imprisonment or where a doctor performed surgery in the course of his or her duties.

45. The newly elected Government would be discussing the issue of prisoner voting in the coming months and the Council of Europe Committee of Ministers would be considering the United Kingdom’s implementation of relevant judgements in September 2015.

46. Ms. Ziaulla (United Kingdom), noting that it was imperative to take a multi-agency approach to the issue of violence against children, said that the child protection system was designed to detect victims early and ensure that they received individualized, needs-based support and services.

47. Ms. Bridgeman (United Kingdom), referring to the Overseas Territories, said that the Government was firmly committed to working in partnership with territorial governments to implement strong and effective child protection measures. The Foreign and Commonwealth Office had recently established a child safeguarding unit to further coordinate efforts in that area. While child assault was clearly unlawful in all of the Overseas Territories, mild smacking by parents was not criminalized. She referred the Committee to the relevant section of the State party’s most recent report to the Committee on the Rights of the Child.

48. Mr. Lincoln (United Kingdom) said that statistics in relation to the Terrorism Act 2000 were collected quarterly and the latest were available on the Government’s website. There had been a 30 per cent increase in the number of persons arrested for terrorism offences between 2013 and 2014 and a larger proportion of those persons had been charged with an offence, suggesting that the police were increasingly able to find evidence to support a link with terrorism. Regarding the impossibility of bail for terrorism suspects, he said that the nature of a terrorism arrest inherently meant that the risk to the public might not be known at the early stage of an investigation. Accordingly, the police could, for a period of 48 hours following an arrest, apply to the courts to extend the initial detention for up to 14 days, subject to review on day 7. Granting bail at such a critical juncture when not all the facts had been established would heighten the risk of releasing a dangerous person, a risk the Government was not willing to take. However, it did recognize the need for proportionate safeguards, which were set out in Schedule 8 to the Terrorism Act 2000 and Code H of the Police and Criminal Evidence Act. It should be noted that the European Court of Human Rights had acknowledged the safeguards and sanctioned the non-availability of bail in Magee and Others v. the United Kingdom.

49. Ms. O’Rourke (United Kingdom), referring the powers of arrest under section 41 of the Terrorism Act 2000, said that the final charge was often not known at the outset in cases where a person was suspected of terrorism within the meaning of the Act. Under section 41, persons could be arrested if they were reasonably suspected of having committed one of a list of offences specified under the Act or of being involved in the commission, preparation or instigation of acts of terrorism. Persons could not be arrested under section 41 if they were suspected of purely criminal acts. A review conducted in 2011 into section 41 arrests in Northern Ireland had not uncovered any misuse of the powers of arrest, in relation to which there was comprehensive training and regular, external monitoring.

50. Ms. Stradling (United Kingdom) said that restraint of juveniles was always a last resort, limited to circumstances where it was absolutely necessary to protect the
child or others from an imminent risk of physical harm. All juvenile facilities followed a restraint minimization strategy focused on de-escalation skills and non-physical restraint techniques. Statistics were published on the recourse to physical restraint, including segregation.

51. **Ms. Ziaulla** (United Kingdom), referring to the report of the Mid Staffordshire National Health Service Foundation Trust Public Inquiry, published in 2013, said that a number of failings had been identified, including a business rather than patient-centred culture, the disregard of negative feedback, a lack of measurement of the effect of services on patients and the tolerance of risk to patients. In response, the previous Government had taken a series of measures across the National Health Service, such as verifying how well providers handled complaints. The Parliamentary and Health Service Ombudsman, in cooperation with Healthwatch England and local government ombudsmen, had published universal criteria for raising concerns and complaints, while the Royal College of Nursing had issued guidance on the handling of patient feedback.

52. **Mr. Herberg** (United Kingdom) said that the Modern Slavery Bill had been enacted but that its date of entry into force had yet to be determined. Pilot measures devised in response to the National Referral Mechanism review would be implemented over the course of the summer in two areas, namely, the identification of victims by statutory agencies and decision-making by multidisciplinary panels supported by a central management unit under the Home Office.

53. **Mr. Owen** (United Kingdom) said that the purpose of the Human Trafficking and Exploitation (Scotland) Bill was to introduce a specific law to combat human trafficking and exploitation for the first time in Scotland. The bill would clarify and strengthen criminal law by introducing a new single human trafficking offence and increasing the maximum penalty for offenders to life imprisonment.

54. **Ms. McAlpine** (United Kingdom) said that the Northern Ireland Law Commission had concluded a consultation on defamation law in February 2015. Following the Commission’s recent closure owing to budgetary constraints, the Department of Finance and Personnel was considering the possibility of retaining a lawyer with a view to completing the Commission’s work and producing a final report with recommendations.

55. **Mr. Owen** (United Kingdom) said that the Scottish Law Commission was reviewing the law on defamation with a view to recommending reforms. The review should be completed by 2017.

56. **Ms. Ziaulla** (United Kingdom) said that her Government was satisfied that the Official Secrets Act 1989 complied fully with the obligations of the United Kingdom under the Covenant, in particular the provisions of article 19. Prosecutions under the Act would proceed only when there was sufficient evidence, the public interest had been considered and the Attorney General or the Director of Public Prosecutions had consented thereto. The avenues available for employees, including those working in the most sensitive areas of government, to raise concerns without making unauthorized disclosure depended on departmental policy. For instance, a disclosure might be made to the police where a Crown servant believed that an offence had been committed, while departments and ministers could authorize current and former civil servants and government contractors to share documents and knowledge with an inquiry.

57. **Mr. Owen** (United Kingdom) said that the Scottish Government had no plans to alter the current notification period of 28 days for public processions, marches or parades. The Government remained of the view that the current period allowed for decisions to be taken that took fully into account the rights of communities where
marches took place and of marchers themselves. Charges for services and equipment provided to facilitate a procession were discussed and negotiated with the organizers in advance of the event. It was the Government’s view that those charges were appropriate, legitimate and proportionate and that they did not have the effect of unduly restricting the exercise of peaceful assembly.

58. Under the Mental Health (Care and Treatment) (Scotland) Act 2003, patients detained in a psychiatric hospital could apply to the Mental Health Tribunal to challenge their detention. Some 3,500 such applications were received annually, of which approximately 40 per cent concerned compulsory treatment orders. His delegation would provide the Committee with disaggregated information on mental health statistics in writing.

59. Ms. Ziaulla (United Kingdom) said that the definition of the scope of legal aid, under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, took account of the importance of the issues at stake, the individual’s ability to present their own case and the availability of alternative sources of funding. Legal aid continued to be available subject to a means and merits test in the most serious of cases. Where a matter was outside the scope of the legal aid scheme, legal aid might nevertheless be available through exceptional case funding, subject to means and merits, thus ensuring that legal aid was available where not providing it would or would be likely to result in a breach of the individual’s rights under the European Convention on Human Rights or European law. Her Government believed that individuals should, in principle, have a strong connection to the United Kingdom in order to benefit from the civil legal aid scheme. The proposed residence test was a fair and appropriate way to demonstrate such a connection.

60. Mr. Owen (United Kingdom) said that the Scottish Government was committed to retaining the wide scope of legal aid. The delegation would submit in writing information on steps taken to simplify the system and modernize quality assurance. Regarding the minimum age of criminal responsibility, under the Criminal Justice and Licensing (Scotland) Act 2010 no child under the age of 12 could ever be prosecuted in court. Children aged from 8 to 11 years who had committed an offence were referred to the children’s hearing system. The Scottish Government was considering, in collaboration with relevant partners, the policy, legislative and procedural implications of any change to the age of criminal responsibility.

61. Ms. Stradling (United Kingdom) said that her Government had no plans to raise the age of criminal responsibility in England and Wales. Successive governments had considered that young people aged 10 or over were able to differentiate between bad behaviour and serious wrongdoing and that they needed to be aware that committing a criminal offence would be dealt with as a serious matter. However, a young person of 10 or 11 was only likely to appear in court for a serious offence or where diversion from prosecution or an out-of-court penalty had already been used or was considered inappropriate. The delegation would provide a written reply to the question concerning the overnight detention of children in police cells.

62. Ms. Ede (United Kingdom) said that, under closed material procedures, individuals would be given the information necessary for them to receive a fair trial. Those procedures had been upheld by the domestic courts and the European Court of Human Rights. In particular, in the case of Tariq v. Home Office, the Supreme Court had accepted that there was no absolute requirement that a claimant in discrimination proceedings be provided with sufficient detail of the allegations against him to enable him to give instructions to his legal representative, where doing so would involve the disclosure of information which would damage national security. Rulings concerning closed material procedures did not always favour the Government; for instance, the Special Immigration Appeals Commission had refused permission for the Home
Secretary to deport Ekaterina Zatuliveter because it had not been persuaded by the sensitive material in the case. Pursuant to the Justice and Security Act 2013, statistics on the use of closed material procedures could be presented solely in respect of civil proceedings under that Act. In the period from June 2013 to June 2014, five applications had been made under the Act; two closed material procedures had been granted and the other applications remained outstanding at that time.

63. The definition of miscarriages of justice related to the compensation for such miscarriages; it did not change the test of when a person would be acquitted in a criminal trial. The new definition, which was entirely in keeping with the Covenant, was clear that compensation would only be payable if a new or newly discovered fact showed beyond reasonable doubt that the person concerned had not committed the offence.

64. Ms. McAlpine (United Kingdom) said that a reform programme had been developed to address delays in criminal courts and magistrates courts in Northern Ireland. Measures included committal reform, prosecutorial fines as an alternative to prosecution and measures to encourage earlier guilty pleas. Under the proposals, a duty would be placed on the court, the prosecution and the defence to reach a just outcome as swiftly as possible.

65. Mr. Owen (United Kingdom) said that, given the complexity and scope of the recommendations made by Lord Bonomy following the Post-Corroboration Safeguards Review and the lack of consensus on the abolition of the corroboration requirement, the Scottish Government had decided not to proceed with the reform within the Criminal Justice (Scotland) Bill. The Government would consider the recommendations in detail and work with stakeholders on criminal justice reform so that the rights of suspects, victims and witnesses received the appropriate protections.

66. Mr. Lincoln (United Kingdom) said that his Government believed that government-to-government assurances were an effective way of achieving deportation in accordance with domestic and international human rights obligations. British and European courts had upheld the principle that in specific cases such assurances ensured that the human rights of individual deportees would be respected. Functioning arrangements were in place with Algeria, Ethiopia, Jordan, Lebanon and Morocco.

67. While a strong set of safeguards covered issues of interception and communications data, the Government was not complacent in that regard. It was considering two recent reports on the privacy and security regime and investigatory powers and would be putting forward proposals for new legislation in that area. In its determination of 22 June 2015, the Investigatory Powers Tribunal had confirmed that any interception of data that had occurred had been lawful, necessary and proportionate. He cautioned the Committee against drawing any conclusions from that determination about the target of any such interception. A finding in favour of an individual or organization did not necessarily mean that they were themselves the target; it could equally mean that they were in communication with the relevant target. He could not confirm or deny the specifics in the case referred to.

68. Mr. Shany thanked the delegation for its reply to the question concerning Camp Nama and requested it to confirm in writing whether the case had been reviewed by the relevant authorities. He expressed the hope that the Government would reconsider its policy regarding the use of mild smacking.

69. Mr. de Frouville asked the delegation to comment on claims by an NGO that the Investigatory Powers Tribunal operated in a shroud of secrecy.

70. Ms. Cleveland said that it was her understanding that the United Kingdom had trained an independent post-transfer monitoring entity in Jordan on the basis of
diplomatic assurances and a memorandum of understanding. She would be interested to know what equivalent steps had been taken with respect to Algeria, Ethiopia, Lebanon and Morocco. With respect to citizenship deprivation orders in the context of counter-terrorism, the Committee would appreciate information on the measures taken to ensure that their use did not render individuals stateless.

71. Ms. Waterval said that many domestic workers continued to be subjected to physical and psychological abuse and exploitation. She called on the State party to take steps to protect those workers.

72. Mr. Bouzid asked what measures the State party had taken to tackle the problem of hate speech. In particular, he asked what action had been taken to investigate a complaint of incitement to racial hatred lodged by the Society of Black Lawyers against the Sun newspaper.

73. Mr. Vardzelashvili thanked the delegation for its answers and constructive engagement with the Committee. Referring to the 28-day notification period for public processions in Scotland, he asked how long the authorities took, on average, to reach a decision. He also wished to know to what extent current policy was in line with the case law of the European Court of Human Rights and the Guidelines on Freedom of Association that had been developed jointly by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe and the Venice Commission of the Council of Europe.

74. Mr. McPherson (United Kingdom) said that the delegation would respond in writing to those questions that it had not been able to answer during the dialogue. He thanked the Committee for the very positive spirit in which the consideration of the report had been conducted and expressed the hope that the process had contributed to a better understanding of how the United Kingdom delivered on its commitments under the Covenant.

75. The Chairperson thanked the delegation for the manner in which it had presented its report and responded to the Committee’s questions, which had made it possible to engage in a productive dialogue. He welcomed the State party’s willingness to reflect on its positions concerning the extraterritorial application of the Covenant and the Optional Protocol to the Covenant. The Committee remained concerned about a number of issues which it would probably take up in its concluding observations, for example serious human rights violations allegedly involving the State party’s armed forces, truth, justice and reparations in Northern Ireland and hate speech. Lastly, he said that government surveillance of individuals and organizations was a matter of great concern because of, among other things, its potential intimidatory effect on those working in the field of human rights.

The meeting rose at 1.05 p.m.