

Committee against Torture

Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland *

1. The Committee against Torture considered the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland (CAT/C/GBR/6) at its 1740th and 1743rd meetings, held on 7 and 8 May 2019 (CAT/C/SR.1740 and 1743), and adopted the following concluding observations at its 1754th meeting, held on 16 May 2019 (CAT/C/SR.1754).

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure, as this allows for a more focused dialogue between the State party and the Committee.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation, and the responses provided to the questions and concerns raised during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention, including:

(a) The criminalization of forced marriage in England and Wales under the Anti-social Behaviour, Crime and Policing Act 2014;

(b) The enactment of the Serious Crime Act 2015 in England and Wales, which, *inter alia*, creates a new offence of controlling or coercive behaviour in intimate or familial relationships and enables the courts to issue protection orders to protect potential or actual victims of female genital mutilation; and the enactment of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015, the Justice Act (Northern Ireland) 2015, which introduces domestic violence protection notices and orders; and the Domestic Abuse (Scotland) Act 2018;

(c) The enactment of the Human Trafficking and Exploitation (Scotland) Act in 2015 and the publication of the Trafficking and Exploitation Strategy in 2017; and the adoption of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015;

(d) The introduction of the Limitation (Childhood Abuse) (Scotland) Act 2017, which came into force in 2017.

* Adopted by the Committee at its sixty-sixth session (23 April-17 May 2019).

5. The Committee commends the State party's initiatives to amend its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular:

(a) The adoption of the Modern Slavery Strategy, in 2014;

(b) The launch, in 2014, of the Rape Action Plan; the update of the Violence against Women and Girls Strategy, in 2016, and the publication, in 2016, of the new National Statement of Expectations for local action on violence against women and girls; as well as the publication of the 'Stopping Domestic and Sexual Violence and Abuse in Northern Ireland' Strategy, in 2016;

(c) The implementation of Scotland's National Action Plan on Human Rights 2013-2017;

(d) The launch in 2016 and update in 2018, of the Hate Crime Action Plan for England and Wales; the adoption, in 2017, by the Scottish Government of a plan of action to tackle hate crime and prejudice; the publication, in 2014, by the Welsh Government of a framework for action on hate crime and incidents; the enactment, in 2015, by the States of Jersey Police of a hate crime policy; and the establishment by the UK Parliament of All Party Parliamentary Groups on combating antisemitism and Islamophobia;

(e) The establishment, in 2015, of the Independent Inquiry into Child Sexual Abuse to consider the growing evidence of institutional failures to protect children from child sexual abuse, and to make recommendations to ensure the best possible protection for children in the future;

(f) The introduction in 2013 of a procedure for the identification and determination of statelessness.

6. The Committee appreciates that the State party maintains a standing invitation to the special procedure mechanisms of the Human Rights Council, which has allowed independent experts to carry out visits to the country during the reporting period.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations (CAT/C/GBR/CO/5, para. 38), the Committee requested the State party to inform it of the steps taken to carry out recommendations the implementation of which it considered a matter of priority, namely on inquiries into allegations of torture overseas (para. 15), the transfer of detainees to Afghanistan (para. 19), deportations to Sri Lanka (para. 20), the prompt release and return to the United Kingdom of Shaker Aamer (para. 21) and transitional justice in Northern Ireland (para. 23). The Committee appreciates the State party's replies in this regard, received on 30 May 2014 under the follow-up procedure (CAT/C/GBR/CO/5/Add.1). In the light of the information provided, the Committee finds that the recommendations in paragraphs 15, 19, 20 and 23 have not been implemented.

Incorporation of the Convention in the domestic legal order

8. While taking note of the fact that the United Kingdom has a dualist legal system and that a combination of policies and legislation has been put in place to give effect to the Convention, the Committee is concerned that, 30 years after ratifying the Convention, the State Party still has not yet incorporated it into the domestic legal order. It also notes the replies provided by the State party according to which British courts can and do refer to international conventions if there is ambiguity in domestic law but regrets that no information was provided concerning cases in which this has occurred with respect to the Convention against Torture (art. 2).

9. **The Committee reiterates the recommendation contained in its previous concluding observations (see CAT/C/GBR/CO/5, para. 7) that the State party incorporate all the provisions of the Convention in its legislation. The State party should**

provide information to the Committee on any cases in which the Convention has been invoked by national courts.

Human Rights Act 1998

10. The Committee takes note of the statement made by the State party's delegation that the United Kingdom will remain a party to the European Convention on Human Rights (ECHR) and that the Government has no plans to repeal or reform the Human Rights Act 1998 (HRA), which is currently the only mechanism through which the right not to be subject to torture or to inhuman or degrading treatment or punishment can be directly enforced, even after any prospective UK departure from the European Union. However, the Committee remains concerned by repeated contradictory statements made by high-level officials of the State party in the past (art. 2).

11. Recalling the Committee's previous recommendation (CAT/C/GBR/CO/5, para. 8), the State party should ensure that any legislative changes do not diminish the State party's current level of legal protections regarding the prohibition of torture and other ill-treatment.

Absolute prohibition of torture

12. The Committee remains concerned that the Criminal Justice Act 1988 (section 134 (4) and (5)) provides for a defence against prosecution for torture in cases where a defendant claims to have lawful authority, justification or excuse, which is inconsistent with the absolute prohibition of torture (art. 2, para. 2).

13. The Committee reiterates its previous recommendations (see CAT/C/GBR/CO/5, para. 10 and CAT/C/CR/33/3, para. 4(a)(ii)) that the State party should repeal Section 134 (4) and (5) of the Criminal Justice Act 1988 and ensure that that its legislation reflects article 2, paragraph 2, of the Convention, which stipulates that no exceptional circumstances whatsoever may be invoked as a justification of torture.

Prompt, thorough and impartial investigations

14. The Committee notes with concern that numerous allegations of ill-treatment have been recorded in places of detention, including immigration removal centres, prisons and youth custodial facilities, during the reporting period. In this regard, it regrets that the State party has not provided the comprehensive information requested by the Committee on the number of complaints of torture or ill-treatment received by its authorities during the reporting period and information on whether those complaints resulted in investigations and prosecutions and/or disciplinary action against officials. While taking note of information provided by the State party during the dialogue that over 6,500 investigations were launched into allegations of misconduct and 2,600 prison staff were subjected to disciplinary action between 2013 and 2018, including disciplinary action against 50 prison officers for assault in 2017-2018, the Committee regrets not having received comprehensive information about criminal investigations and prosecutions of State officials during the reporting period, the sentences imposed on offenders, or an indication of whether the alleged perpetrators of those acts were removed from public service (arts. 2, 12, 13 and 16).

15. The Committee urges the State party routinely to compile and publish comprehensive disaggregated statistical information relevant to all complaints and reports received of torture or ill-treatment, whether such complaints led to investigations, by which authority, whether the investigations resulted in the imposition of disciplinary measures and/or prosecutions, and whether the victims obtained redress, in a manner that will enable the State party to provide such information to the Committee and other relevant monitors in the future.

National preventive mechanism

16. The Committee is concerned that while each of the 21 member bodies of the United Kingdom's National Preventive Mechanism (NPM) operate under their own statutory provisions, the NPM itself is not provided for in legislation, and the legislation creating many of the NPM members does not refer to their NPM mandate. The Committee also remains

concerned that the absence of legislation also impedes the NPM's independence, notwithstanding action taken by the NPM to reduce its members' reliance on seconded staff from places of deprivation of liberty. Notwithstanding information provided by the State party that it will provide additional funds for the operation of the NPM, the Committee remains seriously concerned that the resources provided to the NPM, particularly for its secretariat, are clearly inadequate, principally in view of the NPM's complex institutional arrangements (art. 2).

17. The State party should clearly set out in legislation the mandate and powers of the NPM secretariat and its members and guarantee their operational independence, and ensure effective follow-up to and implementation of the NPM's recommendations, in accordance with the guidelines on national preventive mechanisms of the Subcommittee on Prevention of Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment (see CAT/OP/12/5, paras. 6-8)). The State party should also guarantee that the NPM's secretariat and member bodies receive sufficient resources to discharge their prevention mandate independently and effectively.

Sexual abuse of children in detention

18. The Committee is seriously concerned by the Independent Inquiry into Child Sexual Abuse's (IICSA) finding in its February 2019 investigation report that there were 1,070 alleged incidents of child sexual abuse in children's custodial estate in England and Wales between 2009 and 2017, despite the significant drop in numbers of detained children during that time. Furthermore, the Committee is seriously concerned that complaints were rarely investigated, as well as by the lack of information provided by State party as to how many of these allegations have been made the subject of an independent criminal investigation, the outcome of any such investigations and whether the State party has taken measures to ensure that victims of such abuse obtain redress, including the means for rehabilitation (art. 11, 12, 13 and 16).

19. The State party should:

(a) Ensure that all cases of violence, especially sexual assault, against children in detention, including those documented by the Independent Inquiry into Child Sexual Abuse, are promptly, impartially and effectively investigated and that substantiated allegations result in the prosecution and punishment of perpetrators with appropriate sanctions, and that victims receive adequate redress;

(b) Establish effective inspection and complaints mechanisms that are genuinely accessible to children in detention, and maintain effective monitoring;

(c) Ensure that judges, prosecutors and members of the police receive specialized training in preventing and dealing with claims of abuse of children in detention.

Conditions of detention

20. While appreciating the measures adopted by the State party to replace ageing prisons with new penitentiary infrastructure, especially in England and Wales, as well as the efforts to reduce the use of short-term imprisonment in Scotland and Northern Ireland through alternatives to custody, the Committee is concerned about overcrowding and poor conditions in some male prisons in England and Wales. It also notes that the delegation acknowledged the overrepresentation of minority ethnic people in both the male and female prison population in England and Wales, and appreciates the information on the measures envisaged to tackle racial disparities in the criminal justice system. Moreover, the Committee is concerned at reports of a high incidence of inter-prisoner violence in penitentiary institutions. In this regard, the Committee welcomes the recruitment of additional prison staff, although it is still concerned about reported staff shortages in some prisons (art. 11 and 16).

21. The State party should:

(a) Continue its efforts to improve conditions of detention and alleviate overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures. In that connection, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) Recruit and train sufficient number of prison personnel to improve security, reduce violence and ensure the adequate treatment of detainees;

(c) Continue to implement preventive strategies related to prisoner violence, including measures to monitor and document incidents;

(d) Investigate all incidents of violence in places of detention and ensure that prison officials are held accountable in cases where they fail to take reasonable measures to prevent and respond to such violence.

Juvenile justice

22. The Committee is concerned that the age of criminal responsibility in England, Wales and Northern Ireland remains at 10 years, and that in Scotland it was recently raised from 8 to 12 years, which is not in accordance with international standards. It also notes that the State party's delegation acknowledged that there has been an increase in the use of restraints and separation in the youth custodial estate. While taking note of the introduction of the "Minimising and Managing Physical Restraint" system in all three Secure Training Centres and the five under-18 Young Offender Institutions, the Committee observes with concern that the State party did not provide information about its implementation and results. Notwithstanding the explanation offered by the delegation, the Committee remains concerned at reports about children, men, women being inappropriately transported together in the same prison vehicles (art. 11 and 16).

23. **The Committee reiterates its previous recommendation (CAT/C/GBR/CO/5, para. 27) that the State party raise the minimum age of criminal responsibility and ensure the full implementation of juvenile justice standards. In accordance with Rules 63-64 of the UN Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113), instruments of restraint and force should only be used in exceptional cases, where all other control methods have been exhausted and failed. In addition, the State party should prohibit any use of solitary confinement against juveniles. It should also prohibit the transport of prisoners in any way that subjects them to unnecessary physical risk of abuse in violation of the Convention.**

Deaths in custody

24. The Committee notes with concern that, according to the information provided by the State party's delegation, between March 2017 and March 2019 there were eight apparent homicides and 160 self-inflicted deaths in the prison system in England and Wales. The Committee also regrets the deaths of two children at secure children's homes in England and Wales in February 2017, noting that in both cases the Prison and Probation Ombudsman considered that the wellbeing check had been inadequate or ineffective (see 'Annual Report 2017-2018', PPO, p. 49) (arts. 2, 11 and 16).

25. **The State party should:**

(a) Provide the Committee with detailed information on cases of deaths in custody and the causes of those deaths;

(b) Take measures to ensure that all instances of death in custody are promptly and impartially investigated by an independent entity;

(c) Compile detailed data on suicides among persons deprived of their liberty and assess the effectiveness of prevention and risk identification strategies and programmes.

Training

26. The Committee acknowledges the efforts made by the State party to develop and implement human rights training programmes for law enforcement officials, military personnel, prison staff and border guards that include modules on the prohibition of torture and ill-treatment, the proportional use of force and the lawful use of restraints. Nonetheless, it is concerned at the lack of information on evaluation of the impact of those programmes, as well as the lack of specific training on the content of the Convention. The Committee also takes note of the training events on identification and appropriate management of victims of torture organized by the NHS England with staff from the Home Office and clinical staff working in Immigration Removal Centres (CAT/C/GBR/6, para. 100). It regrets, however, the limited information available on training provided on how to detect and document the physical and psychological sequelae of torture and other cruel, inhuman or degrading treatment or punishment. With regard to the State party's training for the Libyan Coast Guard, the Committee understands that this programme is kept under continual review, although it is not clear whether the periodic assessments take into account available information on serious human rights violations (see CAT/C/ITA/CO/5-6, paras. 22 and 23) (art. 10).

27. **The State party should:**

(a) Further develop mandatory training programmes to ensure that all public officials are well acquainted with the provisions of the Convention;

(b) Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);

(c) Develop a methodology for assessing the effectiveness of training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation, investigation and prosecution of these acts;

(d) Ensure that any cooperation and/or support that the State party may provide under bilateral or regional migration agreements is consistent with the purposes of the Convention. The State party should also consider establishing an effective mechanism for monitoring the implementation of cooperation projects in Libya.

Electrical discharge weapons

28. While appreciating the information provided by the State party on the regulations governing the use of electrical discharge weapons (tasers) and related specific training for law enforcement officials, the Committee is concerned about the reported increase in their use, including on children and young people, and their disproportionate use against members of minority groups. The use of tasers in drive stun mode, where the weapon is placed directly on the body, is also a matter of concern (art. 16).

29. **The Committee considers that the State party should ensure that the use of electrical discharge weapons is strictly compliant with the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution. The State party should provide clear presumptions against the use of tasers on vulnerable groups, such as children and young people; investigate the causes for their disproportionate use against members of minorities; and, prohibit their use in drive stun mode. The Committee is of the view that electric discharge weapons should not form part of the equipment of custodial staff in prisons or any other place of deprivation of liberty, including mental health settings.**

Extraterritorial effect of the Convention

30. The Committee regrets that the State party continues to maintain the position that the Convention is "primarily territorial" and does not have "extraterritorial effect" (see CAT/C/GBR/6, para. 9) (art. 2, para. 1).

31. **Recalling the Committee’s previous recommendation (CAT/C/GBR/CO/5, para. 9), the State party should take effective measures to prevent acts of torture, not only in its sovereign territory, but also “in any territory under its jurisdiction”, as required by article 2, paragraph 1, of the Convention. In that respect, the Committee draws the State party’s attention to paragraph 16 of its general comment No. 2 (2007), on the implementation of article 2, in which it recognizes that “any territory” includes “all areas where the State party exercises, directly or indirectly, in whole or in part, de jure or de facto effective control, in accordance with international law. The Committee considers that the scope of ‘territory’ under article 2 must also include situations where a State party exercises, directly or indirectly, the facto or de jure control over persons in detention”.**

Accountability for abuses in Iraq

32. The Committee observes with concern that while the Iraq Historic Allegations Team (IHAT) received around 3,400 allegations of unlawful killings, torture and ill-treatment, committed by the UK Armed Forces in Iraq between 2003 and 2009, no prosecutions for war crimes or torture resulted from its investigations, its work ceased in June 2017, and its remaining investigations were transferred to the Service Police, which had closed 1,127 of the 1,280 allegations transferred to it as of 31 December 2018. While the Service Police Legacy Investigation (SPLI) continues to carry out 19 full and 18 limited investigations involving 151 allegations, the Committee is concerned about reports indicating that cases transferred to SPLI might have been closed “based on an arbitrary and conceptually under inclusive ranking of their severity” (arts. 2, 12-14 and 16).

33. **Recalling its previous recommendation (CAT/C/GBR/CO/5, para. 16), the Committee urges the State party to take all necessary measures to establish responsibility and ensure accountability for any torture and ill-treatment committed by UK personnel in Iraq from 2003 to 2009, specifically by establishing a single, independent, public inquiry to investigate allegations of such conduct. The State party should refrain from enacting legislation that would grant amnesty or pardon where torture is concerned. It should also ensure that all victims of such torture and ill-treatment obtain redress.**

Allegations of UK complicity in torture overseas

34. The Committee further regrets the State party’s failure to establish an independent judge-led inquiry into allegations of torture overseas, including by means of complicity, as a result of the State party’s military interventions in Iraq and Afghanistan, despite previous assurances to this Committee. In this connection, it takes note with concern of the findings of the reports on detainee mistreatment and rendition, dated June 2018, of the Intelligence and Security Committee (ISC) of Parliament, following its inquiry into the actions of UK security and intelligence agencies in relation to the handling of detainees overseas and rendition. In addition to the disturbing findings contained in the reports indicating that the State party may have been complicit in cases of torture and ill-treatment, the Committee notes with concern that the ISC’s inquiry was prematurely closed due to lack of access to key evidence, as the UK Government refused to provide access to witnesses from the State party’s intelligence agencies. The Committee also notes the Government’s statement of apology of 10 May 2018 to Abdul Hakim Belhaj and Fatima Boudchar (arts. 2, 12-14 and 16).

35. **The Committee reiterates its previous recommendation (CAT/C/GBR/CO/5, para. 15) that the State party establish without further delay an inquiry on alleged acts of torture and other ill-treatment of detainees held overseas committed by, at the instigation of or with the consent or acquiescence of British officials. Such an inquiry should be fully compliant with the State party’s obligations under the Convention. The State party should also ensure that all perpetrators of torture and ill-treatment in the context of the inquiry are duly prosecuted and punished appropriately, and that victims obtain redress.**

Consolidated guidance to intelligence officers and service personnel

36. While noting that the State party's Investigatory Powers Commissioner is presently reviewing the State party's 'Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees', the Committee remains seriously concerned that the Consolidated Guidance authorizes the State party's personnel to request information from or provide information about individuals in the actual or potential future custody of foreign state agents after obtaining assurances from the foreign state agents that those in their custody will not be subjected to torture or ill-treatment, even in cases where a "serious risk" exists that they will be subjected to such treatment. The Committee is also concerned that it is unclear whether ministers and other government officials are required to adhere to the Consolidated Guidance (arts. 2 and 3).

37. **In this regard, the Committee reiterates the recommendation contained in its previous concluding observations (see CAT/C/GBR/CO/5, para. 11) that the State party should review the Consolidated Guidance in light of its obligations under the Convention, and should further consider:**

(a) Eliminating the possibility of having recourse to assurances when there is a serious risk of torture or ill-treatment, and requiring that intelligence agencies and armed forces cease interviewing or seeking intelligence from detainees in the custody of foreign intelligence services in all cases where there is a risk of torture or ill-treatment;

(b) Monitoring the application of the Consolidated Guidance in practice. The State party should also ensure that military and intelligence personnel are trained on the provisions of the Convention, including the absolute prohibition of torture and ill-treatment.

Prolonged arbitrary detention during statelessness determination procedures

38. While acknowledging the State party's creation of procedures to identify and address statelessness, the Committee remains concerned at reports that individuals claiming statelessness status continue to be subjected to lengthy periods of arbitrary administrative detention in the State party. It is also concerned at reports that this situation has arisen because the State party's statelessness determination procedure is cumbersome; because it is exceptionally difficult for individuals seeking to access the procedure to obtain legal aid; and because Home Office caseworkers are inadequately trained on the statelessness procedures, resulting in a significant number of inappropriately rejected applications and a very low overall success rate for applications (arts. 11 and 16).

39. **The State party should:**

(a) Improve the training provided to officials responsible for making statelessness determinations and carry out regular reviews of their performance;

(b) Strengthen identification and referral mechanisms for stateless persons;

(c) Facilitate access to legal aid for individuals making statelessness claims and ensure that applicants are able to appeal negative decisions.

Accountability for conflict-related violations in Northern Ireland

40. The Committee remains seriously concerned that many allegations of torture, ill-treatment, and killing perpetrated in Northern Ireland in the context of the conflict known as "the Troubles" have not been effectively investigated, that few perpetrators of such acts have been held accountable and that victims have not obtained redress. The Committee notes the State party's affirmation that it is not considering enacting amnesties in connection with the conflict, but it remains concerned by recent statements by high-level officials that they are contemplating measures to shield former public officials from liability. While welcoming the adoption of the Stormont House Agreement, in December 2014, by the British and Irish Governments and the Northern Ireland Executive, the Committee regrets that its provisions have not yet been implemented in legislation, including those calling for the establishment of an independent Historical Investigations Unit (HIU), which would assume responsibility

for outstanding investigations into conflict-related deaths presently being carried out by the Police Service of Northern Ireland's (PSNI) Legacy Investigations Branch and the Office of the Police Ombudsman for Northern Ireland. Moreover, in light of the 2016 discovery of historic documents pertaining to acts of torture, including waterboarding, allegedly committed by the United Kingdom's military during the conflict, the Committee is particularly concerned that even after it is established, the HIU's mandate will not extend to allegations of torture or ill-treatment in which the victim was not killed. The Committee also remains concerned about the 2018 arrest by the PSNI of Barry McCaffrey and Trevor Birney, journalists who worked on a documentary disclosing leaked documents allegedly revealing police collusion in a sectarian mass murder in 1994 in Loughisland, and who have been released on bail until September 2019 (arts. 2, 12-14 and 16).

41. Recalling its previous concluding observations (CAT/C/GBR/CO/5, para. 23), the Committee recommends that the State party should:

(a) In the absence of a functioning devolved government in Northern Ireland since January 2017, take urgent measures to advance and implement the Stormont House Agreement and the mechanisms it contemplates for investigating conflict-related violations, particularly the Historical Investigations Unit (HIU);

(b) Consider revising the draft Northern Ireland (Stormont House Agreement) Bill to ensure that strict safeguards apply to any limitation on the ability of the HIU to publish information concerning its investigations on the grounds of prejudice to national security;

(c) Ensure that information allegedly establishing the involvement of State agents in conduct prohibited by the Convention is not arbitrarily withheld from the public and that journalists and human rights defenders do not face intimidation or reprisals for disclosing such information;

(d) Ensure that effective and independent investigations are conducted into outstanding allegations of torture, ill-treatment and conflict related killings to establish the truth and identify, prosecute and punish perpetrators, including with respect to the killing of Patrick Finucane, following a recent decision by the Supreme Court that the State party has not carried out an effective investigation concerning this case;

(e) Undertake other initiatives, including expanding the mandate of the HIU, to address allegations of torture, sexual violence, and disappearances committed during the conflict, and ensure that victims of torture and ill-treatment obtain redress, including fair and adequate compensation, and as full as rehabilitation as possible;

(f) Refrain from enacting amnesties or statutes of limitations for torture or ill-treatment, which the Committee has found to be inconsistent with States parties' obligations under the Convention.

“Punishment” attacks and child recruitment by paramilitary groups in Northern Ireland

42. The Committee reiterates its concern at reports that paramilitary groups continue to function as alternative authorities in certain areas of Northern Ireland, inflicting punishments resulting in severe pain and suffering against people alleged to have committed criminal offenses. The Committee notes with particular concern the delegation's statement that the government is aware of eight assaults on children under the age of 18, including two in which children were shot, committed by members of paramilitary groups between February 2017 and February 2019. While taking note of the State party's efforts to identify and provide support to young people at risk of involvement in paramilitarism, the Committee is also concerned at reports that these groups continue to recruit children (art. 16).

43. The State party should:

(a) Strengthen its efforts to promptly and effectively investigate cases of paramilitary violence in Northern Ireland, including against children, ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and ensure that victims have access to effective protection and obtain redress;

(b) Intensify its efforts to prevent the recruitment of children by paramilitary groups in Northern Ireland.

Investigations into abuse of children in residential institutions in Northern Ireland

44. The Committee expresses its profound concern about the findings of the Historical Institution Abuse Inquiry report published in January 2017 on the extent of physical and sexual child abuse in children's homes and other residential institutions run by religious, charitable and state organizations in Northern Ireland between 1922 and 1995. Noting that Northern Ireland has lacked a functioning devolved government since January 2017, the Committee is seriously concerned that the recommendations of the HIA Inquiry have not been implemented, and that, as a result of this inaction, victims of ill-treatment identified by the inquiry have not obtained compensation or other forms of redress. The Committee is further concerned by the fact that while an inter-departmental working group has been established to review historical practices in institutions not covered by the HIA Inquiry, namely the Magdalene Laundries and the Mother and Baby Homes, its work is only intended to inform future deliberations about a possible inquiry on these issues and is not expected to lead to the identification of victims of ill-treatment in those institutions or verify that they are entitled to redress (art. 2, 14 and 16).

45. **The State party should:**

(a) As a matter of urgency, adopt measures to provide victims of ill-treatment in Northern Ireland identified by the Historical Institution Abuse Inquiry with redress, including compensation and the means for as full a rehabilitation as possible;

(b) Expedite the process of carrying out an impartial and effective investigation into the practices of the Magdalene Laundries and Mother and Baby Homes in Northern Ireland that is capable of resulting in the prompt identification of victims of ill-treatment inflicted at those institutions and the provision of redress to them.

Criminalisation of termination of pregnancy and related medical care

46. The Committee is concerned that abortion is a criminal offence in Northern Ireland in all cases except where necessary to preserve the life of the pregnant woman or girl or there is a risk of real and serious long-term or permanent damage to her physical or mental health, and that the offense is punishable by a maximum sentence of life imprisonment. The Committee notes that this law denies women and girls the ability to terminate a pregnancy in several situations in which continuation of the pregnancy is likely to cause severe physical and mental anguish and distress, namely, in cases fatal foetal abnormality, rape, and incest. The Committee is also concerned at reports that doctors decline to provide services to women even in cases where a pregnancy poses a risk to a woman or girl's life or health due to uncertainty about when lawful terminations may be performed and fear of being subjected to criminal proceedings. While noting the State party's view that the devolved government of Northern Ireland should take up the matter as well as its decision to allow women from Northern Ireland to have access to abortion services in England, the Committee remains concerned that there is an increased risk of harmful physical and mental health outcomes for women who are compelled to travel to other jurisdictions to receive such services and notes with concern reports that women and girls in Northern Ireland are not in fact provided with information about how to access services in England and face a risk of being denied necessary post-abortion care upon their return (arts. 2 and 16).

47. The Committee recommends that the State party ensure that all women and girls in the State party, including in Northern Ireland, have effective access to termination of pregnancy in situations in which its continuation is likely to result in severe pain and suffering, such as when the pregnancy is the result of rape or incest or in cases of fatal foetal impairment, in addition to cases in which the life or health of the pregnant person is at risk. The State party should also ensure that women and girls in Northern Ireland have effective access to post-abortion health care and that neither patients nor their doctors face criminal sanctions or other threats for seeking or providing such care.

Universal jurisdiction

48. The Committee notes the information provided by the delegation that three prosecutions for torture have been undertaken in the State party under universal jurisdiction laws including one that is currently in progress. However, it remains concerned at reports that the State party's practice of granting special mission immunity has impeded the exercise of universal jurisdiction to prosecute perpetrators of torture (art. 5).

49. **The State party should:**

(a) Consider strengthening its ability to exercise universal jurisdiction over perpetrators of torture present on the territory of the State party by creating a specialized unit within the Metropolitan Police and Crown Prosecution Service;

(b) Publish information concerning the State party's policy on granting special mission immunity, and take measures to ensure that the State party does not grant immunity to individuals alleged to have committed torture.

Civil jurisdiction for redress

50. The Committee regrets that victims of torture and ill-treatment present in the State party who suffered harm outside their territory are not able to bring civil suits in UK courts for redress in cases in which foreign States and their officials have immunity from suit. In this regard, the Committee regrets the State party's reluctance to adopt the Torture (Damages) Bill that would have provided universal civil jurisdiction over some civil claims (art. 14).

51. The Committee calls upon the State party to consider reviewing its legislation in order to ensure that all victims of torture are able to access remedy and obtain redress, wherever the acts of torture have occurred regardless of the nationality of the perpetrator or victim, as recommended by the Committee in its previous concluding observations (CAT/C/GBR/CO/5, para. 22). As indicated in its general comment No. 3 (2012) on the implementation of article 14 (para. 22), the Committee has commended the efforts of States parties for providing civil remedies for victims who were subjected to torture or ill-treatment outside their territory. This is particularly important when a victim is unable to obtain redress in the territory where the violation took place.

Asylum and immigration procedures

52. The Committee notes with concern that the State party does not publish statistics indicating the number of persons who it has expelled or returned to other countries despite their having expressed concern about facing a risk of torture in the destination country. The State party also does not publish statistics indicating the number of persons that it has decided not to expel or return persons to other countries where they have been found to face a risk of torture. Noting that a large proportion of asylum denials are reportedly overturned on appeal, the Committee expresses serious concern about reports that Home Office caseworkers very frequently do not apply the appropriate standard of proof applicable to asylum claims and arbitrarily reject credible medical evidence of past torture, resulting in the arbitrarily denial of asylum claims made by victims of past torture. In this context, the Committee is concerned at information provided by the delegation that in 2018 there were 43 enforced returns to Sri Lanka and 50 others to Afghanistan. The Committee is also concerned that the State party maintains a designated list of countries considered safe for the purposes of certifying asylum claims as "clearly unfounded" and with respect to which appeals of a negative decision must be brought from outside the UK, and that the list currently includes Ukraine, where the UN Special Rapporteur against Torture recently reported receiving "persistent allegations of torture and ill-treatment at the time of the arrest and during interrogation" in all parts of the country (see A/HRC/40/59/Add.3, para. 109) (arts. 3 and 16).

53. **The State party should:**

(a) Compile detailed statistical data on the number of asylum applications involving torture claims and their outcome, disaggregated by the applicants' country of origin and/or return, and provide this information to the Committee;

(b) Review the application of the standard of proof in asylum decisions and improve performance in this area, including with respect to caseworkers' evaluation of medical evidence of past torture, and particularly with respect to negative determinations on applications for asylum from nationals of Afghanistan and Sri Lanka;

(c) Review the State party's inclusion of Ukraine on the list of safe countries for return of asylum seekers, particularly in light of the recent findings of the UN Special Rapporteur on Torture.

Safeguards in the context of immigration detention

54. The Committee is very concerned by reports that victims of torture are routinely detained for immigration purposes in the State party and that the State party's 'Adults at Risk in Immigration Detention' policy and Rule 35 (3) of the Detention Centre Rules 2001 are largely ineffective at identifying victims of torture and have not resulted in the release from detention of the vast majority of those people who are at risk of suffering serious harm as a consequence of detention. The Committee expresses concern that the time limit for immigration detention is still not defined by law, and that the State party has no current plans to change this policy. (arts. 2 and 11).

55. **The State party should:**

(a) Ensure that health professional expert statements about torture victims and other persons at particular risk of suffering harm as a consequence of detention, are given due consideration by non-health professional caseworkers, and ensure that individuals identified as at risk of future harm in detention receive necessary care and protection;

(b) Refrain from detaining irregular migrants and asylum seekers for prolonged periods, use detention as a measure of last resort only for as short a period as possible, and continue the application of non-custodial measures;

(c) Consider setting in law a reasonable time limit on the duration of administrative immigration detention.

Sexual and gender-based violence

56. The Committee is concerned at reports that the State party's officials are recording increasing numbers of domestic abuse crimes and sexual offenses, mainly against women, together with low prosecution and conviction rates in these cases. In light of this, the Committee is particularly concerned that the majority of UK police forces reported sharing information about the immigration status of victims of crimes with the Home Office, which reportedly deters migrant women with insecure immigration status from reporting and seeking protection from domestic abuse and other gender-based violence. The Committee welcomes the government's recent pledge, in response to the increased number of victims seeking assistance, to dedicate substantial funds through 2020 to provide frontline services for victims of gender-based violence, including for rape support centres. The Committee draws the attention of the State party to reports indicating that there is also insufficient funding for refuges and specialist domestic abuse services, especially in England and Wales. The Committee appreciates the information provided by the State party about initiatives to combat female genital mutilation and forced marriage, but remains concerned at reports that significant numbers of girls continue to be subjected to such practices in the State party (arts. 2 and 16).

57. **The State party should:**

(a) Take effective measures to address low prosecution and conviction rates for domestic abuse and sexual violence in the State party, and to ensure that all cases of gender-based violence, especially those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims or their families receive redress, including adequate compensation;

(b) Consider revising police practices that deter migrant women from seeking protection from the authorities in cases where they have been subjected to or are at risk of gender-based violence;

(c) Provide mandatory training on the prosecution of gender-based violence to all justice officials and law enforcement personnel and continue awareness-raising campaigns on all forms of violence against women;

(d) Carry out a review of the availability of refuges, specialist domestic abuse services and rape support centres, throughout the State party, to ensure that the provision of increased funding results in all women who are victims of gender-based violence in the State party having access to necessary support and services;

(e) Compile and provide to the Committee statistical data, disaggregated by the age and ethnicity or nationality of the victim, on the number of complaints, investigations, prosecutions, convictions and sentences recorded in cases of gender-based violence, as well as on the measures adopted to ensure that victims have access to effective remedies and reparation;

(f) Review the effectiveness of preventive and protection measures in place for children at risk of female genital mutilation and forced marriage in the State party.

Trafficking

58. The Committee values the efforts made by the State party to combat modern slavery and notes the delegation's statement that the increasing number of referrals of trafficking victims to the National Referral Mechanism has started to translate into higher rates of prosecution and conviction of perpetrators. However, the Committee remains concerned at reports that law enforcement officers are not adequately trained in identifying victims of trafficking; that the specialist care and support for trafficked children provided for in the Modern Slavery Act has not been put into place in practice; that potential victims of trafficking are not provided with adequate subsistence support, rendering them vulnerable to re-victimization; and that victims of trafficking are unable to obtain remedies, including compensation, in practice (arts. 2 and 16).

59. **The State party should:**

(a) Enhance its efforts to investigate claims of human trafficking and prosecute perpetrators and ensure that victims of trafficking obtain compensation, including by considering creating a civil remedy for victims of trafficking;

(b) Ensure access to sufficient protection and support for all victims of trafficking, and particularly ensure that the State party's establishment of a child trafficking protection fund results in improving the availability of specialist care and support for child victims of trafficking;

(c) Improve the training of law enforcement officers, prison personnel and other first responders to include statutory training into the identification of potential victims of human trafficking and modern slavery, and continue developing specialized training programmes for support workers and those providing foster care.

Abuse and ill-treatment of migrant workers

60. While noting the explanation provided by the delegation on the changes made in 2016 to the terms of the so-called "tied" visa for foreign domestic workers, the Committee expresses concern that these changes do not provide a meaningful escape route for many migrant workers who have experienced abuse in the UK, especially those who become trapped in abusive employment relationship (art. 16).

61. **The State party should consider adopting further measures to encourage migrant domestic workers who are subjected to ill-treatment to report their abuse to authorities, including providing information to migrant domestic workers on their rights and taking measures to enhance the ability of migrant domestic workers to obtain alternative employment.**

Hate crimes

62. While acknowledging the legislative and other measures taken by the State party to tackle hate crime and prejudice, the Committee is concerned by the reports it has received from both government sources and community-based organizations reflecting a marked increase in the incidence of racist, xenophobic, antisemitic, anti-Muslim, anti-disabled and anti-transgender crimes in recent years, and by estimates that only 2 per cent of all hate crimes result in a successful conviction with an enhanced sentence for hostility on the basis of a protected characteristic (art. 16).

63. The State party should strengthen its efforts to investigate alleged hate crimes and prosecute perpetrators, including by improving hate crimes training for the police and improving their initial handling of hate crimes reports.

Intersex persons

64. While noting that in January 2019 the Government Equalities Office launched a call for evidence to better understand the experiences of intersex persons in the United Kingdom, the Committee remains concerned about reports of cases of unnecessary surgery and other medical treatment with lifelong consequences, including severe pain and suffering, to which intersex children have been subjected. The Committee is further concerned at the lack of legal provisions providing redress and rehabilitation in such cases (arts. 14 and 16).

65. The State party should ensure that:

(a) The parents or guardians of intersex children receive impartial counselling services and psychological and social support, including information on the possibility of deferring any decision on unnecessary treatment until they can be carried out with the full, free and informed consent of the person concerned;

(b) Persons who have been subjected to such procedures without their consent and resulting in severe pain and suffering, obtain redress, including the means for rehabilitation.

Follow-up procedure

66. The Committee requests the State party to provide, by 17 May 2020, information on follow-up to the Committee's recommendations on: sexual abuse of children in detention (para. 19); accountability for any torture and ill-treatment committed by UK personnel in Iraq from 2003 to 2009 (para. 33); and accountability for conflict-related violations in Northern Ireland (para. 41 a), d), e), and f)). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

67. The Committee encourages the State party to consider making the declaration under article 22 of the Convention, recognizing the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction.

68. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations, and to inform the Committee about such dissemination.

69. The Committee requests the State party to submit its next periodic report, which will be its seventh, by 17 May 2023. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its seventh periodic report under article 19 of the Convention.