



Fédération internationale de l'Action des chrétiens pour l'abolition de la Torture
International Federation of Action by Christians for the Abolition of Torture
Federación Internacional de la Acción de los Cristianos para la Abolición de la Tortura



United Nations Committee against Torture

Examination of United Kingdom's fifth periodic report

2013

FIACAT – ACAT United Kingdom's alternative report on the implementation
of the Convention against Torture and Other Cruel, Inhuman or Degrading
Treatment or Punishment

The United Kingdom

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Presentation of partners NGO

- **Action by Christians for the Abolition of Torture in the UK - ACAT United Kingdom**

ACAT-UK was formed in 1984 by the then British Council of Churches, with the active support of Amnesty International. ACAT is affiliated to the International Federation of Action by Christians for the Abolition of Torture (FIACAT) in Paris, and is a Body in Association with Churches Together in Britain and Ireland. ACAT's aim is to work, as Christians, for the abolition of torture worldwide. It seeks to increase awareness in the Churches and among Christians of the widespread and evil use of torture and the need, for reasons of Christian faith, to campaign for its abolition.

Its Aims:

- to work as Christians, for the abolition of torture worldwide;
- to increase awareness of the widespread and evil use of torture;
- to campaign for its total abolition;
- to be a power house of prayer.

Its Work:

- to obtain information on specific examples of torture worldwide;
- to write letters to governments in countries where torture is practised calling for its abolition;
- to support the victims of torture and ill treatment;
- to pray for the tortured and the torturers;
- to keep abreast of legislation relating to torture.

- **International Federation of Action by Christians for the Abolition of Torture (FIACAT)**

The International Federation of Action by Christians for the Abolition of Torture, FIACAT, is an international non-governmental human rights organisation, set up in 1987, which works towards the abolition of torture and the death penalty. The Federation brings together some thirty national associations, the ACATs, present in four continents.

FIACAT – representing its members in international and regional organisations

It enjoys Consultative Status with the United Nations (UN), Participative Status with the Council of Europe and Observer Status with the African Commission on Human and Peoples' Rights (ACHPR). FIACAT is also accredited to the International Organisation of *la Francophonie* (OIF).

By referring the concerns of its members working on the ground to international bodies, FIACAT's aim is to encourage the adoption of relevant recommendations and their implementation by governments. FIACAT works towards the application of international human



rights conventions, the prevention of torture in places of detention, and an end to enforced disappearances and impunity. It also takes part in the campaign against the death penalty by calling on states to abolish capital punishment in their legal systems.

To give added impact to these efforts, FIACAT is a founding member of several campaigning coalitions, in particular the World Coalition against the Death Penalty (WCADP), the Coalition of International NGOs against Torture (CINAT) and the International Coalition against Enforced Disappearances (ICAED).

FIACAT – building up the capacities of the ACAT network in thirty countries

FIACAT assists its member associations in organising themselves, supporting them so that they can become important players in civil society, capable of raising public awareness and having an impact on the authorities in their country.

It coordinates the network by promoting exchanges, proposing regional and international training events and joint campaigns, thus supporting the activities of the ACATs and providing them with exposure on the international scene.

FIACAT – a network of Christians united in fighting torture and the death penalty

FIACAT's mission is to awaken Churches and Christian organisations to the scandal of torture and the death penalty and convince them to act.

The impact of our action:

- FIACAT protects human rights defenders in its network. In this context, it has been able to secure the release of several ACAT members arrested because of their human rights activities.
- Thanks to the advocacy work carried out by FIACAT in cooperation with its member associations, Burundi, Togo and Benin have abolished the death penalty over recent years.
- FIACAT encourages countries to combat prison overcrowding by restricting excessive pre-trial detention and encouraging alternatives to imprisonment.

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Introductory note

On 8 December 1988, the UK ratified the Convention against Torture and Other Cruel and Inhuman and Degrading Treatment. Under Article 19 of the text, it has recognized the competence of the Committee against Torture (CAT), which periodically hears the signatory states about their application of the Convention.

The Action of Christians for the Abolition of Torture – United Kingdom (ACAT UK) and the International Federation of Action of Christians for the Abolition of Torture (FIACAT) are honoured to submit to the Experts of the Committee against Torture (CAT) their concerns related to the application by the government of United Kingdom of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

This report is presented on the occasion of the 50th session of the Committee against Torture in Geneva that 7 and 8 May 2013, during which the fifth periodic report of the United Kingdom on the implementation of the rights contained in the Convention against Torture will be examined, with 5 years delay, as it was expected in 2008.

This report has been drafted by ACAT UK and FIACAT.

This alternative report is divided into two parts:

- Part one analyses article by article, the implementation at a national level by the UK of the Convention against Torture.
- The report concludes with a series of recommendations made by FIACAT and ACAT UK to the Committee against Torture.

I – Analysis of the implementation of the Covenant, article by article

Article 1

1. For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Article 4

1. State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

National Legislation - In 1641 an act of Parliament stated that only the Common Law would apply and would replace all other legal systems. As Common Law prohibited the use of torture, torture was in effect banned from that date. In 1689 Parliament passed the Bill of Rights which stated that “*excessive bail ought not to be required, nor excessive fines imposed nor cruel and unusual punishment inflicted.*” Torture was prohibited in Scotland by section 5 of the Treason Act 1708.

The UK has signed and ratified the UN Convention against torture, the UN Convention on Civil and Political Rights and the European Convention on Human Rights. Torture is also an offence under Section 134 of the Criminal Justice Act 1988 which sets out the definition of torture in accordance with the UN Convention. Evidence obtained under torture is excluded in criminal trials under Section 76 of the Police and Criminal Evidence Act 1984.

According to article 3 of the Convention against Torture, a foreign national regarded as a security risk or a terrorist suspect cannot be deported or extradited to a country where there is a reasonable risk of torture. Though the Government has sought diplomatic assurances in a number of cases from countries where torture is known to occur - the most prominent is that of Abu Khatada, who has never been charged with any offence and tried in a UK court. Serious efforts have been made to deport him over the past 10 or more years to Jordan, where he is wanted on terrorist charges but the European Court and the English Courts have regularly ruled against the Government. The Government has pledged to continue efforts to extradite him.

The Conservative Party pledged in its last manifesto that it would seek to dismantle the Human Rights Act, which came into force in 2010 and incorporated into UK law certain rights and freedoms set out in the European Convention, including the right not to be tortured and put in its place a British Bill of Rights. It was hoped this would be worded so that it would become easier to forcibly deport criminals and terrorists. The Government set up an independent Commission, which after 19 months of debate and discussion failed to reach any conclusion. The coalition partners, the Liberal Democrats vowed to block any move to change the Act. The



dismantling of the Act will be included once again in the Conservative manifesto for the next election.

There are very particular concerns that the Government, and in particular the Conservative Party, will make strenuous efforts to dismantle the Human Rights Act if it wins the next election. There are also concerns that it is considering withdrawal from the European Convention on Human Rights.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK are extremely concerned over serious efforts made by the Government to dilute the present Human Rights Act, and proposals for withdrawal from the European Convention on Human Rights.*
- *FIACAT and ACAT UK urge that no further efforts be made to dilute the Human Rights Act and to replace it with British Bill of Rights and call for the Government to confirm its commitment to the European Convention.*

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

1. Disappearances and extrajudicial killings

a. The Independent Commission for the Location of Victims Remains

The Independent Commission for the Location of Victims' Remains was established by treaty between the United Kingdom Government and the Government of Ireland, made on 27 April 1999 in connection with the affairs of Northern Ireland.

A number of people, referred to colloquially as *The Disappeared*, have gone missing in Northern Ireland over the last thirty-five years, mainly in the 1970s. It is believed that they were abducted and killed by proscribed terrorist organisations, mostly the Provisional Irish Republican Army, but to date their remains have not been located. The Commission was established to locate the remains of these people.

This Commission reported in April 2012 that 16 people were “disappeared” during the Troubles - the bodies of 9 have been recovered but 7 are still missing - they are Colomba McVeigh, 17; Captain Robert Nirac, Kevin McKee, Brendon Megraw, Seamus Wright, Seamus Ruddy, Joe Lynskey.

The Commission continues its work to recover the remaining 7 missing people.

In order to facilitate research the “Historical Enquiries Team”, a unit of the Police Service of Northern Ireland, set up in September 2005 to investigate the 3,269 unsolved murders committed during the Troubles (specifically between 1968 and 1998). It stressed its independence although there were concerns, over the years, that this was not always the case. For the first six years it received funding from the Northern Ireland Office. For a further two years it received funding from the Department of Justice but the Department has now refused to continue and

has called on the Police service of Northern Ireland (PSNI) to fund the project with money from the police service's financial reserve. This would in effect result in the Team being no longer regarded as independent from the police; the uncertainty has also resulted in a loss of valuable, experienced staff. Although the Team has investigated and brought to a conclusion a large number of cases, there are still many more awaiting investigations.

According to FIACAT and ACAT UK, it is vitally important that the work of the Historical Enquiries Team continues in order for the families, to finally find out why and how their loved ones met their deaths.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK recommend that the Department of Justice, as a matter of urgency, find a source of funding totally independent from the police to fund the Independent Commission for the Location of Victims' Remains .*

b. Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance

There have been no positive developments since the UK stated in its formal response to the recommendations resulting from the last Universal Periodic Review examination that it is "committed to making further progress on ratification by the time of its mid-term progress report, due in 2014». The Government is still considering how the provisions of the treaty might be implemented in the UK.

The UK Government has made little or no progress in even setting a timetable for the signature of the convention or in setting out the necessary measures which will need to be put in place before the Convention can be signed. This tardiness is of great concern in view of the claims made against the UK and its complicity on rendition, secret detention and enforced disappearance where counter-terrorism actions have been involved.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK recommend that immediate action be taken to bring in the necessary legislation to enable the International Convention for the Protection of All Persons from Enforced Disappearance to be signed and ratified as accepted by the UK Government following recommendations contained in Section 11 of the Report of the Working Group (20.9.2012) for the 13th session of the Universal Periodic Review .*

2. Age of criminal responsibility.

a. Former legislation and cases

The age of criminal responsibility is 10 years - one of the lowest in the European Union and a clear breach of international standards. There is considerable concern among children's groups, justice organisations and other human rights organisations that the age is so low and there has been lobbying for some time for the age to be increased. The National Association for Youth Justice sent an open letter to the Justice Secretary from more than 50 organisations, charities and experts expressing its grave concern that the age of criminal responsibility was so low and calling for it to be raised in England and Wales. Signatories included the Children's Commissioner for

England and Lord Ramsbotham, the former chief inspector of prisons. The letter said there was compelling evidence for a change of policy. For instance, last year 209,000 children under the age of 11 were detained by the police. In 2012, Ian McPherson, the Association of Chief Police Officers' spokesman on children and young people, called for the adoption of a more flexible approach regarding the age of criminal responsibility.

In December 2012, the Government rejected the call to raise the age of criminal responsibility and said there were no plans to hold a review. It argues that young people of 10 and over are able to differentiate between bad behaviour and serious wrongdoing. It is accepted that raising the age of criminal responsibility will be very controversial because of the strength of public opinion.

For instance, the murder in 1992 of 3 year old Jamie Bulger by two boys who were both 10 years old is still in the forefront of many people's minds. This has been brought into focus yet again with the 20th anniversary of the end of their trial in February. They were tried in an adult court by what might be called a travesty of justice. The two boys were sentenced to detention without limit for the particularly brutal murder with a minimum of 8 years. The home secretary at the time extended the tariff to 15 years, which was later reversed by the European Court of Human Rights in 1999. To mark the anniversary there has been interviews with family members, long articles in the press etc. This publicity will not be helpful in securing the passage of the private member's bill (see below). Another case which horrified the general public, who called for very harsh penalties, was that of two brothers, aged 10 and 11 who attacked, tortured and sexually assaulted two brothers in South Yorkshire in 2009, leaving one critically injured. Once again the children were charged and convicted in an adult court - Sheffield Crown Court -and sentenced to indefinite detention with a minimum of five years.

b. A sign of hope: private members bill before the House of Lords.

Lord Dholakia has sponsored a bill in the House of Lords, the Age of Criminal Responsibility Bill, which received its first reading on 16th January 2013. This would raise the age of criminal responsibility to 12. A date for the 2nd reading has yet to be announced. The bill would be sent to the House of Commons, if it is passed in the House of Lords. It is, however very difficult for a private member's bill such as this to overcome all obstacles and to be passed into law.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK call on the UK Government to raise the age of criminal responsibility to at least 12 years.*
- *FIACAT and ACAT UK also call for the education of the general public on the rights of children.*

3. Use of tasers.

The use of tasers increased by 45% in 2011. Before 2008 their use was restricted to firearms officers, who were properly trained in their use. The Police Federation proposes to increase the number of frontline officers using tasers to 36,000. The proper training of all officers issued with tasers, in accordance with strict Home Office guidelines, are unlikely to be met, especially in view of current budget cuts and the number of police involved. Tasers can be potentially lethal when

improperly used and should only be deployed as a last resort and when there is a threat to life or a very serious injury.

However, our associations note there have been many instances when this has not happened.

In one incident a blind¹ man was tasered when his white stick was mistaken for a samurai sword. In another instance a disabled man was tasered after he failed to get out of his mobility vehicle when ordered to do so - he was incapable of leaving the vehicle without help. A young man² suffered a cardiac arrest and was left critically ill when he was tasered four times. The weapons were also used during the eviction of Travellers at Dale Farm in Essex in 2011.

There is a particular concern that tasers are used on people who are mentally ill. A number of incidents have been referred to the Independent Police Complaints Commission. A legal action group, Police Action Centre, has been set up to challenge the widespread use of tasers. There is also concern that the police may be held in breach of Article 3 of the Human Rights Act.

There is great concern over the huge increase in the number of tasers purchased by police forces across the country together with their widespread use in situations which cannot all be seen as life threatening, particularly when used on vulnerable people, who have pre-existing mental or medical problems.

FIACAT and ACAT UK's concerns:

- ***FIACAT and ACAT UK call on the UK Government to set out strict guidelines to police forces regarding the use of tasers, together with training on how to respond to people from vulnerable groups.***

[...] 2. *No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.*

4. Jimmy Mabenga case

G4S security guards were hired by the government to deport failed asylum seekers. Jimmy Mabenga, an Angolan, died in transit in October 2010, while being forcibly restrained on a flight from Heathrow. It was common practice to “*force into submission*” failed asylum seekers who became disruptive on flights by pushing their heads between their legs. This can cause suffocation; it is nicknamed “*carpet karaoke*” by G4S guards. There have been numerous reports of force being used on those being removed, including dangerous techniques with resulting

¹ On October 12, 2012 a 63 year old blind man, Colin Farmer, who had also suffered from two strokes, was walking very slowly using his white stick, to meet friends in Chorley, Lancashire. When he failed to answer a police call to stop he was tasered. The police had received reports that a man with a samurai sword was on the loose in the town. The policeman who used his taser thought Colin Farmer's white stick was a samurai sword. He was handcuffed and then taken to hospital for treatment. He is now claiming damages for assault, false imprisonment and breach of his human rights.

² James McCarthy was tasered in Liverpool on October 10, 2012 at the Albert Dock area of the city - he and other friends were enjoying a night out when there was a disturbance outside the Premier Inn. James McCarthy was tasered four times and suffered a cardiac arrest - he was left critically ill. His companions were arrested. The case has been referred to the Independent Police Complaints Commission, but the police officer involved has not been suspended



injuries, some requiring hospital care. Injuries included punctured lung, dislocated knee, neck injuries and broken fingers. The firm lost its Home Office contract following the death of Jimmy Mabenga.

Whistleblowers from G4S said they warned the company on numerous occasions that potentially lethal force was being used against deportees. They said that the staff were not properly trained, criticised for showing compassion to the failed asylum seekers, particularly children and ostracised if they voiced concerns. Some guards went years without being given Home Office accreditation. The company denied that staff had ever raised concerns.

Our associations consider that action must be taken by the appropriate Government department to ensure that all security guards are fully trained in acceptable restraining methods and ensure that they treat their charges with humanity, care and respect.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK have serious concern over the manner in which deportations are carried out and the fact that force is still being used.*
- *FIACAT and ACAT UK also call for a monitoring system to be put in place to ensure that no further serious human rights abuses occur on flights involving failed asylum*
- *FIACAT and ACAT UK recommend that special considerations are given when deciding whether to deport those with mental health problems and those with serious medical complaints.*

Article 3

1. *No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.*
2. *For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.*

5. Deportation of failed asylum seekers.

a. Tamils' cases.

In June 2011 the UK Border Agency started deporting failed asylum seekers back to Sri Lanka, using charter flights. Those flights had been stopped in 2009. These are now becoming more frequent and more costly, running to an average of one a month. There are protests by activists outside Detention Centres on each occasion when those to be deported are removed.

Previously, Tamils being deported were sent back on ordinary flights, which on occasion were aborted because of disruption by both the deportees and other passengers. This made bad publicity. There have also been last minute court orders stopping some deportations.

A minister from the Foreign Office, Alistair Burt, on a visit to Sri Lanka at the beginning of February, refuted evidence from Human Rights Watch that Tamils have been arrested and tortured following deportation from Britain. A member of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka, Yasmin Sooka, has said that she is concerned about the

deportation of Tamils to Sri Lanka from states such as the UK and others, and that in her opinion they were being sent back to be killed or tortured.

The Home Office, following a Freedom of Information request, has revealed that 15 failed Sri Lankan asylum seekers, who were deported, managed to escape and make their way back to the UK were granted refugee status, after they gave evidence of their torture in their home country.

b. Gay asylum seekers.

There have been recent changes made by the UK Border Agency, which now call upon gay asylum seekers to prove their sexual identity. The official guidelines, which followed a landmark Supreme Court judgement in 2010, shifted the emphasis of official assessments to establishing whether or not claimants are genuinely gay or lesbian according to immigration experts. Refusals of asylum are commonly made on the basis that claimants are not, or cannot prove that they are gay, lesbian or transsexual but have not indicated how they can prove this. A spokesperson for the Border Agency has said: "*we have changed our guidance to ensure that we do not remove individuals who have demonstrated a proven risk of persecution on sexual grounds.*"

But our associations consider those returned to countries in Africa, such as Zimbabwe, Malawi, Senegal, Uganda etc... are likely to be at risk of persecution, attacks, death or possibly execution.

FIACAT and ACAT UK's concerns:

- ***FIACAT and ACAT UK urge the Government to ensure that no failed asylum seekers, including gays or lesbians, are deported to countries where there is a strong probability they will face arrest, imprisonment, torture and possible execution. Our organisations recommend that monitoring of the human rights situation in such countries are carried out regularly.***

Article 10

1. *Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.*
2. *Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.*

The Intelligence Services published in 2009 its interrogation rules for M15 and M16 banning the use of torture.

It does not seem that guidelines are handed out to members of the armed forces on the treatment of detainees and civilians in time of conflict and on the total ban on the use of torture and ill-treatment. This has been of concern to ACAT UK - letters have been sent on a number of occasions in the recent past to the Ministry of Defence calling for a manual setting out information on the absolute ban on torture and the proper treatment of detainees in time of conflict to be handed to all members of the armed forces and for senior officers to fully be trained on the implications of the total ban on the use of torture and ill-treatment.

The Citizenship programme of study for the new school curriculum still remains statutory but there is hardly any mention of human rights and no mention of torture. It states that there should be teaching on “*precious liberties*” enjoyed by those living in the UK. This is a nebulous concept with no clear basis in law or international agreements. A public consultation is being held on changes to the curriculum but the Government is unlikely to make major additions.

FIACAT and ACAT UK’s concerns:

- *FIACAT and ACAT UK ask The Government to ensure that the new curriculum in its Citizen Programme includes specific information about torture and ill - treatment.*
- *FIACAT and ACAT UK call the Government to ensure that all members of the armed forces are educated in UK Human Rights law, with especial reference to the absolute ban on torture and the necessity for treating detainees, including civilians in a time of conflict, in accordance with UK laws.*

Article 12 - Article 13

Art. 12: Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Art. 13: Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

6. The justice and security bill.

The Justice and Security Bill, first aired in October 2011 and defeated in the House of Lords in December 2012, have now reached the committee stage in the House of Commons. The proposals have met with very considerable opposition from politicians, human rights groups, judges, former director of public prosecutions, a former attorney general etc. The proposals would allow the government in civil cases, where a government minister believed disclosure would damage “*national security*” to introduce “*secret evidence*” in court. Lawyers, the press and the public could be excluded and no challenge to the evidence would be accepted. It would also prevent the courts from ordering the disclosure of information from the intelligence services considered “*sensitive*” even though such evidence could well uncover serious wrongdoing by government officials. Journalists who have investigated cases of rendition, for instance, have argued that some at least of their investigative work would be impossible, unless serious modifications were made to the bill. Opponents consider that the bill undermines principles of equal and open justice. Secret courts and secret verdicts would seriously damage the integrity of the legal system.

The House of Lords made a number of amendments to the bill, including the removal of a secretary of state's exclusive right to apply for a secret hearing and more discretion to judges to decide whether hearings should be held in secret. Ministers have said they will accept some but not all of these. Further amendments will be proposed during the Committee stage of the bill, including making the Intelligence and Security Committee chosen by and accountable to Parliament and not just the Prime Minister.

Amendments to the Justice and Security Bill in the report stage were defeated in the House of Commons on 4th March 2013, with support from some Labour M.P.s and powerful speeches in favour of the amendments were made by a small number of Conservatives. These amendments would have put in place checks and balances on the use of “*closed material procedures*” - in the expansion of secret hearings. The use of secret hearings cuts across fundamental human rights principles and the adoption of such measures is a cause of very great concern and could possibly result in judges considering they are losing some of their independence to politicians.

One of the reasons why the UK Government pushed for secret court hearings in the Justice and Security Bill was to prevent future large payouts in damages to claimants such as Abdel Hakim Belhaj, known as a leading Libyan politician and his wife, who had been kidnapped and tortured in Libya following tip offs from M16 officers. It is however argued by the Government that payments are being made not because the claims have merit but because the government needs to protect its secret intelligence sources. It also claims that payments could be used to fund terrorism, a claim denied by the former director of public prosecutions.

Abdel Hakim Belhaj has now stated that rather than accept damages he will settle for £1.00 each for himself, his wife and one other claimant and an unreserved apology.

Regarding the Justice and Security Bill most senior judge, President of the Supreme Court, Lord David Neuberger, has expressed his great concern over the prospect of cases being held behind closed doors.

Philippe Sands, leading international human rights lawyer, has resigned from membership of the Liberal Democrat party in protest over the measures contained in the bill and has said it is wrong in principle.

Our associations express great concern that secret hearings, where the threat of terrorism is invoked, as proposed in the Justice and Security Bill, will be in breach of the Convention on Torture; they could ensure that human rights abuses committed by Intelligence officers for example, such as occurred in Pakistan and Afghanistan, are not investigated, leading to a climate of impunity.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK recommend that all necessary amendments be made to ensure that the Justice and Security Bill complies in all instances with the UN Convention Against Torture.*

7. Allegations of abuse by UK armed forces. Judicial review

a. The Iraq Historic Allegations Team

The Ministry of Defence has already settled 227 claims of human rights abuses by UK armed forces in Iraq. This settlement totalled over £15 million. Agreement has recently been reached in a further 22 claims, involving a further £1.1 million. The Iraq Historic Allegations Team has continued its work but has experienced challenges to its competence and independence. There are repeated calls for a public inquiry, but the Ministry of Defence argues that such an inquiry would be “*premature and disproportionate*” and that the Iraq Historic Allegations Team should be allowed to continue with its important work.

A judicial review hearing started in the High Court at the end of January 2013, brought by Phil Shiner of Public Interest Lawyers. He considers that the Iraqi Historic Allegations Team is not sufficiently independent and cannot cope with the scale of human rights violations it is expected to cover. He has also been concerned over the long delay in accessing justice for victims and calls for a full independent inquiry. Lawyers for 192 Iraqis who claim to be victims of human rights abuses, filed statements accusing British soldiers and intelligence officers of unlawful interrogation practices, including hooding, stress positions, sexual abuse, beatings and torture which, on occasion, led to the deaths of prisoners. The lawyers called upon the court to decide whether there was a systemic, authorised policy of abuse, committed over the period of 2003 to 2008 or whether the abuses were isolated incidents of which officers, politicians, ministry officials etc were unaware. The court will shortly begin hearing the personal testimonies of victims. A further 800 Iraqis are taking legal action against the UK military.

b. Al Sweady inquiry.

The Al-Sweady Inquiry into allegations made against UK troops in the aftermath of the "*Battle of Danny Boy*" in Iraq will finally open on March 4. An earlier investigation by the Military Police was judged to be inadequate and British detectives were then appointed to conduct a further investigation. This will concern itself with allegations that British soldiers murdered 20 or more Iraqis and tortured others following the battle in southern Iraq in May 2004. The Ministry of Defence denies the allegations and states that the Iraqis died on the battlefield. It has taken almost 3 years to complete the investigation at a cost of nearly £15 million. The hearing is likely to last a year.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK recommend that the Government ensure that these inquiries are conducted with total impartiality and that any military personnel found guilty receive just sentences.*

c. Kenya- judgement in high court.

Three elderly Kenyans were given the right by a high court ruling in October 2012 to sue the British Government for compensation over their alleged torture and sexual abuse during the "*Mau Mau uprising and State of Emergency*" in the 1950's. The British Government has appealed the decision. The Government argued that too much time had elapsed for a fair hearing to take place. There are reports that compensation claims could be lodged by many more veterans. The Kenyan Government is lobbying the British Government in an attempt to speed up the compensation process.

There is concern that the UK is still dragging its feet and has still not acknowledged that severe human rights abuses took place in Kenya during the last years of colonial rule.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK urge the Government to withdraw its appeal following the high court ruling granting permission to three Kenyans to sue the Government for compensation for their torture and sexual abuse committed by its forces in Kenya in response to the Mau Mau emergency.*

- ***Our organisations recommend that the Government acknowledge that its forces committed serious human rights abuses in Kenya and accept further bona fide compensation claims, without long delays.***

d. Murder of Pat Finucane in Northern Ireland

Pat Finucane, Catholic human rights lawyer, was shot at his home in February 1989, in front of his family. The family has always called for a public inquiry into his death. Sir Desmond de Silva, Queen's Councillor (QC) was appointed in October 2011 by the Secretary of State for Northern Ireland to conduct an independent review into state involvement in the murder. The report was presented in December 2012 and concluded that agents of the state were involved in his murder but that there was "*no overarching conspiracy*". The Royal Ulster Constabulary passed information to his killers, failed to stop the attack and then obstructed the murder investigation. The Army Intelligence Unit bore some responsibility for Pat Finucane's death because one of its agents was involved in selecting targets. The Prime Minister called his murder «*shocking*» in the House of Commons on December 12th, 2012. The family rejected the report, together with the Prime Minister's apology and called as before for a full public inquiry. This has yet again been refused by the Prime Minister.

FIACAT and ACAT UK's concerns:

- ***In view of the many, still remaining, unanswered questions; FIACAT and ACAT UK call for a full public inquiry into the murder of the prominent human rights lawyer, Pat Finucane.***

8. Rendition and UK's involvement.

A man, Abdul Hakim Belhaj and his pregnant wife, Fatima Boudchar, were detained in Malaysia in 2004 en route to London; they claim that MI6 sent a fax to the Libyan intelligence service informing them of their detention; they were flown to Libya and suffered 4 years of torture and isolation. The couple is continuing their legal action against the UK Government. Abdul Hakim Belhaj is suing the former Foreign Secretary and a former MI6 official as part of their action.

A new Report by the Open Society Justice Initiative (OSJI), a New York based NGO, entitled Globalizing Torture, was published on 6th February, 2013, regarding the full extent of the use by the CIA of rendition in the war against terrorism, after 9/11. The report states that the UK supported CIA rendition operations, interrogated those being secretly detained and gave permission for the use of UK airports and air space. According to the Report, the UK could face prosecution at the European Court of Human Rights.

FIACAT and ACAT UK's concerns:

- ***FIACAT and ACAT UK call on the Government to set up a full and independent inquiry into the use of rendition in support of the United States, by the UK Government and MI6.***

Article 16

1. *Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.*

9. Detention and living condition in prison.

a. Detainees in Long Lartin maximum security prison.

Six Muslim long-term detainees, accused of terrorist activities are held in isolation at Long Lartin Maximum Security Prison awaiting deportation. Two have been held for over 12 years. One other, Babar Ahmad, was finally deported last year to the United States. They are held without charge or trial and are in effect in legal limbo. Over the years there have been many complaints about their treatment, which have been accepted by the prison inspectors. However, changes have been made and the regime is not as harsh as it was.

Our associations note that the detention of these “Muslim terrorist suspects” for so many years without charge or trial, awaiting deportation is cruel, inhumane and an appalling injustice.

FIACAT and ACAT UK's concerns:

- **FIACAT and ACAT UK recommend that any terrorist suspect detained is tried without delay before a court of justice.**

b. Living condition in detention.

Although the crime rate in the UK has fallen since 1997 by some 42% and is now flattening out, the numbers held in prisons have increased very considerably mainly because of the imposition of longer prison terms. In 20 years the prison population has almost doubled. The Government has plans for a large prison building project. The UK has a high ratio of prisoners per hundred thousand - 155 per 100,000 compared to Germany at 87 and France at 115. Last year 83 of 134 prisons were overcrowded, including Doncaster, Forest Bank and Wandsworth. Private prisons showed a higher percentage of overcrowded accommodation for every year of the past 13 years compare to the public sector prisons. In 2010-11 an average of 20 211 prisoners were held in overcrowded conditions - 24% of the total. In addition, from 1996 to 2011 there was an increase of 85% in the numbers of women inmates. Overcrowded conditions and cutbacks in funding and staff result in less safe conditions for prisoners, in a growth of the number of deaths and attempted suicides, self harm, and assaults. Overcrowding also results in lack of privacy, opportunities for training and education and in longer hours in cells. Resources are stretched thinly undermining the progress made in recent years.

The report in March 2013 on Winchester Prison by the Chief Inspector of Prisons, Nick Hardwick, spoke of serious concerns, particularly in the treatment of disabled prisoners, whose needs were not being adequately met, especially with regard to access. Two disabled prisoners were held in a cell for almost 24 hours a day and one had not taken a shower for four months.



Prison staff seemed to be totally unaware that there were such issues. In Wandsworth Prison holding over 1 000 prisoners, inmates were locked in their cells for over 16 hours per day. Workshop facilities, which were good, were almost shut down because of a lack of staff and funding.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK recommend that the policy with regard to sentencing is evaluated, with a view to reducing the numbers given prison terms, so that only those who pose a real danger to society are held..*
- *FIACAT and ACAT UK recommend that immediate action is taken to reduce the numbers of women sentenced to prison term and for more rehabilitation programmes to enable them to care for their children in their community.*
- *FIACAT and ACAT UK call for an end to the Government policy of recommending the building of very large prisons. Research has shown that prisons only work well for both staff and prisoners when they have a capacity of 500 inmates or less.*

c. Strip searching of children

The Youth Justice Board stated 2 years ago that it would stop the routine strip searching of children in young offender institutions, secure children's homes and training centres. However, no action has been taken. A freedom of information request by the former coordinator of the Children's Rights Alliance England showed that there were 43,960 recorded incidences of children as young as 12 being subjected to strip searches in the 21 months up to December 2012. Almost half of the children strip searched was from black and minority ethnic communities. Such searches have been called "*institutionalised child abuse*" and are a cause for very great concern.

FIACAT and ACAT UK's concerns:

- *FIACAT and ACAT UK recommend that the strip searching of children is totally banned under all circumstances with immediate effect.*
- *FIACAT and ACAT UK ask The Youth Justice Board to issue immediate instructions on the ban of strip searching to all young offender institutions, secure children's homes and training centres.*
- *FIACAT and ACAT UK urge the government to fully train all staff in such institutions in caring for children.*

II - RECOMMENDATIONS

- *ACAT UK and FIACAT urge that no further efforts be made to dilute the Human Rights Act and to replace it with British Bill of Rights and call for the Government to confirm its commitment to the European Convention.*
- *FIACAT and ACAT UK recommend that the Department of Justice, as a matter of urgency, continues to discuss a source of funding totally independent from the police.*
- *FIACAT and ACAT UK recommend that immediate action be taken to bring in the necessary legislation to enable the International Convention for the Protection of All Persons from Enforced Disappearance to be signed and ratified.*
- *FIACAT and ACAT UK call on the UK Government to raise the age of criminal responsibility to at least 12 years.*
- *FIACAT and ACAT UK call for the education of the general public on the rights of children.*
- *FIACAT and ACAT UK ask the Youth Justice Board to issue immediate instructions to all young offender institutions, secure children's homes and training centres.*
- *FIACAT and ACAT UK recommend that the strip searching of children is totally banned under all circumstances with immediate effect.*
- *FIACAT and ACAT UK urge the government to fully train all staff in institutions in caring for children.*
- *FIACAT and ACAT UK call on the UK Government to set out strict guidelines to police forces regarding the use of tasers.*
- *FIACAT and ACAT UK have concern over the manner in which deportations are carried out and that force is still being used.*
- *FIACAT and ACAT UK also call for a monitoring system to be put in place to ensure that no further serious human rights abuses occur on flights involving failed asylum seekers. Special consideration should be given to deciding whether to deport those with mental health problems and those with serious medical complaints.*
- *No failed asylum seekers, including gays or lesbians, should be deported to countries where there is a strong probability they will face arrest, imprisonment, torture and possible execution. There should be very regular monitoring of the human rights situation in such countries. Failed Tamil asylum seekers should not have to resort to action in the courts to stop their deportation.*
- *FIACAT and ACAT UK ask The Government to ensure that the new curriculum in its Citizen Programme includes specific information about torture and ill - treatment.*
- *FIACAT and ACAT UK call The Government to monitor that all members of the armed forces are educated in UK Human Rights law with especial reference to the*

absolute ban on torture and the necessity for treating detainees including civilians in a time of conflict in accordance with UK laws and all senior personnel must be involved as they are in positions of authority and are responsible for the behaviour of personnel under them.

- *FIACAT and ACAT UK recommend that all necessary amendments be made to ensure that the Human Rights Act complies in all instances with the UN Convention against Torture.*
- *FIACAT and ACAT UK recommend that all leading the inquiry ensure that it is conducted with total impartiality and that any military personnel found guilty receive just sentences.*
- *The Government must withdraw its appeal following the High Court ruling granting permission to 3 Kenyans to sue the Government for compensation for their torture and sexual abuse committed by its forces in Kenya in response to the Mau Mau emergency.*
- *The Government should accept its forces committed serious human rights abuses in Kenya and be prepared to accept further bona fide compensation claims, without long delays.*
- *FIACAT and ACAT UK call for a full public inquiry into the murder of the prominent human rights lawyer, Pat Finucane.*
- *FIACAT and ACAT UK call on the Government to set up a full, independent inquiry into the use of rendition in support of the United States, by the UK Government and MI6.*
- *FIACAT and ACAT UK recommend that immediate action is taken to reduce the numbers of women sent to prison and for more rehabilitation programmes to enable them to care for their children in their community.*
- *FIACAT and ACAT UK call for an end to the Government policy of recommending the building of very large prisons, in view of research which has shown that prisons only work well for both staff and prisoners when they have a capacity of 500 inmates or less.*