



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

FIACAT and ACAT United Kingdom's¹ Submission to the United Kingdom's Second Review

Human Rights Council, Universal Periodic Review's
Second Cycle
13th session, 21 May – 1 June 2012

21st November 2011

¹ACAT United Kingdom is a human rights organisation established in 1984. It is affiliated to FIACAT (International Federation of Action by Christians for the Abolition of Torture). FIACAT is an International Non Governmental Organisation for the defence of Human Rights which fights for the abolition of torture and the death penalty.

1. Pre-charge detention

The Home Office published its findings and recommendations following the Review of Counter Terrorism and Security Powers on 21 January 2011. The key recommendation was the reduction in the number of days, an individual suspected of terrorism can be held in pre-charge detention. On 25 January 2011 the maximum limit of pre-charge detention reverted to 14 days from 28 days.

The Home Office then published the Protection of Freedom bill, setting out these new changes and eliminating the power to extend the period by executive order - any new extension could only be made by legislative amendment.

On 11 February 2011 the UK Home Office then published the Draft Detention of Terrorism Suspects Bill which would provide contingency powers to extend the number of days of pre-charge detention back to 28 days. This would only be in response to an undefined urgent situation where 14 days was considered not sufficiently long.

The Joint Committee on Draft Detention of Terrorist Suspects was appointed to conduct pre-legislative scrutiny of the bill². There has been considerable criticism of the Government plans in this Committee.

ACAT UK has very serious reservations concerning the draft bill. The 14 day pre-detention charge is too long - much, longer than in other similar democratic countries. It would be difficult to set out what would be an emergency, what specific and detailed circumstances would need to be in place and how these would be measured before contingency powers were invoked.

ACAT UK's concerns:

- ACAT UK fears that no information has been included regarding any specific and detailed circumstances which would result in the invoking of the 28 day pre-charge detention. This gives the Government carte blanche in effect.

The Protection of Freedom Bill has been passed by the House of Commons and also passed its second reading in the House of Lords on 8 November 2011. It now goes to a Third Reading, committee stage and also a report stage. It is estimated that it will receive the royal assent in May 2012.

2. “Painful restraint techniques” applied to children

The Ministry of Justice now has sole responsibility for youth justice and has set up the Youth Justice Policy Unit. In October 2010 the Government announced the abolition of the Youth Justice Board set up in 1998 as part of the Government proposals to scrap 192 quangos.

On 23 June 2011 the Minister of Justice announced that the responsibilities of the Board would be transferred to the Ministry of Justice – the head of the Board would lead the new specialist body, Youth Justice Division. There was very considerable opposition to the abolition, especially in the House of Lords. The Minister argued that there had been significant improvements in youth justice and a separate body providing oversight of the

² It is composed of peers and members of the House of Lords and chaired by Lord Armstrong.

youth justice system was no longer needed. Ministers would now be responsible for youth justice and would be better able to influence policy.

The Report by Peter Smallridge and Andrew Williamson of a Review of the Use of Restraint in Juvenile Secure Settings, late 2008, found that there had been a growth in the use of unauthorised restraint techniques in Secure Training Centres.

Following this report, a Restraint Accreditation Board was due to be established to advise on the methods of restraint, accredited for use in secure custody. They recommended that experts should be drawn from a range of disciplines including physiotherapists, paediatrics, child psychiatry, orthopaedics together with those with working knowledge of restraints. The Report stated that there was no such thing as an entirely safe restraint and that restraint should only be used within an approved system and only as a last resort, with the minimum force required to prevent harm.

There are 4 Secure Training Centres, run by private security companies – Hassockfield, Medway, Oakhill and Rainsbrook. There have been concerns that in some instances staff have not been fully trained to deal with difficult children with a multitude of problems.

The Government is now in the process of devising a single method of restraint to be called the Conflict Resolution Technique. The Government persists in retaining the defence of “reasonable punishment” with regard to children and young persons held in Secure Training Centres and Youth Offenders.

There are strict limits regarding the circumstances where force may be used – the Court of Appeal has held that the use of force to maintain order and discipline is unlawful. The UN Committee on the Rights of the Child has held that the use of reasonable restraint must not involve the deliberate infliction of pain as a form of control.

There are now two most common methods of restraint – “control and restraint (C & R) and physical control in care (PCC). C & R is used in Young Offenders Institutions but is designed for adults and is a pain compliant technique to be used with a minimum of 3 staff. PCC is used in secure training centres and is non-pain compliant except when it becomes necessary to gain control and “distraction” techniques result in pain.

The use of nose distraction technique was permanently withdrawn at the end of 2008 but nose control is still permitted in youth offender institutions where about 86 % of children are remand or serving a custodial sentence. It is held to be no different from the nose distraction technique and can be very painful.

The Government has set aside funding for an accelerated programme of training for staff working with young people and for CCTV (Closed Circuit Television) in common areas in Secure Training Centres and privately owned young offender institutions; this will be used to monitor the use of restraint. A panel of medical experts will assess the safety and accredit all restraint techniques. These measures may now well be the subject of financial cuts.

The secure training centres are run by privately owned security firms, including Serco, C4S – it is important that the Government puts into effect its commitment to ensure that all staff are adequately vetted for their suitability for work with children in the criminal justice system, are fully trained and required to attend refresher courses at regular intervals.

In January 2011 the second inquest into the death of 14 year old Adam Rickwood at Hassockfeld Secure Training Centre was held. The jury found that before his death in 2004, there was a serious failure in relation to the use of restraint, giving rise to an unlawful regime. The use of restraint was a contributing factor in his death.

ACAT UK considers:

- It is a matter of priority that measures are taken immediately to ensure that all staff working with children in such centres are carefully vetted and fully trained;
- It is important that all necessary measures are taken to ensure that each child in a secure training centre has access to an independent person who can take up complaints on their behalf and also provide emotional support;
- It is vitally important that a Restraint Accreditation Board is established without delay with experts drawn from a wide range of disciplines;
- Immediate action should be taken to evaluate and assess behavioural techniques, which when introduced would result in the ending of physical restraint;
- The Government should look at alternatives to the incarceration of children, sometimes as young as 12, in secure training centres.

3. The use of Tasers and pepper sprays

It is argued that Tasers provide a safer and less lethal alternative to the use of handguns by the police in certain situations. But it is known that the use of Tasers can significantly increase the risk of cardiac arrest or death, or other problems, when used on those with certain medical conditions.

Tree men died during a period of 8 days in August 2011 - a 53 year old tasered at his home in Bolton, a 25 year old restrained using pepper spray in Widnes and a 27 year old tasered several times in Cumbria and also subjected to pepper spray.

When first introduced, small numbers of Authorised Fire Officers in the various police forces were given a few hours training in the use of Tasers. Subsequently, more officers have been given permission to use them, often without proper training. It appears that Tasers are now used in many forces as a matter of routine when dealing with difficult situations. A Taser was used by police at close range for example, during the forcible removal of residents and protestors from the Dale Farm Traveller's site, near Basildon, Essex in the autumn of 2011, causing many protests.

The Taser is classified as "work related equipment". When incidents occur resulting in death or serious injury or where a situation was considered to cause danger to the public, the Independent Police Complaints Commission begins an investigation.

ACAT UK's concerns:

- ACAT UK fears the increased use of Tasers and pepper sprays by the police;
- ACAT UK criticises the lack of guidelines governing the use of Tasers and calls for their suspension pending a full independent inquiry governing their use. It has particular concerns that its use against vulnerable groups such as pregnant women, children and people with mental illness is dangerous. It has concerns that it can be used against unarmed individuals and protest groups when excessive force is not needed.

It is now reported that baton rounds of plastic bullets have been made available to police chiefs in an attempt to prevent disorder in London during peaceful protests. These would be

carried by a small number of trained officers and according to information would only be used in extreme situations.

4. Children held in immigration removal centers

Large numbers of children, many of them unaccompanied, are still detained at ports in the south and south east of the country despite the Government's promises to end the detention of children. Between May and August 2011 almost 700 children were held – a third of them unaccompanied. There are concerns that children are getting insufficient access to legal advice, health care and education and can experience extreme distress.

A new centre specifically for detained families was opened in August 2011 called Pease Pottage, where failed asylum seekers and their children are housed for a week before being forcibly removed. It replaces the family unit at the controversial Yarls Wood removal centre. It is run by G4S, the private security firm that also has contracts to forcibly remove failed asylum seekers – it does not have a good reputation. Barnardos, a large, highly respected children's society has agreed to be involved in the running of the centre much to the disgust of some other charities.

G4S also manages Tinsley House near Gatwick Airport, which has been refurbished. This also holds detained children in so called "border turn around" cases or where the parent or guardian is being deported and is too disruptive to be held in Pease Pottage.

ACAT UK's concerns:

- ACAT UK is concerned that although the Government promised to end the detention of children, this has not happened. The much trumpeted Pease Pottage, with its locked environment, is still not the answer to the detention of children. Although some measures have been taken to improve the situation of detained children awaiting deportation, there is much more that needs to be done.
- ACAT UK has special concern for those who are unaccompanied and consider that the various children's charities should be approached with a view to providing better services for them, on the Government's behalf. The Government should also be challenged to keep to their election Manifestos.

5. Deportation of failed asylum seekers

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, nicknamed "carpet karaoke" by G4S guards. There have been numerous reports of force being used on those being removed, including dangerous techniques with resulting 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.

ACAT UK' concerns:

- ACAT UK has concerns over the manner in which deportations are carried out and that force is still being used. It considers that action must be taken by the appropriate Government department to ensure that all security guards are fully trained in acceptable restraining methods and that they treat their charges with humanity, care and respect.
- ACAT UK also calls 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.

6. Deportation of failed asylum seekers to countries where they are at risk of arrest, torture or execution

Failed asylum seekers are still being sent back to countries, where they are likely to be arrested, tortured, or even executed such as countries where the death penalty is applied for homosexuality.

ACAT UK's concerns:

- ACAT UK has particular concern regarding the welfare of Tamil failed asylum seekers being returned to Sri Lanka, where there have been reports of the torture of returnees. Although a number of deportation orders have been cancelled, the Government insists that there have been no reports of the ill-treatment of returnees.
- ACAT UK recommends that the Government takes advice and action to ensure that under no circumstances are failed asylum seekers returned to countries where they will be subjected to human rights abuses.

7. The terms of the inquiry into possible cases of torture and rendition

As a result of the growing pressure, the Government announced in 2010 the setting up of an inquiry with Sir Peter Gibson as chairman, into allegations of the use of torture and extraordinary rendition. The Prime Minister stated that the Coalition was determined to get to the bottom of what happened and that the UK's reputation as a country which respected human rights and the rule of law was at risk of being tarnished.

Its detailed terms of reference have now been published, together with protocols relating to it. The hearings are to be held in secret and the Cabinet Secretary will decide what information should be made public. Individuals who have been subjected to torture or rendition will be unable to question M15 or M16 officers.

No evidence will be sought from foreign intelligence sources, such as the CIA, ISI Pakistan about British involvement in the torture and abuse of detainees. There are also doubts about how far the inquiry will attempt to uncover evidence about operations by British troops which resulted in the secret rendition of detainees to prisons where they were likely to be tortured and ill-treated.

The terms of the inquiry are so restrictive that it is likely to fail to comply with international and UK laws governing investigations into torture.

ACAT UK's concerns:

- ACAT UK has concern that the chair of the inquiry is a retired judge with no experience in the field of human rights issues.
- ACAT considers that the inquiry as present constituted will not uncover the full truth regarding the use of torture and rendition. It calls for the terms of reference to be widened, for no hearing to be held in secret, for witnesses to be called and for individuals subjected to rendition and torture to be allowed to question M15 and M16 officers.

8. The ratification of the International Convention for the Protection of All Persons from Enforced Disappearance

The Government appears to support the Convention in theory, and has apparently been looking into what changes to domestic law and what reservations or declarations would be needed in order to ratify it.

- ACAT UK urges the Government to sign or ratify the Convention and to recognise the competence of the Committee on enforced disappearances under articles 31 and 32.