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UNITED KINGDOM

Briefing for the Committee Against Torture

1. Introduction

Amnesty International submits this briefing to the Committee against Torture in view of the Committee's examination, on 16 November 1998, of the United Kingdom's third periodic report on the measures taken to implement the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).

Despite some significant developments since the Committee against Torture's examination of the United Kingdom's second report in 1995, Amnesty International remains concerned that the United Kingdom has failed to fully implement its obligations under the Convention against Torture and has not implemented all the recommendations previously made by the Committee and other treaty bodies and mechanisms aimed at improving respect for human rights in the United Kingdom.

This report describes cases of deaths in custody; regimes of detention or imprisonment which Amnesty International believes constitute cruel, inhuman or degrading treatment; cases of torture and ill-treatment in and by police; and concerns about the treatment of refugees and "national security" cases.

2. Some significant developments

a) Human Rights Act

On 9 November 1998 the Human Rights Act received Royal Assent. This Act incorporates the majority of provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms into the law of the United Kingdom.¹ It is anticipated that the Act will not come into force within the next year, to allow time for training of judges and magistrates and assessment of the gaps between current practice and the rights incorporated.

¹ It is significant to note that the incorporation is subject to the existing derogation of Article 5 of the European Convention, in respect of seven-day detention powers which are still exercised in Northern Ireland. Article 13 of the European Convention, which guarantees an effective remedy before a national authority to people whose rights under the Convention have been violated, has not been incorporated into law by the Human Rights Act. In addition, the Act permits the courts to declare that an act of Parliament is not in compliance with the Convention's obligations, but courts may not overturn such act. The incorporation is also subject to the United Kingdom's reservation to the European Convention.

Among other things, the Human Rights Act incorporates the prohibition against torture and inhuman or degrading treatment or punishment as set out in Article 3 of the European Convention. The Act also abolishes the death penalty, except for acts committed in time of war or imminent threat of war, as set out in Protocol 6 to the European Convention, a treaty which the government has expressed its intention to ratify.

Amnesty International has welcomed the move to enshrine the European Convention into national law as an important first step towards implementing the government's international obligations. The organization has urged the government to ensure that national laws and practice are consistent with international and regional human rights law and the full range of international and regional human rights standards. In addition to calling on the government to withdraw its reservations and derogation to human rights and humanitarian law treaties and to ratify other treaties including the Optional Protocol to the International Covenant on Civil and Political Rights and the two Additional Protocols to the 1949 Geneva Conventions, Amnesty International continues to call on the government to make Declarations under Articles 21 and 22 of the Convention against Torture.

Amnesty International has also called for the establishment of an independent Human Rights Commission to monitor respect for human rights, to investigate allegations of human rights violations and to ensure a prompt and effective remedy for violations of the rights which are incorporated into national law.²

b) Northern Ireland Multi-Party Agreement

In April 1998, the process of political talks culminated in the Multi-Party Agreement which was approved overwhelmingly in a referendum, both in Northern Ireland and in the Republic of Ireland, in May. The Agreement proposes establishment of three interconnected bodies: a Northern Ireland Assembly (which was elected in June); a North-South Ministerial Council; and a Council of the Isles consisting of representatives of the United Kingdom and Irish governments, and the Scottish, Welsh and Northern Ireland devolved institutions, as well as representatives of the Isle of Man and the Channel Islands. The Agreement also contains proposals to create mechanisms to promote and protect human rights, and commitments to review emergency legislation provisions. Some of the commitments, including the establishment of a Human Rights

²Amnesty International is not aware of any commitment by the government at this time to establish a Human Rights Commission for the United Kingdom or Great Britain. As described below, however, provisions of pending legislation establish a Human Rights Commission for Northern Ireland. In the context of debate about what mechanisms should exist to promote and protect human rights in the new Scottish parliament, Amnesty International is calling for the establishment of a human rights commission.

Commission for Northern Ireland, are being implemented in the United Kingdom through legislation, the Northern Ireland Bill, which is currently being considered by Parliament.

Amnesty International has welcomed the repeated commitment in the Agreement to respect for human rights and to establish mechanisms to promote and protect human rights. The organization urged the government to ensure that the commitments are put into practice, and that the human rights institutions and commissions of inquiry are effective.

While welcoming the introduction of provisions in the Northern Ireland Bill to establish a Human Rights Commission for Northern Ireland, the organization stressed that only a body which has the remit, powers and resources to initiate and carry out impartial and thorough investigations will be able to gain public confidence. Amnesty International is concerned that the draft, currently being considered by legislators, makes no provision for the Commission to initiate court proceedings or to undertake wide-ranging investigations into patterns of human rights abuses and does not give it powers to compel oral and other types of evidence in the course of investigations.

In July, Amnesty International urged the government to establish a wide-ranging commission of inquiry to examine the criminal justice system as a whole, with a view to providing an integrated framework for the necessary changes. Although the government has set up separate commissions to review policing, some aspects of the criminal justice system and an internal review into emergency legislation, Amnesty International is concerned about this piece-meal approach to change. This approach does not recognize that only a holistic approach to the inter-related components of the criminal justice system will be able to address the pattern of failure to bring perpetrators of human rights violations to justice. In order to move forward there must be systems guaranteeing that the patterns of impunity are assigned to the past.

Notwithstanding these significant measures, Amnesty International remains concerned that additional safeguards are needed to prevent deaths in custody and ill-treatment of people in police and prison custody such as the cases described below.

3. Deaths in custody

Amnesty International has monitored a number of cases of people who died in police custody or in prison. These include cases in which people died in custody from alleged ill-treatment or excessive use of force by law enforcement officials. A high proportion of these cases were people from black or ethnic minority communities. The cases described below illustrate concerns about the use of methods of restraint, including US-style batons and CS gas; and restraint techniques which have resulted in deaths caused by positional asphyxia.

Amnesty International is concerned that the authorities have failed to carry out independent and impartial investigations into the full circumstances of each death in custody; to make the results of investigations public; to bring to justice those alleged to be responsible; to provide reparation to the families of the deceased; to review restraint techniques; to ensure proper training and undertake other measures necessary to prevent such incidents in the future.

Sixty-eight people died in police custody in the year ending March 1998, according to a government spokesperson, eleven more than in the previous year. According to a report released in July 1998 by the government, about 380 people died after arrest by police between January 1990 and December 1996³. The report found that people in the custody of the Metropolitan Police (London) were seven times more likely to die than those arrested by other forces in England and Wales. Six percent of the deaths studied "may have been associated with police restraint". Thirteen percent of those who died were black, which exceeds the proportion of black people in the general population. The report recommended measures including: more frequent checks of detainees where their health or behaviour is of concern; medical training for custody staff; full completion of custody records and reports of deaths; better communication between officers, doctors and medics; and enhanced training on the dangers of restraint and position.

a) Deaths in Police Custody following use of US-style Batons

US-style batons were introduced for use by the Metropolitan Police in the United Kingdom in April 1995 reportedly as a response to an increase in injuries to officers. The 22-inch acrylic baton replaced the 16-inch wooden truncheon and is reportedly nearly twice as heavy.⁴

Brian Douglas, a 33-year-old Afro-Caribbean music and boxing promoter, was the first person to die after being struck on the head with the US-style baton after the car in which he and a friend were travelling was stopped by the police in London in May 1995. At the inquest, witnesses including his friend, who also suffered a broken wrist during the incident, testified that at the time he was struck Brian Douglas was walking backwards, posing no threat and had nothing in his hands. An officer who dealt a blow to

³ *Deaths in Police Custody: Learning the Lessons*, July 1998. According to the study, this represents an estimated 3.2 deaths per 100,000 arrests for notifiable offences. The single most common cause of death was deliberate self harm, which accounted for about 1/3 of the cases examined. Substance abuse and medical conditions accounted for about another half of the deaths.

⁴ *The Guardian*, 9 August 1996. These batons, in turn, are reportedly being replaced by another US-style baton.

his head testified that he had aimed a blow at Brian Douglas' arm because he was carrying a knife and a CS gas canister. After the blow to his head he slumped. He was transferred to a police station and placed in a cell for at least 12 hours before being transported to hospital. During this time he was reportedly examined four times by police doctors, who failed to notice his skull injuries. He died five days later in hospital as a result of massive brain haemorrhages.

The Director of Public Prosecutions decided not to bring any criminal charges against any officers in this case in April 1996, after reviewing the report of the investigation carried out by the Metropolitan Police Complaints Investigation Bureau, under the supervision of the Police Complaints Authority. The report of this investigation has not been made public. In August 1996, the inquest jury returned a verdict of death by misadventure. The jury was told that Brian Douglas suffered six hairline fractures of his skull, consistent with his being hit with a baton. The Coroner recommended further training of officers about "the specific dangers, the after-effects and potential signs and symptoms that can follow a baton blow to the head".

Gary Allsopp, aged 37, died in July 1995, after being allegedly hit on the head with a baton by police in Cardiff. He collapsed 20 minutes after his arrest and died shortly afterwards. The police post-mortem stated that he died of a heart attack. One police officer was charged with actual bodily harm in connection with the death of Gary Allsopp, and was acquitted in December 1996.

b) Deaths in Police Custody involving Positional Asphyxia

Amnesty International is concerned that there is a pattern of deaths in custody as a result of law enforcement officials' use of restraint techniques which has led to positional asphyxia. The organization has repeatedly urged the authorities to review all restraint techniques used by law enforcement officials, and to ensure regular and repeated training about the dangers of positional asphyxia and alternative methods of restraint.

Positional asphyxia, also known as restraint asphyxia, has been defined by the (US) National Law Enforcement Technology Centre "as death as a result of body position that interferes with breathing".⁵ According to experts, it arises from use of neck-holds which restrict breathing or when a person is laid on their stomach during restraint and/or transportation. This position

⁵"Positional Asphyxia - Sudden Death", National Law Enforcement Technology Centre, (a US national Institute of Justice Program), June 1995

compromises a person's ability to breathe. Handcuffing a person behind their back also restricts a person's ability to breathe.⁶ Any weight applied to the back in this position (such as pressure by a law enforcement officer, including an attempt to keep a person still) increases breathing difficulty further. A "natural reaction" to oxygen deficiency is increased physical struggle. In the face of such a struggle a law enforcement official is likely to apply additional pressure/compression to subdue the restrained person, yet further compromising the restrained person's ability to breathe. Factors which may increase dangers of positional asphyxia include: obesity; enlarged heart; alcohol and drug use or other things that impede the ability to breathe including, for example, the presence of chemical agents. Guidelines to minimize the risk of positional asphyxia include restraining a person other than laying them on their stomach and monitoring the restrained person's breathing and health.

In the cases described below positional asphyxia was a cause of death.

In November 1995 the inquest found that **Richard O'Brien**, an Irish man, had been "unlawfully killed" in 1994. He died of "postural asphyxia" after London police officers arrested him outside a pub where he was waiting for a taxi with his wife and teenaged son. Evidence presented to the inquest showed that he was not involved in the disturbance at the pub which led to the arrival of the police. Against evidence to the contrary, police testified that he was drunk and disorderly. After a police officer pushed him, he reportedly pushed the officer in the shoulder. He was then pushed to the ground and handcuffed behind the back. One of the officers then knelt on Richard O'Brien's back. Richard O'Brien's son testified that he heard his father plead with the officers to let him up saying "I can't breathe. You win!". When the son requested that police check on his father, both he and his mother were arrested and escorted to the police van where police subsequently dragged and deposited Richard O'Brien's limp body. Only after arriving at the police station did any of the officers try to treat or revive him. The inquest jury found that he died within 10 minutes of his arrest.

⁶A forensic pathologist reportedly testified, during the inquest into the death of Wayne Douglas, that placing a person face down on their stomach with their hands cuffed behind their back is the "classic" position for positional asphyxia.

Thirty-one separate areas of injury to Richard O'Brien's body were identified in the post-mortem examination, including extensive cuts and bruises to his face, a damaged tooth, fractured ribs and torn muscles. The police involved in restraining him, however, did not advance explanations of how his injuries occurred.⁷ The Coroner was critical of police training on methods of restraint.

No prosecutions have been brought against police officers involved in the death of **Shiji Lapite**, of Nigerian origin, who died within about 20 minutes after arrest in London in December 1994. A Coroner's full-jury inquest, held in January 1996, reached a unanimous verdict of "unlawful killing". Shiji Lapite had been arrested for "acting suspiciously". During the violent struggle to restrain Shiji Lapite, the two arresting officers twice kicked him in the head with great force, bit him and utilized a known-to-be-dangerous method of restraint: the neck-hold. Within minutes of being arrested, his body went limp and he was taken to hospital where he was pronounced dead. The pathologists' reports indicated that Shiji Lapite had suffered between 36 and 45 separate injuries to his body, in particular to his larynx which was crushed, and that he had died of asphyxiation. The inquest failed to identify why the dangers of the neck-hold, as set out in guidelines, had not been communicated to every police officer.

In the High Court in July 1997 lawyers acting for Shiji Lapite and Richard O'Brien challenged the decisions of the Director of Public Prosecutions (DPP) not to prosecute police officers involved in their deaths in custody. The DPP admitted flaws in the process of making decisions concerning prosecutions of police and agreed to review the decisions in these cases. Subsequently, the Attorney General removed the right of the DPP to decide independently whether to prosecute police in cases of deaths in custody; such decisions are now referred to a senior Treasury counsel. The Police Complaints Authority also stated that its handling of the Shiji Lapite case was "flawed" and that it would reinvestigate the case.

As a result of the DPP's review, three police officers were charged in February 1998 in connection with Richard O'Brien's death. The trial is scheduled to begin in November 1998. However, the decision not to bring prosecutions against police in connection with Shiji Lapite's death was confirmed in June 1998.

In addition, an independent inquiry was initiated in July 1997 to examine the handling by the Crown Prosecution Service of serious complaints against the police, including cases of death in custody. The inquiry, which was carried out by a retired judge, was to make recommendations for change. It is reported that the inquiry was completed

⁷ *United Kingdom: Unlawful Killing of Richard O'Brien* (AI Index: EUR 45/06/96).

and passed to the DPP for review in February 1998. Although it was stated that the inquiry's findings would be made public, to date this report has not been published. Amnesty International urges the government to publish this report.

Wayne Douglas, a 26-year-old black man, died within an hour after his arrest in December 1995. London police officers stated that "they had to protect themselves with long batons to disarm him [of a knife]". The initial police post-mortem stated that he died from heart disease. In November 1996, the inquest into the death of Wayne Douglas was told by eye-witnesses that a police officer knelt on Wayne Douglas' head while he was handcuffed and held face down on the ground by at least four other officers. There was also evidence that he was then put face down in the police van. The jury found that his death was accidentally caused by stress, exhaustion and positional asphyxia. The Coroner recommended that the police be trained on the dangers of positional asphyxia; tragically the same recommendation had already been made before Mr Douglas' death, in relation to the death of Richard O'Brien. In July 1998, the Court of Appeal refused to quash the inquest verdict, although it ruled that the Coroner had misdirected the jury on the definition of unlawful killing. The Appeal Court stated that to hold a new inquest would be expensive and most unlikely to produce a different result.

c) Positional Asphyxia and the Use of CS Gas

Ibrahima Sey, 29, a Gambian asylum-seeker, died on 16 March 1996 after he was taken into custody by police officers following a disturbance at his home in east London. Ibrahima Sey agreed to go to the police station if a friend was allowed to accompany him. Ibrahima Sey was not handcuffed and according to his friend was peaceful until they arrived at the station yard, where the police forcibly separated the two friends causing Ibrahima Sey to become very agitated. In October 1997 an inquest-jury ruled that Ibrahima Sey had been "unlawfully killed". The inquest-jury heard that Ibrahima Sey had been handcuffed, sprayed with CS gas in the face, and then held face down forcibly for about 15 minutes by several police officers. The officers called an ambulance after Ibrahima Sey failed to respond, but when it arrived some minutes later the attendant found that he was still lying face down handcuffed behind his back. He was pronounced dead at the hospital.

The use of CS-spray when restraining Ibrahima Sey is contrary to Association of Chief Police Officers (ACPO) Guidelines which reportedly state that officers should use the spray "primarily for self-defence" and "primarily for dealing with violent subjects who cannot otherwise be restrained". However, the inquest heard evidence that at the time the spray was squirted in his face, at least five officers were attempting to restrain Ibrahima Sey; his arms were handcuffed behind his back; and several officers suffered from the effects of the spray and were replaced by other officers. The ACPO Guidelines on CS sprays also instruct that people must not be left prone in a face down position and

that they must be carefully monitored until the effects of the gas have worn off, but Ibrahim Sey was left lying face down for about 15 minutes.

The Coroner recommended an urgent review of police use of CS gas and warned chief constables of "grave public concerns" about methods of restraint and the dangers of positional asphyxia. Following the verdict, the case was referred back to the Crown Prosecution Service for reconsideration of its decision not to bring prosecutions against any of the police involved in restraining Ibrahim Sey. In October 1998, the Crown Prosecution Service announced that no prosecutions would be brought against police officers in connection with the death of Ibrahim Sey.

Amnesty International is concerned about the risks of using CS sprays. There have been a number of reported cases where the sprays have caused substantial damage. They cause streaming eyes and nose, eyelids spasm, breathing difficulties for 3 - 15 minutes and in some cases blistering to the skin, and even second-degree burns. CS spray could also cause permanent lung damage at comparatively low doses. There is a risk of death for people with asthma or who are taking other drugs or who are restrained in a way which affects breathing. Training trials involving about 2000 officers in Britain began in March 1996. Trials were temporarily suspended after an officer reportedly suffered 50 percent burns to the cornea of one eye, 40 percent to the other and burns to his forehead. Following the inquest verdict in the case of Ibrahim Sey, Scotland Yard reportedly examined the use of CS gas. Reports in 1998 indicate that the authorities may be considering alternatives. A review of training on the use of CS gas was reported to be contemplated at the end of October 1998 after a London officer in his 40's was taken to the hospital feeling unwell during a CS spray training session. At the hospital he suffered a heart attack.

d) Political Killings

Amnesty International is concerned about cases of political killings and inquest procedures which have impeded the discovery of the full circumstances in such killings, particularly in Northern Ireland.

i) The Killing of Diarmuid O'Neill

Amnesty International has called for an independent inquiry into the shooting of **Diarmuid O'Neill**. Diarmuid O'Neill, an Irish Republican Army (IRA) member, was shot dead by police in London in September 1996. Initial statements that he was killed during a shoot-out proved false, since he was unarmed. Questions were raised about why Diarmuid O'Neill had been shot after CS gas had been sprayed into his room. During the trial of people who were arrested when O'Neill was killed, it emerged that there had been a tape-recording of the police raid on the house. The tape recording contradicted oral evidence given by the police officers involved and raised serious questions about the circumstances in which Diarmuid O'Neill was killed instead of being arrested. The Police

Complaints Authority report, due to be completed in August 1998, has not been published.

ii) Inquests in Northern Ireland

Amnesty International believes that the government is failing its international obligations to ensure that all killings and deaths which take place in disputed circumstances are investigated independently, thoroughly and impartially.

Inquests in England and Wales are hampered by the authorities' refusal to give witness and police or prison officers' statements to the deceased's family's lawyer before the start of the inquest and by the lack of legal aid.

However, inquests held in Northern Ireland fail to examine the full circumstances of such deaths because of additional legal restrictions and judicial interpretation of the rules. In a number of inquests into deaths caused by security forces, none of the security force members involved in the killings gave oral evidence and the government issued Public Interest Immunity certificates to prevent the disclosure of crucial evidence. Inquests in other cases in which the actions of the RUC have been called into question have also failed to examine serious allegations of police misconduct.

Pearse Jordan was an unarmed IRA member who was shot dead in 1992 by the RUC after two unmarked police vehicles forced his car off the road. A High Court judge ruled in January 1996 that the Coroner's decision to allow police officers (not directly involved in the killing) to give evidence anonymously and his refusal to allow family counsel access to witness statements at the outset of the inquest represented a proper exercise of his discretion.

The inquest into the death of **Liam Thompson** was postponed indefinitely in January 1996 after the Chief Constable of the RUC blocked crucial RUC and civil service witnesses from appearing. Eye-witnesses claimed that Liam Thompson was killed in 1994 by Loyalist paramilitaries after they entered the street through a breach in a security wall and that the authorities had not responded to pleas to repair the breach.

The inquest, held in June 1996, into the killing of **Patrick Shanaghan** by Loyalist paramilitaries in 1991, exposed the inadequacies of the procedure. It was beyond the scope of the inquest to examine the police investigation of the incident and the RUC Chief Constable was successful in blocking evidence concerning allegations that while Patrick Shanaghan was held at Castlereagh interrogation centre, his life was threatened by police interviewers who said his name would be leaked to Loyalist paramilitaries.

e) Deaths in Custody in Prisons

Amnesty International has a number of concerns about deaths of people in resulting from excessive use of force, including:

- the use of restraint techniques which contribute to positional asphyxia;
- the prisons' investigations into prison deaths are internal and not supervised by the Prisons Ombudsman;
- the reports of the findings of such investigations are not made public;
- as inquests are for the purpose of establishing the medical cause of death, the full circumstances of a death in custody are often not brought to light for the family of the deceased or the public;
- prosecutions are rarely brought for the use of unauthorized restraint methods or for assaults.

The cases described below are illustrative of the organization's concerns.

Dennis Stevens was found dead in October 1995 in a segregation cell in Dartmoor Prison in England after being kept in a restraining body-belt for many hours. In December 1997, an inquest jury ruled that Dennis Stevens' death had been accidental. Evidence at the inquest revealed that he had been restrained by five prison officers, handcuffed and held face down for 15 minutes before being put in a body-belt and left in a segregated cell. He was found dead the next morning. The cause of death was kidney failure: the method of restraint led to a lack of oxygen which then broke down his muscle cells and led to the polluting of his blood, which then resulted in kidney failure. The inquest jury was not given the option of returning a verdict of unlawful killing, apparently because there was doubt about when exactly the fatal injury occurred.

The January 1997 inquest into the death of **Kenneth Severin**, a 25-year-old Afro-Caribbean man with a history of sporadic mental illness, returned an "open verdict" on the reason for his death. He died while being held on remand in Belmarsh Prison in England in November 1995. The post-mortem stated that the most likely cause of death was asphyxia due to the position in which he was restrained. The jury was told that he died shortly after a struggle with at least four prison officers while being transferred from the hospital unit to a "strip" cell. The prison officers denied applying a neck-hold, or placing their knees on his back, or kicking and punching him. They could not account for the bruises to his upper back and neck.

Alton Manning, a 33-year-old black remand prisoner, died in December 1995 after a struggle with officers in Blakenhurst Prison in England. In March 1998 an inquest jury ruled that Alton Manning had been unlawfully killed after prison officers restrained him in a neck-lock, leading to positional asphyxia, during a violent struggle. After the inquest, seven officers were suspended at Blakenhurst prison, which is run by the private company UK Detention Services. The findings of the inquest were referred to the Crown Prosecution Service for further consideration. As of November 1998, a decision was still pending.

On 30 March 1996 **Jim McDonnell**, aged 36, died in Maghaberry Prison in Northern Ireland. He had asked to share a cell with his brother, Liam, because their father had died the previous night. After his request was refused, a fracas ensued, and he was transferred to the punishment wing of the prison. He was found dead in the cell. A post-mortem found that he died of a heart attack. He also sustained serious injuries including 11 broken ribs, a fractured sternum and a torn cartilage in his neck. The family was told that the injuries had been caused by attempts to resuscitate him. In May 1997 the DPP decided not to prosecute members of the prison staff. The inquest is still pending.

4. Conditions in Prisons amounting to cruel, inhuman or degrading punishment

Amnesty International is concerned that conditions in some prisons and some prison regimes in the United Kingdom may amount to cruel, inhuman or degrading treatment. The Chief Inspector of Prisons regularly publishes reports of inspections of . Many of the reports which have been published since the Committee's last examination raise concerns about conditions in and some reports have been critical of the conditions in which women, children and refugees are held.

a) Category A Prisoners

Amnesty International is concerned about the regime for remand and convicted prisoners who have been classified as Category A. They are so categorized if their escape is considered as highly dangerous to the public or police or to the security of the state. There are three sub-categories of Category A prisoners: standard risk; high risk; and exceptional risk (of escape). While under national prison rules it is possible for standard and high risk Category A prisoners to associate with other prisoners and to have access to a range of educational, exercise and sports programs and "open" visits, Amnesty International has been informed that they are often denied these basic rights which are recognized under international standards. The organization has received allegations from Category A prisoners, particularly those on remand, that they are locked up in cells for most of the day and that they do not get adequate access to exercise, daylight, educational and work opportunities, and medical attention. Some have developed serious

psychological problems as a result of the conditions of their imprisonment and these problems have also impaired their ability to prepare their defence.

b) Róisín McAliskey

Amnesty International expressed concern about the regime under which Róisín McAliskey was held. She was classified as "Category A high risk" while detained on an extradition warrant.

Róisín McAliskey, who was arrested in November 1996 -- while four months' pregnant -- on an extradition warrant, was detained in total isolation in a men's prison for six days before being transferred to a women's prison, Holloway Prison. She was detained as a "Category A high risk prisoner" in Holloway Prison, a prison which did not have facilities for Category A prisoners. She was subjected to frequent strip-searches, "closed visits" and severe restrictions throughout her pregnancy on her rights to associate with other prisoners, to receive Irish press, and to exercise. Amnesty International considers that she was detained in conditions which constituted cruel, inhuman or degrading treatment. It was only through international protest that some of the restrictions were eased towards the end of her pregnancy, and she gave birth on 26 May in a civilian hospital. Amnesty International published a document in April 1997 entitled : *United Kingdom: Cruel, inhuman or degrading treatment: Detention of Róisín McAliskey* (AI Index: EUR 45/08/97). She remained on bail in a hospital until the government refused the extradition warrant in March 1998 on medical grounds.

c) Special Security Units and High Security Units

Amnesty International published a document in March 1997, entitled *United Kingdom: Special Security Units: Cruel, Inhuman or Degrading Treatment* (AI Index: EUR 45/06/97). This document expresses concern that **Special Security Units** (SSUs), in which people on remand or already convicted who have been classified as "exceptional escape risk Category A prisoners" are held, constitute cruel, inhuman or degrading treatment and deny remand prisoners their right to a fair trial in violation of the United Kingdom's obligations under international treaties.

The Special Security Units are "prisons within prisons". In 1997 SSUs were in operation in three in England: SSUs Whitemoor Prison and Full Sutton Prison held convicted prisoners and Belmarsh was for remand prisoners. In mid-1995 there were 15 prisoners held in SSUs; in mid-1996 there were 18; and in February 1997 there were approximately 25. About half of such prisoners are Irish. Prisoners are not provided with an explanation as to why they are considered more of an escape risk than other prisoners, and thus transferred to an SSU. They are not able to challenge the decision to place them

in an SSU, nor do they know for how long they will be held in such units. The average length of stay was about five years, though in some cases it was up to 10 years.

Prisoners held in SSUs are kept in units containing up to 10 prisoners, but often there are only five or six prisoners. Prisoners' association time is limited to interaction with only these prisoners, thus they are held in small-group isolation which Amnesty International believes to be cruel, inhuman and degrading treatment. Prisoners are not allowed to leave the Units except to go to court or hospital. They are not allowed to participate in any regular prison activities; they cannot go to the library, the main gym, sports fields or the prison chapel. Access to education, useful activity and work facilities is extremely limited within these units. The very limited physical confines of the units, particularly at Full Sutton and Belmarsh Prisons were described as "claustrophobic" and "cramped" by a former Chief Medical Officer. The conditions impeded prisoners' distance vision, led to a deterioration in prisoners' eyesight and to headaches. There was only limited natural light in the units in Full Sutton and Belmarsh.

Amnesty International expressed concern that all visits of Category A prisoners held in SSUs are "closed", meaning that the prisoner is separated from his or her visitor by a solid transparent barrier and communication is via telephone or through a grill. Such visits take place in the sight and hearing of a prison officer. Lawyers informed Amnesty International that the imposition of closed legal visits severely hampered their ability to communicate with their clients and to prepare their clients' defence in an effective and constructive way. Expert psychiatric opinion was that closed visits also cause difficulties in maintaining long-term relationships with family members, in particular because the deprivation of physical contact is compounded by lack of privacy. Notwithstanding the "closed" nature of these visits and the impossibility of any physical contact between the prisoner and visitor SSU prisoners were subjected to metal-detecting searches and then strip-searches before and after every visit.

In response to medical reports obtained by lawyers acting for some people held in SSUs which showed that the regime can adversely affect a prisoner's mental and physical health, the Director General of the Prisoner Service commissioned an inquiry. The inquiry, headed by Sir Donald Acheson also found that the regime, if sustained for several years, is likely to lead to significant adverse effects on mental health.

In the face of these and additional psychiatric reports, in the summer of 1997 the government withdrew prisoners from the SSUs. However, according to information received by Amnesty International, people continue to be held in the unit within Belmarsh Prison where the SSU was formerly located. Now called a **High Security Unit (HSU)**, "high escape risk prisoners" held there have reported that except for being allowed "open visits", their conditions remained absolutely the same as conditions in SSUs. Most of the

essential elements of the SSU regime, such as small-group isolation and sensory deprivation - which have led to mental and physical deterioration of prisoners - remain.

Amnesty International continues to urge the government to find an alternative to small-group isolation and to carry out a review of the "security" measures implemented within the British prison regime, and to make changes necessary to ensure that such measures do not amount to cruel, inhuman or degrading treatment of prisoners.

5. Ill-treatment in Prisons

Amnesty International continues to receive reports of ill-treatment in prisons in the United Kingdom. The reports include allegations by individuals as well as allegations of patterns described below.

a) Stafford Prison

In May 1998, two police inquiries were initiated into allegations that prison officers in Stafford Prison sexually assaulted a male inmate and physically attacked two other prisoners. Up to 19 Stafford Prison officers were accused of taking part in the assaults.

b) Wormwood Scrubs Prison

Amnesty International was concerned about evidence which emerged in March 1998 of wide-ranging abuse of prisoners by prison officers at HMP Wormwood Scrubs (London), particularly but not only in the Segregation Unit. There was indication that the incidents of abuse were not just isolated occurrences, but rather that there was a pattern, spanning several years, of systematic abuse by prison officers.

Accounts reportedly described systematic low level physical and verbal abuse of inmates almost on a daily basis in the Segregation Unit. In addition, certain prisoners were targeted for repeated and vicious physical assaults, because of either the nature of their convictions, or their ethnicity or their perceived "attitude".

The allegations in some cases included repeated acts of torture as well as serious ill-treatment and assaults, especially in the Segregation Unit. Prisoners alleged that they were assaulted during "squat" searches; frequently beaten or kicked; hosed down using a high pressure hose with cold water; locked naked in the shower room for hours; humiliatingly strip-searched; subjected to humiliating verbal abuse and racist abuse; and repeatedly slapped. Prisoners alleged that when they did make complaints, they did not receive replies or prison officers filed counter-charges.

On 16 March 1998 lawyers submitted a dossier to the Chief Inspector of Prisons. Thereafter, the Prison Service instituted an internal inquiry. On 31 March a police criminal investigation was launched, and eight prison officers and one governor were suspended from duty.

Amnesty International urged the government to establish a wide-ranging and independent inquiry into the abuses in Wormwood Scrubs Prison, in order to examine what caused the failure of the existing mechanisms and complaints procedures to detect and deal with systematic abuse. The organization urged that inquiry to examine:

- the roles of all the bodies who receive and deal with complaints: namely, the governors, the prison doctors, the Board of Visitors, the prison Chaplains, educational personnel, and any other body or organization that may have received complaints.
- the reasons why the Prison Service allowed the situation in the prison to deteriorate over the years, despite warnings from various bodies during that time.
- the role of the **Prisons Ombudsman** in relation to complaints of abuse and consider giving the Ombudsman greater powers to carry out investigations of individual cases as well as powers to initiate and carry out in-depth investigations when there is evidence of a pattern of abuse.⁸

Amnesty International considers that such an inquiry is vital in order that the necessary lessons can be drawn, and in order that recommendations can be made to ensure that future complaints of torture and ill-treatment are dealt with effectively not only in Wormwood Scrubs but also in other prisons.

6. Torture and ill-treatment by law enforcement officials

⁸ The Prison Ombudsman is appointed by the Home Secretary and is mandated to investigate complaints of individual prisoners, provided that the prisoner has previously sought redress through the Prison Service complaint service. The mandate extends to reviewing decisions made by Prison Service staff and agents as well as others working in a prison, with the exclusion of decisions involving the clinical judgment of doctors. The Ombudsman may visit establishments only after making arrangements with the Prison Governor or staff. His recommendations are made to the Director General of the Prison Service or the Home Secretary and the Prison Service is to reply to recommendations within 6 weeks. The mandate does not allow the Ombudsman to investigate patterns or to initiate investigations without a complaint. The Ombudsman, himself, expressed concern that he may not investigate cases of deaths in prison custody on complaints made by the prisoner's family as he is restricted to examining only prisoners' complaints. Other than making an annual report to the government (excluding confidential details) the Ombudsman may not publish other reports, including digests of cases.

a) Allegations of Ill-Treatment by Police in England

Amnesty International continues to receive reports of physical ill-treatment by the police. Many of the cases reported to Amnesty International were of people who came from black or ethnic minority communities. Some of these victims reported that in addition to ill-treatment, they were subjected to verbal racist abuse.

On 21 February 1996 **Amer Rafiq**, a waiter and part-time student, was allegedly ill-treated by Greater Manchester Police while he was being taken by van to the police station following arrest for public disorder. He sustained a severe eye injury, was taken to hospital, but surgeons, who were unable to save his right eye, had to remove it. In September 1996 a decision was taken not to bring any prosecution against the officers involved in his arrest. The police inquiry, supervised by the Police Complaints Authority (PCA), said that there was no evidence to support claims that he had been assaulted by police. The PCA recommended that two officers should face disciplinary charges of neglect of duty towards a prisoner in custody.

High levels of damages were awarded by the courts against the Metropolitan police (London) to victims of assault by trial courts.

In March 1996 **Kenneth Hsu** was awarded £220,000 after the jury decided he had been punched and kicked, racially abused and wrongfully detained.

Daniel Goswell was awarded a record high of £302,000 in damages after a court heard that he had been hit on the head by a truncheon while handcuffed. The policeman who attacked Goswell was dismissed by the Police Commissioner but later reinstated by the Home Secretary.

In June 1996, **Terry Brownbill** was awarded £150,000 damages; he was beaten after arrest, then falsely charged with assaulting two police sergeants.

In the same month two Kurdish political refugees, **Haci Bozkurt and Baki Ates**, won £150,000 damages after being kicked and punched and dragged into a police van.

In the aftermath of these and other judgments against them, the Metropolitan police appealed against the level of damages in a number of cases. In February 1997 the Court of Appeal ruled that the amount of such an award should be to compensate the victim not to punish the police and the Court placed a cap of £50,000 on future awards of damages. Among others the Court of Appeal significantly reduced the damage awards to Kenneth Hsu (to £35,000) and to Daniel Goswell (to £47,600).

b) Torture and Ill-Treatment by Law Enforcement Officials in Northern Ireland

Although the numbers of cases of alleged ill-treatment by the security forces in Northern Ireland have decreased since the peace process began in 1994, Amnesty International continues to receive reports of ill-treatment. As further detailed below, the organization believes that, among other things, some provisions of emergency legislation and the absence of essential safeguards facilitate ill-treatment. The organization also believes that the failure to investigate independently and impartially such allegations and to bring prosecutions for assault contributes to a belief that there is impunity in the face of human rights violations.

i) David Adams

Amnesty International believes that the ill-treatment of David Adams highlights the abuse that can occur due to the absence of essential safeguards for suspects detained under emergency legislation in Northern Ireland as well as concerns about impunity.

In February 1998 the High Court in Belfast awarded **David Adams** £30,000 compensation for the ill-treatment he suffered at the hands of the police during his arrest on 10 February 1994 and in the Scenes of Crime room at Castlereagh holding centre. The ill-treatment was accompanied by sectarian verbal abuse. As described in *United Kingdom: Ill-Treatment of David Adams in Northern Ireland*, (AI Index: EUR 45/10/98), the injuries he sustained from the ill-treatment included fractured ribs, a punctured lung, wounds to the back of his head requiring stitches, eye injury, and cuts and bruising to his face and body. In addition his leg was broken by police who repeatedly took running jumps at it while he was confined in the Scenes of Crime room. The Court concluded that "at least most of the injuries suffered by David Adams were more likely to be the result of direct, deliberate blows". The judge also stated that he questioned the truth and accuracy of evidence offered by members of the police, who denied that David Adams had been assaulted or verbally abused.

Amnesty International has welcomed the fact that the Independent Commission for Police Complaints for Northern Ireland (ICPC) appointed two Scottish police officers to conduct an investigation not only into the ill-treatment of David Adams but also into any issues alluded to in the High Court judgment, including any criminal or disciplinary offences. The investigation is still pending. However, the organization remains concerned that, more than four years after this incident, no police officer has yet been brought to justice. The organization believes that such failure raises serious questions about the accountability of the police and about decisions taken by prosecuting authorities, and contributes to a belief that there is impunity in the face of human rights violations.

ii) Ill-treatment by members of the SAS

Amnesty International was concerned about allegations that five of seven men arrested in and around Crossmaglen on 10 April 1997 were ill-treated by undercover soldiers, possibly members of the Special Air Service (SAS). **Bernard McGinn** alleged that he was beaten repeatedly and then kicked when he was both in an upright and in a kneeling position. His injuries were so bad that he was taken by police to Craigavon hospital where he was treated for many injuries including to both temples, his nose, mouth, both eyes, the right ear which required stitching, the back of the head which required staples, his right shoulder and right arm, lower back, knees and legs. **Miceál Caraher** claimed that he was repeatedly kicked and abused, and that a weapon was placed to his mouth. He was also taken to Craigavon hospital for treatment of his ribs and his hand. More than one and half years after these incidents, the status of a police investigation remains unknown.

iii) Missing Evidence in a Case of Alleged Ill-Treatment

It has been reported that crucial video evidence, central to an investigation by the RUC into an alleged RUC assault on a young Derry man in December 1997, has gone missing. The burnt-in time code on video footage taken from an RUC Land Rover is believed to indicate that several minutes -- during which the man allegedly received serious head injuries -- are missing.

iv) Ill-Treatment and Plastic Bullets in Marching Season

Royal Ulster Constabulary (RUC) conduct during the "parade" season of July and August 1996 in Northern Ireland led to claims of uneven-handed policing and human rights violations by the police. People were allegedly ill-treated, beaten, and seriously injured by the large number of plastic bullets fired. Police investigated the death of **Denis McShane** who was run over by a police vehicle.

Amnesty International sent an observer to monitor the policing of some of the summer parades in Northern Ireland in 1997 and 1998. During the 1997 summer parades, the security forces fired a large number of plastic bullets, including about 2,500 bullets within one week, sometimes indiscriminately, at protesters. Fourteen-year-old **Gary Lawlor** was in a coma for days after being hit by a plastic bullet in West Belfast and 13-year-old **Maire Walsh**, who was standing next to him, was injured in the mouth. It was also reported that the security forces beat and kicked peaceful protesters, resulting in many injuries. 200 civil actions were lodged concerning the security forces' conduct in Garvaghy Road, Portadown.

Tensions between members of the Protestant Community and the RUC escalated when the newly formed Parades Commission banned the July 1998 Order procession along the Garvaghy Road in Portadown. While the Amnesty International observer noted that, in general, the police exercised restraint during the subsequent stand-off, the observer considered that plastic bullets were discharged on a number of occasions in situations in which the police and army were not in imminent danger. Although limited in number, serious injuries were sustained. In at least two cases observed, the observer concluded that the injured were people who were not participating in the disturbances.

Amnesty International notes that concerns about the use of plastic bullets have led human rights organizations to call for a ban on their use. These concerns include: deaths and serious injuries caused; their potential to escalate rather than defuse public disorder; guidelines for use and required advance warnings in Northern Ireland which differ from those in the rest of the United Kingdom.

7. State of Emergency in Northern Ireland

Despite recommendations from numerous bodies including the Committee against Torture and the significant developments which have been made in the last few years, many of the measures undertaken in response to political violence in Northern Ireland, which have facilitated human rights violations, remain intact thus perpetuating aspects of a state of emergency.

a) Emergency Legislation

Both the NI Emergency Provisions Act and the Prevention of Terrorism Act (PTA) have been renewed, despite the Committee against Torture's recommendation in 1995 to repeal these laws. In fact, additional emergency powers have been added.

In April 1996 further amendments to the PTA were rushed through giving police in England sweeping powers to stop and search people in the streets. Refusal to cooperate could lead to a six-month jail sentence.

Again in August 1998, in the wake of a bomb-blast in Omagh which caused the deaths of 29 people, the government rushed to draft and support the enactment of further emergency powers which even it called "draconian". The Criminal Justice (Terrorism and Conspiracy) Act 1998, which was adopted in September 1998, relaxes rules of evidence to facilitate convictions for membership of proscribed organizations by allowing the opinion of a senior police officer to form the basis for prosecutions on such a charge. Amnesty International joined other human rights organizations in expressing concern that these provisions infringed the rights to be presumed innocent until proven guilty beyond

a reasonable doubt. The Act also allows inferences of guilt, drawn from a suspect's silence in the face of questioning about membership, to be used to corroborate the senior officer's opinion. The organizations are concerned that this further violates the prohibition of compelling people to testify against themselves and impermissibly shifts the burden of proof onto the accused. In addition, the provisions of the Act which create a new offence of conspiracy to commit offences outside the United Kingdom raise concern about infringement of rights of freedom of expression and association.

b) Seven-Day Detention Powers

The government is maintaining the derogation to provisions of the International Covenant on Civil and Political Rights and the European Convention in order to allow seven-day detention powers which are still being exercised under emergency provisions.

c) Interrogation Centres, ill-treatment of detainees and harassment, hindrance and intimidation of lawyers

Notwithstanding the previous recommendation of the Committee, the three holding centres -- to which people arrested under emergency law in Northern Ireland are taken after arrest -- remain open, though only Castlereagh and Gough Barracks have been used recently.

Although the numbers of complaints of ill-treatment by police in interrogation centres have decreased, in 1995 there were 80 formal complaints of assault lodged against the interrogating officers out of a total of 191 cases of complaint and in 1996 there were 26 out of a total of 85 cases. Amnesty International continues to receive complaints of verbal and psychological abuse and threats of violence, as well as complaints that detectives made comments, including death threats, about the suspects' lawyers which amount to harassment and intimidation.

A lawyer who had reportedly been the subject of such threats by police, was criminal defence and civil rights specialist **Patrick Finucane**. He was killed in February 1989 by a Loyalist armed group, the Ulster Defence Association/Ulster Freedom Fighters. Their assertion that Patrick Finucane had been an "IRA member" was refuted by the police. The internal inquiries carried out by a senior police officer, John Stevens, have not allayed concerns of official involvement in the killing of Patrick Finucane. The UN Special Rapporteur on the independence of judges and lawyers urged the government in April 1998 to initiate a judicial inquiry into the killing of Patrick Finucane. Amnesty International is concerned that the government has rejected this recommendation of the Special Rapporteur, as it believes that the killing of Patrick Finucane raises serious matters of urgent public importance. Indeed, the refusal by the government to institute a judicial inquiry contributes to the suspicion of an official cover-up. Many questions

remain unanswered, especially in relation to the role played by military and police intelligence.

Concerns that police officers routinely engaged in "activities which constitute intimidation, harassment and hindrance of lawyers" were among the conclusions of the UN Special Rapporteur on the independence of judges and lawyers in his report which was published in April 1998.⁹

Amnesty International is concerned that there continue to be inadequate safeguards for the protection of suspects detained in these special centres and urges that these centres be closed down. Amnesty International calls for an independent judiciary inquiry into the killing of Patrick Finucane and urges the authorities to investigate independently allegations of police harassment of lawyers.

d) Recording of Interrogations

Though delayed, provisions have been made for silent video-recording of police interviews with people arrested under emergency legislation, but audio-recording, which is provided for under the recently enacted Emergency Provisions Act, has not yet begun.

e) Access of Detainees to Lawyers

Despite recommendations from several bodies, including from the Committee, a person's right of access to their lawyer may still be deferred and, notwithstanding a judgment of the European Court, detainees are still not permitted to have counsel present when being interviewed.

In 1996, the European Court of Human Rights decided that John Murray was wrongfully denied access to a lawyer at Castlereagh interrogation centre in Northern Ireland. The Court said that deferral of access to counsel for 48 hours after his arrest violated his right to a fair trial, particularly in view of the fact that during this time he had to decide whether to exercise his right to remain silent when questioned by police. The government has still not changed the rules in order to comply with the Court ruling.

Most recently, the UN Special Rapporteur on the independence of judges and lawyers also recommended that a detainee's right to immediate access to legal counsel should be respected and that the emergency power of deferral of legal access for 48 hours should be prohibited. He stated:

⁹Report on the mission of the Special Rapporteur to the United Kingdom of Great Britain and Northern Ireland, 5 March 1998, UN Doc: E/CN.4/1998/39/Add.4, at para 90.

"In the view of the Special Rapporteur, it is desirable to have the presence of an attorney during police interrogations as an important safeguard to protect the rights of the accused. The absence of legal counsel gives rise to the potential for abuse, particularly in a state of emergency where more serious criminal acts are involved. In the case at hand, the harsh conditions found in the holding centres of Northern Ireland and the pressure exerted to extract confessions further dictate the presence of a solicitor is imperative".¹⁰

f) Diplock Courts

"Diplock Courts" are single-judge, jury-less courts which were established only in Northern Ireland under emergency legislation in 1973 to try serious offences linked to alleged terrorist activities. A number of people who have been convicted in these courts have been victims of miscarriages of justice. Amnesty International considers that lower standards for the admissibility of confession evidence, lack of full disclosure by the prosecution to the defence of crucial evidence and the curtailment of the right of silence have resulted in unfair trials.

The UN Special Rapporteur on the independence of judges and lawyers recommended abolition of the lower standards of admitting confession evidence set out in emergency legislation. He also stated that the "restoration of the jury system, which has been a culture within the criminal justice system in England would help restore public confidence in the administration of justice".¹¹

8. Discriminatory policing

¹⁰Report on the mission of the Special Rapporteur to the United Kingdom of Great Britain and Northern Ireland, 5 March 1998, UN Doc: E/CN.4/1998/39/Add.4, at para 47.

¹¹ Report on the mission of the Special Rapporteur to the United Kingdom of Great Britain and Northern Ireland, 5 March 1998, UN Doc: E/CN.4/1998/39/Add.4, at para. 83

As noted in *Human Rights on Duty: Principles for better policing - International lessons for Northern Ireland*¹², Lord Scarman argued that "the success of policing operations depends in the last resort not on questions of technique or professional expertise, but upon the degree of confidence felt by society in its police." The authors go on to say that while policing by consent is the goal of every police force that they studied, this can only take place if those being policed believe that policing is being carried out impartially and on behalf of the whole community, rather than on behalf of particular groups within it.

Allegations have been raised that police in Great Britain and in Northern Ireland are not carrying out their duties to protect all people in the communities they serve in an even-handed manner. The pending Independent Commission on Policing in Northern Ireland and the public judicial inquiry launched in connection with Stephen Lawrence's case are inquiring into such issues.

a) Northern Ireland

There is a widely shared perception among some sectors of the community in Northern Ireland that police, the overwhelming majority of whom are Protestant men¹³, are partisan. Indeed, in the course of a discussion with the UN Special Rapporteur on the independence of judges and lawyers the Chief Constable of the RUC acknowledged this perception. When discussing allegations of police intimidation and harassment of solicitors, he stated that there is a "political divide in Northern Ireland and part of the political agenda is to portray the RUC as part of the Unionist tradition". Claims of uneven policing have arisen in recent years in the context of the policing of the parades in July and August 1996 (see above Part 7(b)(iv)) and in the context of individual cases. The cases described below are illustrative examples of the types of allegations that Amnesty International receives to support the claim that policing in Northern Ireland has not been carried out in an even-handed manner.

i) Robert Hamill

¹² By Mary O'Rawe and Dr Linda Moore, published by the Committee on the Administration of Justice, 1997.

¹³ The RUC had only about 10.5 % regular female officers and 7.5% Catholic officers.

Robert Hamill, a Catholic man aged 25 and father of two, died on 8 May 1997 after a severe beating by a large crowd of Protestants in Portadown on 27 April 1997. Family members who were with him claimed that RUC officers, who were sitting in a parked police vehicle at the scene of the beating, did not intervene to protect Robert Hamill and the others. No arrests were made for 11 days while Robert Hamill lay in a coma. After his death, six men were arrested and charged in connection with his death. Subsequently five were released without charge; charges are still pending against one man.

ii) Colin Duffy

Amnesty International wrote to the government on several occasions to express concern about the treatment by police of **Colin Duffy**. Colin Duffy claimed that he had been the victim of systematic harassment by the security forces since his conviction for murder was quashed by the Court of Appeal in September 1996. He was subsequently detained in June 1997 on different charges (murder of two policemen) for more than three months, despite the existence of detailed alibi evidence. In November 1997 he was charged with grievous bodily harm of a police officer after an incident in which he and other witnesses stated that he and other people were ill-treated by the police.

In March 1998, when posters with Colin Duffy's picture labelling him as a "Republican terrorist" were mounted on streets in Portadown, Northern Ireland, Amnesty International urged the government to take whatever steps necessary to ensure that Colin Duffy was afforded protection from injury and attempts on his life. The organization considered that these posters represented direct threats to his safety. At the same time newspaper articles were published which implicated Colin Duffy in serious terrorist crime. As at least one of these articles quoted "a security source", the organization called on the government to investigate whether any member of the security forces had provided the information to the media in either official or unofficial briefings.

b) Great Britain

There is also a widely shared perception among some sectors of the population in Great Britain that police are racist and that this racism is reflected in the carrying out of policing functions. The investigations by the police into the murders of black and Asian men described below reflect these concerns.

i) Inquiry into police investigation of racist murder of Stephen Lawrence

A judicial inquiry, which was set up by the Home Secretary to investigate the police investigation into a racist killing, began in March 1998. Eighteen-year-old **Stephen Lawrence** had been stabbed to death by a group of white youths in an unprovoked racist attack in south London in April 1993. To date no one has been convicted for involvement in his murder. The police failed to collect sufficient evidence at an early stage in order to bring successful prosecutions. After the prosecution authorities dropped murder charges against five young men, the family of Stephen Lawrence attempted to bring private prosecutions, but were unsuccessful.

The inquiry was set up by Home Secretary Jack Straw after a sustained campaign by Stephen Lawrence's parents and supporters. It was led by Sir William MacPherson of Cluny, a retired judge. The first part of the inquiry, which took evidence about the murder of Stephen Lawrence and the police investigation into it, finished in July 1998. The inquiry heard detailed evidence of the failure by police officers to carry out a prompt, impartial and thorough investigation into all the available evidence. The inquiry examined allegations of racism, corruption and cover-up in connection with the police investigation. In the second part of the inquiry, which began in September 1998, the inquiry visited various cities and received representations, including from authorities and community groups, on proposals for change arising from Stephen Lawrence's racist murder and the subsequent police investigation. During the inquiry the Commissioner of the London police (the Metropolitan Police) stated that he did not believe that there was institutional racism in the Metropolitan Police, although he subsequently reportedly stated that racists make up more than a tiny minority in the force. In various other cities in England, however, senior police officers acknowledged institutional racism within their forces. The report of the inquiry is due in 1999 and is expected to have a profound impact on policing.

ii) Inquiry into Police Investigation of the Death of Michael Menson

In September 1998 an inquest into the death of **Michael Menson**, a 30-year-old black musician, found that he had been unlawfully killed and that he died after being set alight by white youths. The police failed to take a statement from Michael Menson as he lay in the hospital for 16 days before his death. He told family and friends that he had been attacked by four white youths who had followed him from a bus and that they had set him alight. The police, however, had believed that he had set himself alight and reportedly did not launch a criminal inquiry or seal off the scene for 12 hours. Forensic scientists and pathologists testified at the inquest that the nature of his injuries made it almost inconceivable that he had set fire to himself. The Metropolitan police subsequently admitted that police action in the crucial time after the attack had not been thorough. Four senior officers were the subject of an internal investigation, but no action was taken against three who subsequently retired or were about to retire; the fourth was given "advice".

Following the inquest verdict in September 1998, the Police Complaints Authority appointed a Chief Constable from another police force in England to lead an inquiry into why the Metropolitan Police made serious mistakes in dealing with Michael Menson's death. In November 1998, the Home Secretary met with the family of Michael Menson. The family believe that police racism was behind the failure of the initial investigation into Michael Menson's death. In November 1998 a team from the Race and Violent Crime Unit of the Metropolitan Police began to re-investigate Michael Menson's death. (This new police unit was set up in July 1998 in response to controversy surrounding police handling of Stephen Lawrence's murder.)

iii) Ricky Reel

A new investigation was also launched into the death of **Ricky Reel**, a 20-year-old Asian student. In October 1998, a year after his death, the Police Commissioner for the Metropolitan police launched the new investigation. Ricky Reel died after an evening out with friends; he was found drowned in the Thames River. The police and the Police Complaints Authority had concluded that his death was an accident. His friends and family, however, claimed that his death was caused by a racially motivated attack by a gang of white youths. The report of the Police Complaints Authority's investigation into the handling of the investigation into the death of Ricky Reel has not been made public.

iv) Francisco Borg and Marcus Walters

Francisco Borg and **Marcus Walters**, black teenagers, were attacked in August 1997 in a busy shopping street in Cardiff by a gang of racist white youths. The attack was recorded on video camera. It was carried out in the presence of police officers who reportedly did not come to their assistance. Instead police subsequently sprayed Francisco Borg with CS spray and arrested him and Marcus Walters. Three of the seven or eight youths were subsequently caught and prosecuted in connection with the attack on Francisco Borg and Marcus Walters; they received sentences ranging from community service to 12 months' imprisonment. The judge accepted that only one of the three had racist motives.

9. "National security" cases and Refugees

a) "National Security" Cases

The European Court of Human Rights ruled in November 1996 that the government's attempt to deport **Karamjit Singh Chahal** to India was in violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms. He had been detained since 1990 on a decision by the Secretary of State that he should be deported on "national security" grounds since 1990. As a Sikh activist, believing that he would be a victim of torture or death if he was returned to India, **Karamjit Singh Chahal** applied for asylum. This application was refused.

Due to the claim of national security, he had no rights of appeal. Instead, he was only able to seek review by a panel, known as the "three wise men", whose advice on the matter to the Secretary of State was not binding. In addition, he was not informed of the details of the allegations against him, was not entitled to representation by lawyers at the hearing and was not given a copy of the advice that the three wise men gave to the Home Secretary.

The European Court stated that the prohibition of torture was paramount and that allegations of national security risk were immaterial to a determination of whether a person faced risk of torture if refouled. The Court further ruled that the hearing before an advisory panel of three people did not satisfy the Convention's right to have one's detention scrutinized by a judicial authority, and that Karamjit Singh Chahal's detention had therefore been unlawful. Karamjit Singh Chahal was released immediately after the judgment. On 6 November 1998 the High Court ruled that the Home Secretary's failure to award compensation to Karamjit Singh Chahal was neither irrational nor unlawful.

Subsequently, other people detained under the same provisions were released, including **Sezai Ucar** and **Ragbir Singh**.

In response to the judgment of the European Court in the Chahal case, new legislation, the Special Immigration Appeals Commission Act, was enacted in December 1997. This Act establishes a right of appeal where the Home Secretary has made a decision to deport or exclude a person, including on national security grounds. The appeal is heard by a Commission. Its decision is binding on the Secretary of State, though it may grant leave to appeal its decisions to a court. Under the Act, the Lord Chancellor has the authority to make rules for the conduct of the appeals, which are assented to by Parliament. Amnesty International has noted with concern that the statute and rules permit the proceedings to take place without the potential deportee or their counsel being provided with all of the reasons for the decision to deport or exclude. In addition these rules permit the Commission to hold all or part of the proceedings without either the potential deportee or their counsel being present. If such *in camera* proceedings are held,

an advocate is appointed from a panel chosen by the Attorney General to represent the interests of the potential deportee. The advocate, however, may not communicate with the deportee or their counsel, after they have been provided with information about the case, without leave from the Commission. Before decisions are made on the basis of proceedings from which the deportee and their counsel have been excluded, a summary of the submissions and evidence and absent information about sensitive material must be provided.

b) Refugees

i) Detention Procedures

While it is true that the majority of asylum-seekers are granted temporary admission pending the outcome of their claim, more than 700 people at any one time are held in detention under 1971 Immigration Act powers.¹⁴ The Government's White Paper, issued in July 1998, proposes to provide written reasons for the decision to detain and to provide an element of judicial oversight of decisions to detain through automatic bail hearings, the first one being after seven days of detention. However, it is envisaged that the detention estate will be expanded and this raises fears that more asylum-seekers will be detained than at present, including families with children.

Amnesty International has long campaigned against the detention of asylum-seekers in view of the hardship it causes and because of the suspicion that detention is used to deter others from seeking protection. The organization has repeatedly urged the government to provide for judicial oversight of decisions to detain, in line with international law. As described in more detail in *Detention of Asylum Seekers In the United Kingdom: Summary of AI Concerns, September 1998*, the proposal to provide automatic bail hearings is inadequate: bail is an insufficient guarantee against arbitrary detention because it depends on criteria other than the lawfulness of the detention, such as the availability of sureties, and does not meet the requirements of international law that there should be an objective review of the decision to detain.

Amnesty International understands that the bail hearings will not be based on a presumption of release, which increases concerns that they will not provide a sufficient

¹⁴ The UN High Commissioner for Refugees has stated that, in view of the hardship which it involves, detention should normally be avoided. Her office recently added that the record of the United Kingdom on the detention of asylum-seekers is the worst in Europe.

remedy. The proposed delay of seven days before the first bail hearing is, likewise, unacceptable: as noted above, the European Court of Human Rights criticized the United Kingdom in the *Chahal case* for not providing a review of detention. As deprivation of liberty is a serious act which must be resorted to only when absolutely necessary Amnesty International would seek shorter delays before judicial oversight. Additional recommendations are contained in the above-mentioned document.

ii) Conditions of Detention: Campsfield House

Amnesty International has received complaints about the treatment of people detained in Campsfield House, a refugee detention facility which is run by a private company. Such reports include allegations that detainees have been subjected to physical and psychological ill-treatment, including racist insults and threats. Reports also alleged that reprisals have been taken against people who raise grievances or complain about their treatment at Campsfield House. One method of reprisal reported is transfer from Campsfield House to prison.

On 20 August 1997 staff removed a detainee from Campsfield House, reportedly after he had made complaints about conditions of detention. Other detainees witnessed him being restrained in a neck-hold by staff at Campsfield House. A disturbance subsequently broke out, as detainees mistakenly believed that the person who had been transferred had been strangled to death. The premises suffered substantial amount of damage in the course of the disturbance, much of which was captured on video.

In the aftermath of the disturbance, charges were brought against 13 detainees, including two minors. All the accused, including the minors, were reportedly transferred to prisons pending the trial. During the period of remand, the mental health of some of those accused seriously deteriorated.

In the course of the trial, video evidence revealed that staff members were responsible for some of the destruction for which they had blamed the accused. Video evidence also further contradicted the oral testimony of staff members. After several days the trial collapsed and the accused were acquitted.

Amnesty International thereafter called on the authorities to initiate a wide-ranging inquiry into all of the circumstances which led to the disturbances at Campsfield House on 20 August 1997; and into the decision to prosecute and the subsequent withdrawal of the charges in connection with the disturbances. Amnesty International urged that the report of such an inquiry be made public. In addition, the organization asked to be informed of any measures taken to bring to justice, in either disciplinary or criminal proceedings, any members of staff at Campsfield, including those

whose evidence was shown to be false or deliberately misleading, those whose actions constituted ill-treatment or the excessive use of force, and those who participated in any illegal activity, including destruction of property. The authorities informed Amnesty International that no disciplinary or criminal proceedings were contemplated.

10. Immunity

On 28 October 1998 the High Court issued a judgment which interpreted the law of the United Kingdom in a way that may be inconsistent with the government's duty under the Convention against Torture to try or extradite a person, including a former Head of State, for alleged acts of torture or complicity or participation therein.¹⁵

The judgment of the High Court, in the challenge to the detention in the United Kingdom of General Augusto Pinochet pending a request for extradition, has been appealed to the House of Lords. A judgment is imminent.

If the House of Lords upholds the judgment of the High Court, Amnesty International would urge the government to amend or repeal any legislation which could be interpreted as a bar to fulfilling its obligations under the Convention and customary international law to try or extradite *any* person for alleged crimes against humanity, including torture.

¹⁵Please see "The Case of General Pinochet: Universal Jurisdiction and the absence of immunity for crimes against humanity", AI Index: EUR 45/21/98, October 1998.