



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

**Alternative report by ACAT United-Kingdom and
FIACAT
on the implementation of the International Covenant
on Civil and Political Right by
the United-Kingdom**

**United Nation Human Rights Committee
Sixth Periodic report of United-Kingdom
93rd session, 7-25 July 2008**

Saltash, Paris, June 2008

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Introductory note

FIACAT, an international association with consultative status at ECOSOC has the honour of addressing the following concerns to your attention regarding the implementation by the United-Kingdom of the International Covenant on Civil and Political Rights (the Covenant).

This alternative report to the sixth periodic report of the United-Kingdom is to be presented during the 93rd session of the Human Rights Committee, which will be held in Geneva from 7-25 July 2008.

FIACAT has only studied those articles related to its objective, the fight against torture and capital punishment.

This alternative report has been prepared in close cooperation with ACAT-UK, a member of the FIACAT network in the United-Kingdom.

The study is divided into three parts:

- The introduction which present partners NGOs.
- The main body analyses, article by article, the implementation of the Covenant by the United-Kingdom on a national level.
- The report ends with a series of recommendations that FIACAT and ACAT-UK are putting to the Human Rights Committee.

The information contained in this report is both recent and reliable.

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INTRODUCTION

Presentation of partner NGOs:

A. Action by Christians against Torture United-Kingdom (ACAT-UK)

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

Its Aims:

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

Its Work:

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

B. International Federation of Action by Christian for the Abolition of Torture (FIACAT)

The International Federation of Action by Christians for the Abolition of Torture is the umbrella organisation for the national ACATs of four continents. There are currently around thirty ACATs worldwide¹.

¹ *Affiliated ACATs:*

Africa: Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo, Ivory Coast, Madagascar, Mali, Senegal, Togo.

America: Brazil, Canada, Mexico.

Europe: Germany, Belgium, Spain, France, Italy, Luxembourg, Netherlands, United Kingdom, Switzerland.

ACATs in the process of affiliation:

Africa: Ghana, Democratic Republic of the Congo, Chad.

Asia: Philippines.

Europe: Czech Republic.

FIACAT was created by the ACATs operating in 1987 to enable access to the international scene, ensure representation on it and manage a network of completely autonomous national sections.

Its purpose is to assist the ACATs in becoming skilled and effective in their campaigning for the abolition of torture and the death penalty, and in playing a full role in civil society enabling them to transform or influence mindsets and the establishment in their countries.

FIACAT facilitates ACAT coordination by extending their actions and providing them with support. To do this, it publishes two quarterly reviews and hosting of a regularly-updated Internet site, which provide information on FIACAT's activities and those of the network and relays proposals for action at an international.

FIACAT represent ACATs on the international scene. It also contributes to the work of the international and regional organisations at which it has a consultative status:

- United Nations Human Rights Council;
- Council of Europe;
- European Union;
- African Commission on Human and Peoples' Rights;
- Organisation Internationale de la Francophonie.

It maintains relations with the Churches (Holy See and the World Council of Churches) and with Non-Governmental Organisations (NGOs) at both international and regional level.

FIACAT is an active member of several large international coalitions:

- Coalition of International NGOs against Torture – CINAT;
- World Coalition against the Death Penalty – WCADP;
- Coalition for the International Criminal Court;
- International Coalition against enforced disappearances.

And Christian associations (Franciscan International, Dominicans for Justice and Peace, Pax Christi International and Sant'Egidio, etc.).

ANALYSIS OF THE IMPLEMENTATION OF THE CONVENTION ARTICLE BY ARTICLE

ARTICLE 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

i. Assassinations by paramilitaries² with the suspected collusion and/or cover-up by the RUC and the armed forces.

There are concerns that some cases of assassination carried out by “Loyalist” paramilitaries (Ulster Defence Force/Ulster Freedom Fighters) during what were called “The Troubles”³ have not been adequately investigated and impunity has resulted. This insurrection had the active support of small sections of the Catholic population⁴; both communities were torn apart and serious human rights abuses, murders, kidnappings, occurred in certain parts of Northern Ireland, carried out by both “Republican” and “Loyalist” armed groups. A number of bomb attacks on mainland England were carried out by “Republican” armed groups.

1. Robert Hamill (25, married with 2 children) has been kicked to death by thirty loyalists in Portadown on 27 April 1997 in full view of 4 RUC officers in a Land Rover, armed with machine guns; they did not intervene or fire warning shots and did not administer first aid, although RUC officers had first aid training. The scene was not declared a crime scene, no forensic evidence or statements were gathered from those present.

2. Billy Wright, a notorious loyalist leader of the Mid Ulster UVF for about 20 years when thrown out of the UVF and threatened with death, he formed the Loyalist Volunteer Force. He

² Ulster Defence Association / Ulster Freedom Fighters.

³ Armed insurrection by the Provisional IRA and other armed “Republican” groups, from 1969 to the Good Friday Agreement 1998.

⁴ The population has been deeply divided between Protestants and Catholics.

was involved in a number of particularly vicious sectarian killings. He was shot at the high security Maze Prison while being escorted from his cell to a prison van in December 1997. It was known that he was a target for assassination.

The inquiry entered Day 75 on 17th June 2008.

3. Rosemary Nelson (a Catholic solicitor, aged 40, married with three children) represented high profile cases including that of the nationalist Garvaghy Road Residents' Coalition and also a client accused of murdering 2 RUC officers. She was murdered when a booby-trap bomb was planted under her car on 15 March 1999; a splinter loyalist group, the Red Hand Defenders admitted the murder. She had received death threats from members of the RUC.

The inquiry into the Rosemary Nelson murder began on 15th April 2008⁵ in County Armagh under the chairmanship of Sir Michael Morland, with a three-strong panel. He has stressed that the inquiry would be "completely independent of the Government". It will also be held in public but in a small number of cases, witnesses could choose to give evidence anonymously and parts of documents might be blacked out. It was expected that more than a 100 witnesses would be called, starting in the spring of 2009.

4. Pat Finucane (a high profile Belfast Catholic solicitor, aged 39) represented IRA and Irish Liberation Army hunger strikers, among other Republicans. He also represented Loyalists. He was shot 14 times in front of his wife and children at his home in 1998. The UDA/UFF claimed they killed him because he was a high-ranking officer in the IRA; an allegation denied by the police who said they had no evidence to support such a claim. In 1999, following the Stevens Report, William Stobie, RUC Special Branch agent loyalist quarter master and a member of the UDR, was convicted of supplying one of the pistols used to kill him. This Report stated that the murder was carried out with the collusion of the URC.

In 2001 Canadian judge, Peter Cory was appointed by the British and Irish Governments to investigate the allegations of collusion by the RUC, British Army and the Gardai⁶ in the murder of Patrick Finucane, Robert Hamill and others. He reported in late 2003 and recommended a series of public inquiries into the deaths of Billy Wright, Rosemary Nelson, Robert Hamill and Pat Finucane. The report was not published by the British Government until April 2004 and it waited a further six months before agreeing to start three of the inquiries.

The then Secretary of State for Northern Ireland, Paul Murphy, announced on 16 November 2004 the terms of reference for the inquiry into the death of Robert Hamill. In 2006 the then Secretary of State for Northern Ireland, Peter Hain, announced that he was converting the tribunal so that it would be held under the *Inquiries Act 2005*; he said this was to ensure "full and effective investigation". The family and supporters considered it could lead to greater interference by the authorities and were not prepared to give full co-operation. Although the case is being heard before a former high court judge - Sir Edwin Jowitt - an inquiry under this Act takes power away from the judge and gives it to the Secretary of State.

It cannot be said to be a judicial inquiry if the executive can influence its findings and if witnesses do not feel confident of its impartiality or have been told not to testify.

The inquiry had proposed to start its full hearing on 8 April 2008 but an application to extend the inquiry's terms of reference had not been resolved. The full hearings have now started on 23 May.

A Public Inquiry was announced by the Secretary of State for Northern Ireland into the murder of Billy Wright on 16 November 2004. On 23 November the then Secretary of State for

⁵ 2 years later than planned.

⁶ Police of Irish Republic.

Northern Ireland, Peter Hain, converted the Inquiry to an inquiry to be held under the *Inquiries Act 2005*. This has now started taking evidence. Missing Prison Service files are proving a major handicap to the Inquiry. These include files on two of Billy Wright's three killers, including that on John Kennaway. Documents that could explain how the murder weapons were smuggled into the Maze Prison have also disappeared. The prison governor, Martin Mogg at the time of the murder, has been blamed for ordering the destruction of so much material; he has since died. Special hearings have been held by the Inquiry to try to ascertain exactly what happened to the evidence, in view of conflicting explanations.

The same doubts regarding the impartiality of the Inquiry will apply as in the inquiry into Robert Hamill's murder.

The Secretary of State announced an inquiry under the *Inquiries Act 2005* into the murder of Pat Finucane. The family criticised its limited remit and announced they would not co-operate with the inquiry.

In June 2007 it was reported that no police or soldiers would be charged with his murder.

In June 2008, there is serious concern that the inquiries are being held under the *Inquiries Act* which could result in interference from the Government.

Calls for full, impartial and public inquiries into these four murders have been rejected by the British Government.

At one point a spokesman said that such an inquiry into the murder of Pat Finucane would be exorbitantly expensive and was out of the question. As presently constituted the three inquiries under the *Inquiries Act* will not result in the full facts reaching the light of day, regarding these deaths and the collusion of the RUC, the prison service and other government organisations. The inquiries will not satisfy the families, their supporters and human rights organisations.

ii. Enforce disappearance

The United Kingdom should sign and ratify the Convention against all form of enforced disappearance. Such ratification will show the will of the British government to fight against such a crime and against the risk of arbitrary deprivation of life.

ARTICLE 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

A. THE FIGHT AGAINST TERRORISM

The House of Lords ruled in December 2004 that detention without charge or trial was not compatible with the *Human Rights Act 1998*⁷. Those arrested and held under the *Anti-terrorism, Crime and Security Act 2001* in Belmarsh High Security Prison were then transferred to either house arrest with harsh conditions and threatened with deportation or to Long Lartin Prison with bail refused to most of them. There have been many appeals to the Special Immigration Appeals Tribunal and also to the House of Lords regarding proposals for deportation to countries which practise torture and the conditions under which control orders are made or deportation bail. Evidence is withheld from their lawyers.

⁷ A. (and other) v. Secretary of State for the Home Department [2004]

1. Memoranda of Understanding

There is concern that the Government is still attempting to deport certain people to countries where they have a memorandum of understanding, despite the fact that they may face torture. The Government appears to be going to great lengths to flout international laws to ensure that certain individuals are removed from the country.

It has sought and accepted diplomatic assurances from Algeria, Egypt, Jordan and Tunisia. According to Amnesty International, the assurances on torture have, in certain cases, proven to be unreliable, with drastic consequences for the individuals involved.

Two Algerians were subject to refoulement to Algeria in January 2006; they had been held in the UK since 2002. An Algerian called **G.** lost his appeal against deportation to Algeria in February 2006.

So far as ACAT-UK is aware, it is still sending a small number of alleged terrorists back to Jordan and Algeria. For instance, **Abu Qatada**, a radical Islamic preacher of Palestinian-Jordanian origin, has been released from Long Lartin maximum security prison on June 18th 2008 on strict bail conditions. His release was ordered in May when three high court judges upheld his appeal against deportation to Jordan on the grounds that he was likely to face a terrorism trial based on evidence from witnesses who had been tortured. It is likely that, despite the memorandum of understanding between the UK and Jordan he would also have been subjected to torture. He was convicted in his absence in Jordan of involvement in terror attacks in 1998.

It is understood that the Government will be appealing to the House of Lords to reverse the decision that it is not safe to deport him.

i. Extra-ordinary renditions

There has been great concern, which is ongoing, over the issue of rendition and the possible use of airports in the UK by the US.

An independent inquiry into the use of UK territory by CIA “torture” flights was published at the beginning of March 2008. According to human rights groups, ships had also been used as floating “black sites” to hold detainees. The Foreign Secretary stated in the House of Commons that two flights had landed in Diego Garcia, the British Indian Ocean Territory for refuelling at the US airbase there. A Foreign Office minister had spoken to Manfred Novak the UN’s Special Rapporteur on torture, about the use of Diego Garcia as a detention centre for US suspects. The Rapporteur believed that there was credible evidence that detainees had been held on the island between 2002 and 2003. It is thought that some of the records of the CIA flights have been destroyed. There is concern that the UK Government was apparently unaware that the US was operating a prison to house so called “high valued” detainees.

The Foreign Secretary has asked Foreign Office officials to compile a list of all flights on which rendition is alleged to have taken place.

It is important that a full independent inquiry is held into extraordinary renditions as it relates to the UK with regard both to Diego Garcia and the UK mainland.

ii. Evidence obtained under torture

Personal testimony of Craig Murray, former UK Ambassador to Uzbekistan 2002-2004, indicates that in terrorist cases, testimony resulting from torture has been used as “intelligence” (not evidence) to justify detention or control orders, even though the authorities know it is probably false. Where such intelligence is presented the country of origin is withheld so that the defence cannot claim it was obtained from a country where torture is known to be used⁸.

iii. Abuse by soldiers in Iraq

Baha Mousa, a hotel receptionist at the al-Haitham Hotel in Basra, together with 9 other hotel workers, were arrested on September 2007 by soldiers from the Queen’s Lancashire Regiment and taken to a detention centre, whose commanding officer was Colonel Jorge Mendonca. The detainees were subjected to hooding, humiliation, forced into stress positions, severe beatings and deprived of sleep over a 36 hour period. The beatings and ill treatment intensified over the final 26 hours, at the end of which Baha Mousa was dead and another had suffered life threatening injuries. Baha Mousa had suffered 93 separate injuries and had died from asphyxia.

This incident caused an outcry in the UK when pictures of Baha Mousa’s bruised and bloody face were splashed over the front page of the British newspapers.

The Law Lords in a landmark judgement ruled that British soldiers who imprison detainees during military campaigns abroad are bound by the *Human Rights Act 1998*, which prohibits torture and inhuman or degrading treatment. They dismissed arguments by the Ministry of Defence and the Attorney General that the Act did not apply to US forces detaining foreign prisoners and therefore could not be required to British troops in the same theatre.

A court martial⁹ of 7 soldiers was finally held in 2007; it costs £20 million and lasted 6 months. The soldiers were charged under the terms of the *International Criminal Court Act 2001*. Six pleaded not guilty and one, Corporal Payne, pleaded guilty to inhumane treatment of Iraqi civilians. He was dismissed from the army and sentenced to one year in prison. Major Michael Peebles and Warrant Officer Mark Davies were acquitted of negligently performing their duties. Sergeant Kelvin Stacey was acquitted of causing actual bodily harm. Colonel Jorge Mendonca was acquitted of negligence while overseeing soldiers of the Queen’s Lancashire Regiment but resigned rather than face further lengthy investigations into his role as Commanding Officer. The two other soldiers charged were also acquitted. Soldiers acquitted are to face internal army investigations that could lead to dismissal.

An Investigation into Cases of Deliberate Abuse and Unlawful Killing in Iraq in 2003 and 2004 was published on 25th January 2008 and had been undertaken by Brigadier Robert Aitken¹⁰. It was ordered after a number of cases alleging ill-treatment by British troops; in particular the death of Baha Mousa had come to light.

Some of its main findings:

- Soldiers were not told about their obligations under international law;

⁸ See *Murder in Samarkand* by Craig Murray, 2006.

⁹ A military tribunal.

¹⁰ The army’s director of army personnel strategy. He had been commissioned by the Ministry of Defence to investigate abuses.

- Five techniques banned under international law - hooding, holding stress positions, subjection to noise, sleep deprivation, deprivation of food and drink - were still not proscribed by the army¹¹;
- Soldiers were given very little information on how to treat civilian detainees;
- It also showed serious failings in leadership.

ACAT-UK could not ascertain whether a separate basic booklet is handed out to all soldiers, setting out clearly their obligations under international law, and that if they do commit abuses they will be prosecuted under the *International Criminal Court Act 2001*.

Des Brown, the Minister of Defence, has indicated that a further inquiry would be set up to investigate “these appalling incidents”. What is needed is a full, independent inquiry, meeting in public. As the situation stands at the moment, although certain changes have been made, or will be made to ensure that abuses do not happen in future, there is still almost total impunity concerning the case of Baha Mousa and the others detained with him.

B. CONDITIONS OF DETENTION

Detention centres for children

There has been great concern over the use of restraints in centres for children and young people for some considerable time.

The report by Anne Owers, Her Majesty’s Inspectors of Prison, together with Ofsted (Office of Education Standards), published 17th March 2008, called for the temporary closure of G35-run Oakhill, near Milton Keynes, secure training centre¹². The Youth Justice Board had serious misgivings and in July 2007 moved 24 of the 90 children because of lack of order and control and called in the Inspector. It has a 59% annual turnover of staff and has been the subject of four inspections, since the deaths of Gareth Myatt and Adam Rickwood in restraint-related incidents in other juvenile offenders centres.

Two specific restraint techniques involving the use of physical pain have now been banned by the government. Anne Owers reported that there was a “staggeringly high level of the use of force by staff. There was an over-reliance on emergency measures. There had been a number of improvements but the scale of the task was daunting”.

C. ASYLUM SEEKERS

1. Deportation of failed asylum seekers

FIACAT and ACAT-UK have considerable concerns over the continued deportation of failed asylum seekers either to countries where there is armed conflict or where torture occurs¹³. There have also been cases of great inhumanity where women with children have been deported to countries where there would be no available support systems.

There have been outcries over the use of private security firms; these often use strong arm tactics which can lead to injuries, and result in trauma, especially for women and children, as they are moved from detention centres to the airport and then on to their destination.

¹¹ These had been specifically banned in Northern Ireland in 1972.

¹² This is a privately run centre for 12-17 year old persistent child offenders, which opened in 2004.

¹³ Particularly to the Democratic Republic of Congo and to Zimbabwe.

In one instance, a woman was returned to the Democratic Republic of Congo in 2007; she was sent back by the Congolese authorities to the UK because of injuries she had received during her move from the English detention centre to the airport and in the plane. She was then taken from the plane in England, to hospital for treatment. She remained there for 2 weeks so her injuries were quite significant.

Mehdi Kazemi, a gay Iranian, 19, came to the UK as a student and then claimed asylum. He fled to Netherlands, following the rejection of his claim and is now awaiting deportation back to the UK. A very big campaign has been mounted to stop the immigration authorities from sending him back to Iran where he will be arrested and hanged; a former boyfriend, named him during interrogation and torture before being hanged. The Home Secretary has ordered a review of his case following the protests.

The Home Secretary has decided that it is now safe to return failed asylum seekers to Iraq. About 1 400 Iraqis are to be told that they must go home or face destitution and homelessness in the UK; this will include some who worked for the US and UK as translators and who will be targeted for assassination on their return. In the recent past failed asylum seekers have been sent back to northern Iraq, using charter flights. UNHCR High Commissioner for refugees has said that returning Iraqis to central and southern Iraq was not advisable.

An important case has to be stressed at this point.

At the beginning of March 2008, a Cameroonian woman claimed asylum in 2006, providing details of torture and rape¹⁴. Her application was rejected, together with her appeal. She was due to be deported in January 2006. Her deportation was stayed, because she had been put in touch with *Women against Rape* and because of representations by her MP. Her application was again rejected in May 2007. A judicial review has now found in her favour. She has been released from detention and will receive damages of £15,000 for unlawful detention because of the length of time she had been held and because the high court judge believed a report giving proper details of her torture and rape would have probably resulted in her release.

Her case highlights the problems of cases being fast-tracked, people being denied proper legal representation, medical and other expert help and also the failure to implement the Home Office's own rules. This case will have far reaching legal implications for other asylum seekers whose applications have been rejected.

It is well known that the UK's systems regarding deportation and refoulement are inhuman and, in some instances, breach international law on the return of persons to the well founded likelihood of torture and possible death. The laws, or their implementation are more repressive; the majority of cases are refused on first application, even though many have been subjected to well documented ill-treatment and torture in their countries of origin.

ACAT-UK has been involved in a small number of cases from Cameroon and one from Togo; all but one has had a successful outcome.

i. Detention centres for failed asylum seekers awaiting deportation

Lin Homer, chief executive of the Border and Immigration Agency, stated at the beginning of February 2007 that there is "no truth in your claim that people in Britain's detention centres are

¹⁴ She should have been referred to the Medical Foundation for the Care of Victims of Torture which is the policy in such cases, but she was only seen by a nurse.

held in cruel and unsafe conditions”. She added “Everyone within the immigration system is treated with care and compassion.”

This is far from the truth.

For instance, Colnbrook Immigration Removal Centre, near Heathrow airport, houses from 353 to 384 detainees, 80% of whom are former foreign national prisoners. It includes arsonists, substance abusers, sex offenders and other detainees who have constituted discipline problems at other centres. It also includes those in need of psychiatric or 24 hour medical care. It houses some who could not be removed but had been held for many months, sometimes for years, in conditions suitable only for short stays. It is the most secure facility in the immigration detention system and is run by a private security firm. The inspection found that the centre was significantly less safe than when last inspected¹⁵.

The use of force was found to be at a high level and some detainees spent lengthy periods in isolation. Levels of fear and anxiety among detainees was high, with little effective legal advice and lack of up-to-date information about individual cases. A high number were at risk of suicide or self harm. There was an increase in the number of detainees with psychiatric or substance problems, or both. The mental health care available was severely stretched.

The staff and managers conceded that Colnbrook was stretched to the limits of its ability to cope.

In a letter to The Guardian, the Chief Executive of the Scottish Refugee Council, Glasgow, commenting on the statement made by Lin Homer, chief executive of the Border and Immigration Agency that “there was no truth in your claim that people in Britain’s detention centres are held in cruel and unsafe conditions and that everyone within the immigration system is treated with care and compassion”¹⁶. He stated that Anne Owers, the Chief Inspector of Prisons, had been highly critical of various immigration detention centres in recent reports. She had found that overall, 60% of detainees felt unsafe and that she had particular concern for the treatment of women and children. She called for a complete overhaul of the detention of children in such centres.

The UK is alone in Europe in detaining refugee children awaiting removal.

What she had found:

- Harmondsworth: over 60% of detainees said they felt unsafe. 44% described custody officers as “aggressive”, “intimidating” and “rude”; the main fear was of bullying by staff.
- Campsfield House: safety procedures needed strengthening.
- Dungavel: women reported feeling intimidated.
- Dover: BIA’s failing jeopardise safety.
- Yarls Wood: significant concerns about safety.
- Oakington: activity and welfare support remained inadequate.

In a number of establishments foreign convicted criminals being deported at the end of their sentence of imprisonment are held in the same accommodation as failed asylum seekers who are unconvicted persons and unconvicted children.

¹⁵ Report on an unannounced full follow-up inspection 18-22 June 2007 by HM Inspector of Prisons published in September 2007.

¹⁶ The Guardian, 7 February 2008.

ARTICLE 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

56032.Change in pre-charge detention limits

The counter-terrorism bill was passed by the House of Commons on Wednesday, 11th June 2008 by nine votes. The nine members of the Democratic Unionist Party (Northern Ireland) eventually voted with the Government to secure the passing of the bill¹⁷. There had been a tremendous battle both for and against in Parliament, and in the media, regarding the increase in pre-charge detention from 28 days to 42 days. Human rights groups, including ACAT-UK, were opposed, together with the director of Public Prosecutions, a previous Attorney General and some senior police officer.

The bill will go before the House of Lords, where there is a strong probability that the measure regarding the 42 day pre-charge detention will be thrown out. If thrown out, it will then return to the Commons. It is expected that the Parliamentary Joint Committee on Human Rights will then scrutinise the bill to see if it is compatible with *Human Rights Act 1998* and the rulings of the European Court of Human Rights. It is thought unlikely that this measure will reach the statute book. However it is considered that further attempts may then be made at a later date to increase pre-charge detention.

ACAT-UK is concerned that the Government has been determined to secure an increase in the number of days a detainee could be held without charge, despite there being no concrete evidence that such a measure was necessary. The Government itself admits that there has been no need for any period of longer than 28 days in any case involving terrorist suspects.

i. Inquests

The counter terrorism bill going through Parliament includes provisions which will allow for secrecy where evidence might jeopardise national security or the UK's relations with another country or where it would be "otherwise in the public interest". It also allows for inquests to be heard without a jury on the direction of the Home Secretary; he would be able to appoint a specific coroner to the case and would also vet lawyers.

Evidence would also be allowed to be heard in secret.

These provisions are designed to avoid the risk of sensitive information - such as details of secret service activities, phone taps and surveillance - being heard by juries. It is possible that as well as being used in the "war on terrorism" these powers could be used in the inquests into the deaths of British soldiers, and deaths such as that of Jean Charles de Menezes involving the police or other state agents.

ii. Control orders

FIACAT and ACAT-UK have concerns over the continued use of control orders and the fact that some have in certain instances, now been in place for more than 3 years, although the Government's counter terrorist watchdog, Lord Carlile, has said they should last no more than

¹⁷ They had left it until the last minute before declaring which way they would vote; they normally vote with the Conservatives.

two years. These can be of a particularly restrictive nature and infringe the human rights of individuals.

FIACAT and ACAT-UK wish to raise the case of **Mahmoud Abu Rideh**, a Palestinian, tortured in Israel, who sought asylum in the UK and was given indefinite leave to remain in November 1998.

He was detained in 2001 under the *Anti-terrorism, Crime and Security Act 2001*. He has been held in Belmarsh High Security prison and in Broadmoor - an institution for the criminally insane - he was held for a total of 3 and a half years without charge or trial and then placed under a control order. He has lived under this order for a further 3 and a half years, longer than any other person. He has to report 3 times every 24 hours by telephone, daily reporting to a police station at the beginning, electronic tagging. Meetings outside the house and visits to anyone in the house were prohibited except to those with Home Office clearance. He is now in hospital having been on hunger strike for over 30 days and is in a critical condition. His mental health is also very precarious. An emergency appeal against the Home Office's recent refusal to modify his conditions was held in the High Court on June 19th 2008 but no ruling has yet been made.

Very recently, in a similar case - that of a Tunisian known as **E** - the control order was suddenly lifted. This prolonged ill-treatment has resulted in severe ill-health both physical and mental and has had a significant effect on his family.

CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

Article 6:

The Government should carry out “full independent” inquiries on these four cases and should not interfere in them.

The United Kingdom should sign and fully ratify the Convention Against all Forms of Enforced Disappearance. FIACAT and ACAT-UK ask for clarification regarding the clauses in the Convention which are causing the UK to have reservations.

Article 7:

The fight against terrorism:

FIACAT and ACAT-UK call for an end to the use of Memoranda of Understanding and for all attempts to secure others and for the UK to conform to its commitments as set down in various conventions that the UK has ratified.

The government should, in relation to any possible deportations, fully abide by its international obligations regarding the prohibition on torture and inhuman and degrading treatment.

Abuses by soldiers in Iraq:

The Government should:

- take all measures to provide proper training to setting out duties under international law of those “looking after” detainees and also the rights of defendants not to be subjected to torture and ill treatments;
- take all measures to provide proper training to officers which will ensure that they do know they have total responsibility for all actions carried out by soldiers under their command.

Condition of detention:

FIACAT and ACAT-UK call for investigations into the competence and training of staff in privately run establishments taking into account the fact that young persons held in these centres are severely mentally damaged, particularly vulnerable and in need of expert care.

Asylum seekers:

According to FIACAT and ACAT-UK, the State Party should:

- put an end to the deportation of failed asylum seekers either to countries where there is armed conflict or where torture occurs;
- Set up measures to ensure that failed asylum seekers are not kept in close proximity to foreign criminals awaiting deportation, especially where vulnerable women and children are involved;
- Set up a regular mechanism of reviewing the list of safe countries of origin, consulting organisations that specialise in the human rights situation of the countries of origin in question.

Article 9:

The government should abandon its proposed legislative measures to increase the possible length of pre-charge detention to 42 days in order to comply with its international obligations under the ICCPR.