



CPT/Inf (94) 17

**Report to the Government
of the United Kingdom on the visit
to Northern Ireland carried out
by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
from 20 to 29 July 1993**

The Government of the United Kingdom has agreed to the publication of this report and of its response. The Government's response is set out in document CPT/Inf (94) 18.

Strasbourg, 17 November 1994

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Copy of the letter transmitting the CPT's report

Strasbourg, 14 March 1994

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the United Kingdom Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Northern Ireland from 20 to 29 July 1993. The report was adopted by consensus by the CPT at its twentieth meeting, held from 28 February to 3 March 1994.

The various recommendations, comments and requests for information formulated by the CPT are summarised in the Appendix to the report. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 2, of the Convention, the CPT requests the United Kingdom authorities:

- i) to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken;
- ii) to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the United Kingdom authorities to provide in the above-mentioned interim report reactions to the comments formulated in the report as well as replies to the requests for information made.

I remain at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

More generally, I would recall that a description of some of the CPT's salient features was set out in the preface to the report on the visit to the United Kingdom carried out by the Committee in 1990 (cf. pages 7 and 8 of CPT/Inf (91) 15).

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Claude NICOLAY
President of the European Committee for
the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment

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UNITED KINGDOM

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Northern Ireland from 20 to 29 July 1993.

2. The delegation consisted of the following Committee members:

- Mr Bent SØRENSEN, First Vice-President of the CPT, (Head of delegation);
- Mr Jacques BERNHEIM, Second Vice-President of the CPT;
- Mr Love KELLBERG;
- Mr Claude NICOLAY.

The delegation was assisted by Ms Melanie ROE, interpreter, and accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS, Secretary of the CPT;
- Mr Mark KELLY.

B. Establishments visited by the delegation

3. The delegation visited the following places of detention:

Police establishments

- Gough Barracks Holding Centre, Armagh;
- Ballymena Police Station;
- Antrim Road Police Station, Belfast;
- Castlereagh Holding Centre, Belfast;
- Limavady Police Station;
- Strand Road Police Station, Londonderry.

Prisons

- Belfast Prison;
- Maghaberry Prison for Women (Mourne House).

C. Nature of the visit to Northern Ireland

4. The visit to Northern Ireland was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

5. Since the Committee was first established in November 1990, it has received a number of reports containing allegations of ill-treatment of persons suspected of offences related to terrorism by the security forces in Northern Ireland, both at the time of their arrest and in the course of their detention in the police offices known as "holding centres" (located at Castlereagh in Belfast, Gough Barracks in Armagh and Strand Road in Londonderry).

The allegations related to both physical and psychological forms of ill-treatment, allegations of the latter form of ill-treatment being more prevalent in recent times.

6. At the end of November 1991 the CPT was sufficiently concerned by the reports of ill-treatment to invoke Rule 30 of its Rules of Procedure¹. There followed an exchange of correspondence in the course of which the Committee was inter alia made aware of measures taken by the United Kingdom authorities with a view to "allaying fears and ensuring that adequate safeguards exist for the individual". The CPT noted, in particular, the appointment of an Independent Commissioner for the Holding Centres and the preparation of a Code of Practice on the detention, treatment and questioning of persons detained under the Prevention of Terrorism (Temporary Provisions) Act 1989.

7. Taking into account, on the one hand, the fact that the CPT continued to receive allegations of ill-treatment and, on the other hand, the positive developments outlined above, it appeared to the Committee that the time was ripe to visit Northern Ireland in order to examine the treatment of persons deprived of their liberty by the security forces, and, in particular, persons held in relation to terrorist activities.

8. The focus on the treatment of persons while detained by the security forces dictated the choice of places to be visited. In particular, HMP Belfast and Mourne House, HMP Maghaberry were chosen because their inmate populations include many remand prisoners who have recently been in police custody.

The primary purpose of going to those establishments was to interview such prisoners. Consequently, the CPT's delegation did not carry out what the Committee would consider to be full visits to the prisons in their own right. Nevertheless, some observations shall be made in this report about certain aspects of the conditions of detention in those prisons.

¹ Rule 30 reads as follows:

"1. Before deciding on a particular visit, the Committee or, if appropriate, the Bureau may request information or explanations as regards the general situation in the State concerned, as regards a given place, or as regards an isolated case concerning which it has received reports.

2. Following receipt of such information or explanations, details of remedial action taken by the national authorities may be requested."

D. Context of the visit

9. The Province of Northern Ireland, which is composed of six Ulster counties, was created by the Government of Ireland Act 1920². The majority population of the Province was Protestant and wished to remain British. That view was, in general, not shared by the minority Catholic population, which favoured unification of both parts of the island of Ireland. These conflicting positions have been advanced by Unionist and Nationalist politicians and pursued, through more extreme means, by "Loyalist" and "Republican" armed groups. This fundamental disagreement has been at the root of three major periods of terrorist violence in Northern Ireland (1920-22, 1956-62 and 1969-).

The terrorist violence which resumed in 1969 has continued until the present day. Between 1969 and 1993 more than 3,100 deaths were attributable to the security situation in Northern Ireland, 84 of which occurred in 1993. Further, during the same period, some 36,000 people have been injured as a result of the security situation (760 in the first ten months of 1993). Faced with this problem, a series of emergency laws, currently set out in the Northern Ireland (Emergency Provisions) Act 1991 (the E.P.A.) and the Prevention of Terrorism (Temporary Provisions) Act 1989 (the P.T.A.), have been introduced.

10. At the outset of this report, the CPT wishes to underscore that it abhors terrorism, a crime which is all the more despicable in a democratic society such as Northern Ireland. Further, it is fully conscious of the great difficulties facing the security forces in their struggle against this destructive phenomenon.

Terrorist activities rightly meet with a strong response from State institutions. However, under no circumstances should that response be allowed to degenerate into acts of ill-treatment by law enforcement officials. Such acts are both grave violations of human rights and fundamentally flawed methods of obtaining reliable evidence for combatting crime. They are also degrading to the officials who inflict or authorise them. Worse still, they can ultimately undermine the very structure of a democratic society.

² This Act created a devolved Parliament for Northern Ireland (Stormont) which governed until March 1972, when direct responsibility for the Province was assumed by the United Kingdom Government. During this period of "direct rule" the functions of the Stormont Parliament have been vested in the Secretary of State for Northern Ireland, who is accountable to the United Kingdom Parliament.

E. Consultations undertaken and co-operation received during the visit

11. The CPT's delegation met Sir Patrick Mayhew, Secretary of State for Northern Ireland, and Sir John Wheeler, Minister of State at the Northern Ireland Office, together with certain of their senior officials. The CPT is most grateful to the Ministers and their officials for the considerable amount of time which they devoted to discussions with its delegation. The delegation also met the Head of Prison Medical Services.

The talks which the CPT's delegation held at the Northern Ireland Office, both at the outset and at the end of the visit, were conducted in a spirit of full co-operation.

12. The delegation also had fruitful consultations with senior officers of the Royal Ulster Constabulary (R.U.C.), Viscount Colville of Culross Q.C. (the then Independent Reviewer of the Operation of the E.P.A. and the P.T.A.), Sir Louis Blom-Cooper Q.C. (the Independent Commissioner for the Holding Centres), the Chairman (Mr R. Charles Hill Q.C.) and other members of the Standing Advisory Committee for Human Rights, the Chairman (Mr James Grew) and other members of the Independent Commission for Police Complaints in Northern Ireland, and a number of the Lay Visitors to police stations.

As regards non-governmental organisations, the CPT met representatives of the Committee for the Administration of Justice and of the Northern Ireland Association for the Care and Resettlement of Offenders.

13. The Committee wishes to record its gratitude for the assistance provided by the liaison officers appointed by the Northern Ireland Office as well as by various other members of the Office's staff. They greatly facilitated the task of the CPT's delegation.

14. The high degree of co-operation was replicated in the police and prison establishments visited. The delegation experienced no delays in gaining access to places of detention - whether or not they had been notified of the visit in advance - and within them was accorded all the facilities necessary for the carrying out of its task.

15. Cooperation following the visit has also, on the whole, been satisfactory and, in particular, a number of documents requested by the Committee have been forwarded promptly. However, the CPT regrets that its request for a copy of the R.U.C. Code - which apparently deals with matters falling within the scope of the Committee's terms of reference - was not granted by the R.U.C., on the grounds that it is an internal force instruction.

The CPT would ask that its request for a copy of the R.U.C. Code be reconsidered, having regard to the provisions of Articles 3 and 8(2)(d) of the Convention and to the fact that it would be treated as strictly confidential by the Committee.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Preliminary remarks

16. As already indicated, the CPT's delegation visited various police and prison establishments. The delegation did not visit any army establishments; it was told that the Army no longer controls any facilities for the detention of criminal suspects³.

The CPT notes, nevertheless, that under section 18 of the E.P.A.: "(1) Any member of Her Majesty's forces on duty may arrest without warrant, and detain for not more than four hours, a person who he has reasonable grounds to suspect is committing, has committed or is about to commit any offence". **It would like to receive information on the regulative framework which applies to this power to arrest and detain.**

17. The Police and Criminal Evidence (NI) Order 1989 (P.A.C.E. (N.I.)) provides that a person shall normally not be kept in police custody for more than 24 hours without being charged. However, when the person has been arrested in connection with a "serious arrestable offence", his detention may under certain circumstances be extended by the police to 36 hours. A person's detention must be reviewed at regular intervals by a senior police officer.

If the police wish to prolong detention without charge beyond 36 hours, they must seek authorisation from a magistrates' court; the detainee must be brought before the court, and is entitled to be legally represented. The court may authorise further detention for up to 36 hours. This period may subsequently be extended by the court at the request of the police. However, under no circumstances can police custody without charge be extended by the court beyond an overall length of 96 hours.

³ According to the principle of police primacy:

"The police will continue to take primary responsibility for the prevention and investigation of crime, and for securing evidence for the prosecution of crime including terrorist crime. The armed forces will act in support of the police, but only where and when the security situation makes it necessary.

Wherever and whenever possible, the police will operate without military support, in accordance with the goal of restoring normality, and with the ultimate aim that all military support to the police should be dispensed with when the security situation permits."

(Section 7 of the United Kingdom Government's "Statement of Security Policy").

18. However, section 14 of the P.T.A. allows the police on their own authority to detain those suspected of certain offences related to terrorism for up to 48 hours. Again, detention must be reviewed at regular intervals by a senior police officer.

Police custody of such suspects may be extended by the Secretary of State for Northern Ireland for a further period or periods totalling 5 days. Hence, in those cases, the maximum possible period of police custody without charge is 7 days. There is no requirement that the suspect be brought before a court during that period.

19. Certain legal safeguards (notification of custody and access to a lawyer) are available to persons detained under P.A.C.E. (N.I.) and the P.T.A. Further, Codes of Practice exist in relation to the detention, treatment and questioning of both of the above categories of detainees⁴.

The precise terms of those legal safeguards and Codes, which vary from one category of detainee to the other, are considered in some detail later in this report (cf. paragraphs 54 to 90).

20. The CPT understands that, in addition to the powers of arrest under P.A.C.E. (N.I.) and the P.T.A., a police officer is granted by section 17 of the E.P.A a general power to arrest without a warrant. **It would like to receive information on the regulative framework which applies to this power of arrest.**

21. In Northern Ireland, to torture or otherwise deliberately ill-treat a person deprived of his liberty is behaviour which would certainly fall foul of the criminal law, and the victim could also seek compensation under civil law.

These remedies of a general nature have been reinforced by a specific offence of torture by a public official or person acting in an official capacity. This offence was created by section 134 of the Criminal Justice Act 1988, in order to enable the United Kingdom to ratify the United Nations Convention against torture and other cruel, inhuman and degrading treatment or punishment. "Torture" is understood as the intentional infliction of severe pain or suffering, whether physical or mental and whether caused by an act or an omission. The maximum penalty for this offence is life imprisonment.

22. In respect of those detained under P.A.C.E. (N.I.), Article 74 (2) of that Order provides that where it is represented to the court that confession evidence was obtained as a result of "oppression" (a notion defined as including torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture)), the confession is not to be allowed as evidence unless the prosecution proves beyond reasonable doubt that it was not obtained in that way.

⁴ The Code of Practice concerning persons detained under the P.T.A. was in draft form at the time of the delegation's visit; it entered into force at midnight on 31 December 1993.

A similar, but not identical, provision is to be found in section 11 of the E.P.A., which applies to the admissibility of evidence obtained from those detained under section 14 of the P.T.A. Under section 11 (2) (b), where prima facie evidence is adduced that the accused was subjected to torture, to inhuman or degrading treatment, or to any violence or threat of violence (whether or not amounting to torture), in order to induce him to make a statement, that statement shall not be allowed as evidence unless the prosecution satisfies the court that the statement was not so obtained.

At first sight, the notion of "oppression" in Article 74(2) of P.A.C.E. (N.I.) would appear to be somewhat broader than the test for disallowing evidence employed in section 11(2)(b) of the E.P.A.. **The CPT would like to be informed whether this is in fact the case and, if so, to receive an account of the forms of conduct which would fall foul of Article 74 (2) but which would not be sufficient to result in evidence being excluded under section 11 (2) (b).**

23. Persons detained under the P.T.A. are questioned at one of the police offices known as "holding centres" (Gough Barracks Holding Centre, Armagh and Castlereagh Holding Centre, Belfast)⁵.

However, if it is decided to charge such suspects, they are transferred for that purpose to a police station which is "designated" under P.A.C.E. (N.I.).

24. Conditions of detention in police stations designated under P.A.C.E. (N.I.) are monitored by Lay Visitors. The mandate of the Lay Visitors does not extend to the holding centres. However, a recently-appointed Independent Commissioner for the Holding Centres (Sir Louis Blom-Cooper Q.C.) visits those establishments.

25. Finally, as regards complaints about the conduct of the police, particular reference should be made to the Independent Commission for Police Complaints for Northern Ireland (the I.C.P.C.). This body has a statutory duty to supervise the investigation of complaints alleging that the conduct of police officers resulted in death or serious injury (cf. Article 9 of the Police (Northern Ireland) Order 1987). The Commission may also, at its discretion, supervise other categories of complaints. The investigation of such complaints is carried out by an officer of the Royal Ulster Constabulary, approved by the I.C.P.C. and acting under the supervision of one of its members.

The I.C.P.C. also has a role to play in deciding whether police officers who have been the subject of complaints should be charged with an offence against police discipline. The Commission may direct that disciplinary charges be brought against police officers.

Disciplinary charges are heard by a tribunal composed of the Chief Constable of the R.U.C. and two members of the I.C.P.C. who were not involved in the investigation.

⁵ A third holding centre, at Strand Road Police Station in Londonderry, had been used in the past; however, at the time of the delegation's visit, no persons detained under the P.T.A. had been questioned there for some months.

B. Ill-treatment of persons detained by the security forces

a. introduction

26. In the course of its visit, the CPT's delegation spoke to many persons about their experience while in police custody. The majority were persons held in the places of detention visited; however, they also included some persons then at liberty who had recently been detained by the police.

The delegation interviewed both persons suspected of, on remand for, or convicted of offences related to terrorism, and persons detained in relation to ordinary criminal offences. Certain (a minority) of the persons being held at the holding centres at the time of the visit refrained from entering into discussion with the delegation.

27. A substantial proportion of the persons detained for offences related to terrorism with whom the delegation spoke, alleged that they had been ill-treated by the security forces at the time of their arrest and/or during their detention at the holding centres. Further, non-governmental organisations consulted presented some allegations of ill-treatment of such persons by the security forces.

A small number of persons detained in relation to ordinary criminal offences with whom the delegation spoke alleged that they had been roughly treated or verbally abused at the time of their arrest and/or during their transport to a police station. Hardly any allegations were made by such persons about their treatment while detained at police stations; the only notable exception concerned a prisoner awaiting trial for a sex offence, who alleged that in 1992 he had been punched and had had his head banged against the wall of a room while in police custody.

b. ill-treatment at the time of arrest

28. The most common forms of ill-treatment at the time of arrest alleged by those detained for offences related to terrorism were blows and kicks received after they had been restrained and placed on the ground. Such ill-treatment was said to have been inflicted by both the police and the Army. Further, a number of detainees complained about a method of restraint employed by members of the security forces, namely standing on the backs of the legs of arrested persons while they were in a kneeling position.

29. Two detained persons met by the delegation at Castlereagh Holding Centre bore physical marks which were recorded as having been sustained at the time of arrest. One of the persons concerned alleged that those marks had been caused by ill-treatment when he was arrested.

The information set out in a medical form relating to a prisoner who had left Castlereagh on the day before the delegation's visit is also worthy of note. According to the form, the detainee alleged that he had been assaulted by two police officers at the time of his arrest. Under the heading "allegations of ill-treatment" the doctor had recorded: "yes, re arrest today. States that two officers assaulted him. Grabbed him by the throat and choked him. Told to kneel, officers stood on the backs of his legs. Pushed to the ground where he was punched and kicked." The doctor had also noted the following details of injuries sustained: ("multiple soft tissue injuries i.e. Red bruising on the R side of the neck. Knees bruised."), and under the heading "is medical evidence consistent with allegations" had concluded : "yes".

Reference might also be made to a medical form relating to a prisoner who had been held at Gough Barracks in May 1993. The form recorded "multiple minor injuries". The detainee in question alleged that at the time of his arrest, he had been pulled through the windscreen of the car in which he had been travelling, punched and kicked and pulled over a fence. Under the heading "is medical evidence consistent with allegations", the doctor had recorded "consistent with RTA⁶ ± rough treatment afterwards".

30. The CPT fully recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest and/or is someone whom the security forces have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by members of the security forces) without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for them being struck by members of the security forces.

In the light of the information gathered by its delegation, **the CPT recommends that members of the security forces be reminded of these precepts.**

As regards, more particularly, the allegations received that members of the security forces had stood on the backs of the legs of arrested persons once they were in a kneeling position, **the CPT would like to be informed whether such an act would constitute an authorised method of restraint.**

⁶ RTA = Road traffic accident

c. ill-treatment during detention at the holding centres

31. As regards allegations of **physical ill-treatment** at the holding centres, it should be stated at the outset that the ill-treatment in question was said, for the most part, to have been inflicted by members of detective units. Almost no allegations were received of physical ill-treatment inflicted by uniformed police officers with custodial duties (although some allegations were heard that, at Castlereagh, such officers sometimes disturbed the sleep of detainees by kicking or banging cell doors during the night).

32. Slaps, punches, pulling hair, repeated blows to the back of the head with the base of the hand and overturning the chairs on which detainees were sitting were the most common forms of physical ill-treatment said to have been inflicted by detectives. Further, two women detainees met alleged that they had been subjected to physical forms of sexual harassment by detectives (touching breasts and rubbing legs).

It should be added, however, that none of the persons to whom the delegation spoke who had very recently been in custody at the holding centres alleged that they had been physically abused. The same applied to those actually being held in the holding centres at the time of the visit. The most recent allegations of physical ill-treatment in the holding centres heard by the delegation dated back to March 1993 and most of the allegations related to periods of a year or more before the visit. Further, both medical staff consulted in the holding centres and senior paramilitary figures interviewed in the prisons visited expressed the view that instances of physical ill-treatment had sharply decreased in recent times.

33. In the course of its visit, the delegation met no persons who bore marks consistent with their allegations that they had been physically ill-treated in the holding centres. Of course, as the most recent allegations of physical ill-treatment in the holding centres heard by the delegation dated back to March 1993, any marks which might have been caused by the kinds of ill-treatment alleged in paragraph 32 would almost certainly have healed in the meantime. However, certain of the medical forms seen by the delegation at the holding centres recorded injuries which were consistent with allegations made of physical ill-treatment.

A medical form relating to a person who had been held at Castlereagh some three weeks prior to the delegation's visit, recorded the following allegations of ill-treatment: "in fourth interview today, when he got up to go to the door, two detectives grabbed him by the neck and L wrist. He felt he was being choked. In ensuing struggle, L elbow and R ankle were hurt." Under the heading "details of injuries sustained" the doctor had noted: "tender back of neck and movements painful, L elbow - limitation of movement. Abrasion L wrist. Abrasion R ankle." and under the heading, "is medical evidence consistent with the allegations", he had recorded "consistent with allegations and ensuing struggle". It should be added, however, that this occurrence was also the subject of an entry in the "incident register" kept in the closed circuit television monitoring room (cf. paragraph 76), from which it appeared that the occurrence may have been provoked by the detainee's own behaviour.

As regards Gough Barracks, reference might be made to a medical form concerning a person who had been held there at the end of March 1993. The detainee alleged that during his last interview on his third day of detention, an interviewer struck him on the left side of his face with his fist. Both interviewers present then allegedly forced him down onto the table, striking his face and mouth on it. Under the heading "details of injuries sustained" the doctor had noted "there is an area of recent swelling and bruising on his left cheek. There is an area of recent abrasion at the inside of his bottom lip. There is also a haemorrhage inside mouth L side", and under the heading "is medical evidence consistent with the allegations": "yes".

34. Many allegations were made of various forms of **psychological ill-treatment** at the holding centres. Further, there was no indication, either from the delegation's interviews with detained persons, or from its discussions with medical staff, that this practice was declining.

The most serious form of psychological ill-treatment alleged consisted of threats by detectives to arrange that persons detained or members of their families would become targets of a paramilitary group. There were also allegations about: threats to include compromising material in the interview notes unless the detainee co-operated; misleading information concerning the legal position of members of the detainee's family; shouting and other forms of verbal abuse, including of a sexual nature vis-à-vis women detainees; other types of intimidating behaviour, in particular banging the table in the interview room; pressurising detainees to become police informers in exchange for their release.

35. Of course, tangible evidence of psychological ill-treatment is difficult to obtain, in the absence of any means of being able to hear what is said during the interview process. It might be mentioned, however, that in a medical record relating to a person held in Gough Barracks in June 1993, the doctor had recorded under the heading "allegations of ill-treatment": "verbal ill-treatment from approximately 4 pm - bedtime".

36. An assessment of the likelihood of persons detained at the holding centres in Northern Ireland being ill-treated involves taking into account not only allegations received and related medical findings, but also the material conditions of detention at the holding centres and the content, and operation in practice, of safeguards against ill-treatment; these matters are addressed in the following sections.

However, in the CPT's view, the information already set out above is sufficient to give rise to legitimate concern about the treatment of persons detained at the holding centres. The fact that, during a three-year period between 1989 and 1992, compensation was paid in 18 cases on grounds of alleged assault within the holding centres⁷, can only serve further to heighten that concern.

⁷ Information provided by the Northern Ireland Office.

C. Conditions of detention in police establishments

a. introduction

37. All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a chair or bench), and persons obliged to stay overnight in custody should be provided with a mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

b. the Holding Centres

38. **Castlereagh Holding Centre** was located in a motley collection of prefabricated buildings, within the perimeter of Castlereagh Police Station. The Centre gave the general impression of being in need of some repair.

39. The Centre had 31 cells, four of which were located in a distinct section for women detainees. In addition, there were 21 interview rooms, two rooms for consultations with lawyers, a doctor's surgery, and a scenes of crime unit (the so-called Soco Suite).

40. The cells measured 6m² and were equipped with a metal frame bed (with mattress and blankets) and a chair. Artificial light was adequate and there was an effective dimmer system, controlled from outside the cell. However, the cells did not benefit from natural light. Further, the ventilation system appeared to function only moderately well and created a rather intrusive level of noise in certain cells. The cells were not fitted with a call system; however, uniformed officers were apparently always on duty in the cell block when persons were being detained. Toilet and shower facilities were located nearby and were in a satisfactory state of cleanliness at the time of the visit; no complaints were heard from detainees about access to those facilities.

41. The interview rooms were divided between one set of 13, located adjacent to the cells, and another set of eight in a separate building. The interview rooms adjacent to the cells measured 6m² and were equipped with a table, three chairs, and two wall-mounted cameras (cf. paragraph 76). Like the cells, they did not benefit from natural light. The second set of eight interview rooms were equipped in a similar manner; however, they were considerably larger and did benefit from natural light.

42. On examining the main cell/interview room block from outside, it could be seen that the windows had been covered with plyboard, apart from one section of each, which had been fitted with a cowl, allowing some fresh air, but no natural light, to enter the cells and rooms. Questioned about the design of these window coverings, the officer in charge stated that they had been installed for "security reasons".

43. The CPT has already expressed the view that police cells should preferably enjoy natural light. This is even more desirable when, as at Castlereagh, persons may be held in custody for an extended period. Further, the absence of natural light in the cells is all the more regrettable given that the majority of the interview rooms at Castlereagh also lacked natural light. Taking into account, in addition, the absence of exercise facilities (cf. paragraph 44), the net result was that a person detained at Castlereagh could effectively be deprived of natural light for several days or more (the only exception being time spent in consultation with his lawyer).

In the CPT's view such a situation is not acceptable. The Committee would add that it is confident that means could be found of providing access to natural light to detainees without compromising legitimate security needs.

44. The delegation was told by police officers that there were no facilities for exercise - either outdoor or indoor - for persons detained at Castlereagh. This is another serious shortcoming in an establishment in which persons can be held for up to seven days.

45. To sum up, the existing material conditions of detention at Castlereagh Holding Centre render it inappropriate as a place in which to detain persons for extended periods. The deficiencies as regards access to natural light for detainees and the absence of exercise facilities were the principal failings, but the mediocre ventilation system and the cramped and rather dilapidated nature of the facilities should also be mentioned. All these factors contributed to create a distinctly claustrophobic atmosphere.

The CPT recommends that the conditions of detention at Castlereagh Holding Centre be substantially improved without delay, taking into account the above remarks. If such an improvement were not to prove possible, the Holding Centre should be relocated elsewhere, in premises capable of offering better detention facilities.

46. Conditions of detention at **Gough Barracks Holding Centre** were on the whole superior to those at Castlereagh; in particular, the Holding Centre was located in a building of better quality and the premises were generally cleaner and in a better state of repair. However, conditions of detention were still far from good.

47. A total of 13 cells were in use at the time of the delegation's visit, as well as 10 interview rooms. As at Castlereagh, a standard cell measured some 6m² and was equipped in the same manner. Artificial light in the cells was adequate. However, once again the cell windows had been fitted with cowls which prevented natural light from entering. Nor did the interview rooms benefit from access to natural light.

The CPT recommends that appropriate steps be taken to provide access to natural light in the cells and interview rooms at Gough Barracks.

48. Unlike at Castlereagh, the premises at Gough Barracks included an exercise yard of a reasonable size, to which detainees being held for lengthy periods were apparently given access. **The CPT would like to receive confirmation of this, as well as details on the extent of access allowed.**

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49. Finally, bearing in mind the above-mentioned allegations that detectives had overturned chairs on which detainees were sitting (cf. paragraph 32), it might be considered advisable for the chair used by the detainee in holding centre interview rooms to be fixed to the floor. This would have the added advantage of protecting detectives from assaults by the detainee using a chair (an occurrence which apparently is not unknown).

The CPT would like to receive the comments of the United Kingdom authorities on this matter.

c. other police establishments

50. Material conditions of detention at the Antrim Road, Ballymena, Limavady and Strand Road Police Stations were quite satisfactory. The cells were of an adequate size and suitably equipped, and most of them had good access to natural light. Further, related facilities (interview rooms, medical rooms, sanitary facilities) were, in general, of a high standard.

51. The detention facilities at Strand Road Police Station had been used in the past to hold persons arrested under the P.T.A.; however, police officers stated that no such suspects had been held there for some 12 months prior to the visit. **The CPT would like to be informed whether it is intended that Strand Road will again be used for the holding and questioning of such persons.**

The Committee would also like to receive information on the outdoor exercise facilities for persons detained at Strand Road.

D. Safeguards against ill-treatment

a. introduction

52. The CPT attaches particular importance to three rights for persons detained by the police:
- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
 - the right of access to a lawyer,
 - the right to a medical examination by a doctor of their choice (in addition to any medical examination carried out by a doctor called by the police authorities).

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons in detention, which should apply from the very outset of custody (i.e. from the moment when those concerned are obliged to remain with the police).

53. Furthermore, in the view of the CPT, persons taken into police custody should be expressly informed without delay of all their rights, including those referred to in paragraph 52.

b. notification of custody

54. Persons detained under P.A.C.E. (N.I.) or the P.T.A. are entitled to have a friend or relative informed of the fact and place of their detention. The exercise of this right may be delayed for a maximum period of 36 hours or, in the case of persons detained under the P.T.A., 48 hours; however, the situations in which a delay can be applied are clearly circumscribed and resort to such a measure is subject to certain procedural safeguards.

The CPT would like to receive information on the percentage of cases during 1993 in which resort has been had to the power to delay the exercise of the right to have someone notified of the fact of custody, under both P.A.C.E. (N.I.) and the E.P.A.

55. Other aspects of the right not to be held incommunicado (over and above notification of custody) are developed in the Codes of Practice. The CPT notes that, as regards persons detained under P.A.C.E. (N.I.), they may send a letter or message and make a telephone call (although all of these may be read or listened to). It is also noted that supervised visits to the police station may be allowed at the custody officer's discretion.

On the other hand, the Code of Practice concerning persons detained under the P.T.A. makes no reference to facilities of this kind. This lacuna is all the more notable given the length of time for which persons may be held under the P.T.A. provisions; it would be highly undesirable for such facilities to be routinely denied throughout custody periods lasting up to seven days.

The CPT would like to receive the comments of the United Kingdom authorities on this question.

c. access to a lawyer

56. Both persons detained under P.A.C.E. (N.I.) and those detained under the P.T.A. are entitled to consult a solicitor, in principle in private. The exercise of this right may be delayed (in the case of a P.A.C.E. (N.I.) detainee) for 36 hours or (in the case of a P.T.A. detainee) for 48 hours, on the same grounds as apply to the delay of the exercise of the right of notification of custody.

57. As regards, more particularly, persons detained under the P.T.A., the most recent statistics seen by the CPT indicate that, in the course of 1992, immediate access to a lawyer was granted in 72% of cases. Police officers spoken to at Castlereagh at the time of the visit stated that that figure had risen to approximately 90%.

58. The CPT recognises that, in order to protect the interests of justice, it may be necessary in certain circumstances to delay the exercise of the right of access to a particular lawyer chosen by the detainee. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer who can be trusted not to jeopardise the legitimate interests of the police investigation should, as far as possible, be arranged.

Such a solution would appear to be envisaged in England and Wales. Note for Guidance B4 to Annex B of Code of Practice C of the Police and Criminal Evidence Act 1984 (P.A.C.E.) provides for recourse to a solicitor on the duty solicitor scheme when access to a specific solicitor is delayed. Further, in its follow-up report in response to the report on the CPT's visit to the United Kingdom in 1990, the United Government stated that:

"Note for Guidance B4 to Annex B to P.A.C.E. Code of Practice C applies to any situation in which the detainee's access to legal advice has been delayed. Whether the detention is under the Police and Criminal Evidence Act 1984 or under the Prevention of Terrorism (Temporary Provisions) Act 1989 and under whichever of the criteria in Annex B delay is authorised, access to a specific solicitor may only be delayed if the officer has reasonable grounds to believe that the specific solicitor will, inadvertently or otherwise, pass on a message from the detainee or act in some other way which will lead to any of the results in paragraphs 1, 2 and 8 of Annex B coming about. In such circumstances, the detainee should normally be offered access to a solicitor on the Duty Solicitor Scheme." (cf. paragraph 97 of CPT/Inf (93) 9).

However, the equivalent notes for guidance in the Codes of Practice issued under P.A.C.E. (N.I.) and the E.P.A. make no provision for recourse to another solicitor when access to a specific solicitor is delayed. This lacuna should be remedied, and it would also be preferable for the matter to be dealt with in a provision having a firmer legal basis than a note for guidance to a Code of Practice.

In the light of the preceding remarks, **the CPT recommends that steps be taken to ensure that persons detained under P.A.C.E. (N.I.) and the P.T.A. have the right of access to an independent lawyer, as from the outset of their detention (cf. also paragraphs 59 and 60).**

59. According to P.A.C.E. (N.I.), a detainee is entitled to consult a solicitor "at any time", (subject to the power to delay access for 36 hours); however, this precision is not included in the equivalent provision of the E.P.A. (section 45).

In this connection, the CPT notes that under section 45 (6) (b) of the E.P.A., it is possible for the police to deny access to a solicitor during the 48 hours following a previous consultation. The effect of this provision is that the number of consultations between a detainee and a solicitor could be limited to a maximum of three during a seven day period of detention. A perhaps even more significant effect of the provision is that it enables access to a lawyer to be granted immediately following arrest, but before the interview process begins, and then subsequently denied throughout the whole period during which the person is detained (N.B. the majority of persons detained under the P.T.A. are released or charged within two days.)

The CPT would like to receive concrete examples of situations in which recourse to the power set out in section 45 (6) (b) of the E.P.A. would be considered necessary, as well as statistics on the percentage of cases during 1993 in which resort was made to that power.

Further, **the CPT would stress that the exercise of the power under section 45 (6) (b) of the E.P.A. should not be allowed to undermine the right of access to an independent lawyer, as recommended in paragraph 58. If it is felt that grounds exist which justify the exercise of that power vis-à-vis a particular lawyer, access to another lawyer should be arranged.**

60. As regards the precise content of the right of access to a lawyer for persons in police custody, the CPT considers that this should include the right to be visited by a lawyer (under conditions guaranteeing the confidentiality of their discussions) as well as, in principle, the right to have the lawyer present during interrogations.

Both P.A.C.E. (N.I.) and the E.P.A. stipulate that detained persons shall have the right to consult a solicitor privately. However, under section 45 of the E.P.A., a police officer of the rank of Assistant Chief Constable or above may direct that a detained person may only consult a solicitor in the sight and hearing of a uniformed officer of the rank of Inspector or above. Although this power is apparently used rarely in Northern Ireland (in some 2% of cases, according to a recent Home Office study), the CPT must express strong reservations about the possibility to breach the confidentiality of detainee/lawyer discussions. For the right of access to a lawyer to be fully effective as a means of preventing ill-treatment, it must include the right for the person in custody to consult in private with a lawyer in all cases.

The CPT would reiterate that it recognises that, in order to protect the interests of justice, it may be necessary, in exceptional cases, to place restrictions upon the right of access to a particular lawyer chosen by the detainee; **however, in such cases, access to, including the right to consult in private with, another independent lawyer should be arranged.**

61. Two rooms were set aside at Castlereagh Holding Centre for detainee/lawyer consultations. The normal practice was for a police officer to observe the interview from outside the room, through a window in the door (similar arrangements were employed at Gough Barracks). The delegation noted that, unless the detainee and his lawyer spoke loudly, they could not be heard from outside. However, several detainees spoken to expressed the firm conviction that their discussions with lawyers had been overheard by police officers. Some even alleged that detectives had taunted them by repeating details of discussions which they had just had with their lawyers. Some lawyers spoken to also expressed doubts as to the de facto privacy of their discussions with detainees in the legal consultation rooms at Castlereagh.

The CPT recommends that the United Kingdom authorities verify that the confidentiality of a detainee's discussions with his lawyer at Castlereagh Holding Centre is ensured.

62. As regards the right of a person detained by the police to have a lawyer present during interrogations, this is recognised in the Code of Practice under P.A.C.E. (N.I.). However, this right was not included in the Code of Practice dealing with persons detained in Northern Ireland under the P.T.A., and the delegation was informed that, in practice, such a detainee was never allowed to have a lawyer present during his interrogation.

63. For the CPT, the key element in the concept of access to a lawyer for persons in police custody, seen as a safeguard against ill-treatment, is the possibility for the detainee to consult in private with the lawyer as from the very outset of his custody. However, the right to have the lawyer present during interrogation is a useful supplementary safeguard.

The Committee notes in this regard that persons detained in other parts of the United Kingdom under the P.T.A. are entitled to have a lawyer present during their interrogation (though access to a particular lawyer - including the right to have that lawyer present during interrogation - may be delayed for up to 48 hours).

The CPT would like to be informed of the reasons for denying a person detained in Northern Ireland under the P.T.A. the right to have a lawyer present during his interrogation and, more particularly, why it is considered necessary for this right to be denied throughout the whole of that person's period of custody (as distinct from only during the period of up to 48 hours during which access to a specific solicitor can be denied).

d. access to a doctor

64. The right of persons detained by the police to be examined by a medical doctor, including a doctor of their choice, is not expressly guaranteed by legislation. However, the question of access to a doctor is dealt with in considerable detail in the Codes of Practice.

65. The Code of Practice under P.A.C.E. (N.I.) provides inter alia that if a detainee requests a medical examination, a Medical Officer must be called as soon as practicable. He may in addition be examined by a medical practitioner of his own choice, at his own expense.

Further, if a detainee makes a complaint about his treatment since his arrest (or if it comes to the notice of any officer that he may have been treated improperly) and if the matter concerns a possible assault or the possibility of the unnecessary or unreasonable use of force, then a Medical Officer must be called as soon as practicable.

66. The above-mentioned provisions are also contained in the Code of Practice under the E.P.A. However, this latter Code goes further and provides for persons detained under the P.T.A. to be offered a medical examination at regular intervals. Such a person shall, as soon as practicable, be offered a medical examination upon arrival at the first police station or office at which he is detained following his arrest. That medical examination should normally take place prior to the commencement of any interview with the detained person. Further, the detained person is to be offered a medical examination upon his release from police custody, before transfer to, and upon arrival at, another police station or office, and at least once every 24 hours.

67. In addition to examination by a Medical Officer, persons detained under the P.T.A. may be examined by a medical practitioner from the practice at which they are registered, at their own expense. However, the CPT notes that a detainee's access to such a medical practitioner may be delayed for up to 48 hours, if it is believed that the examination would prejudice the investigation.

In this connection, the CPT notes that whenever a detainee is examined by a medical practitioner from the practice with which he is registered, a Medical Officer must be present. The delegation was informed that this latter requirement is a precautionary measure designed to ensure that only medical matters are discussed during such an examination. Given the existence of that requirement, **the CPT would like to receive clarification of the reasons for providing, in addition, that a detainee's access to a medical practitioner from the practice with which he is registered may be delayed for up to 48 hours.**

68. The CPT's delegation examined in some depth the arrangements concerning access to a doctor at Castlereagh and Gough Barracks.

The Medical Officers who worked at the holding centres were general practitioners who had entered into a contract to provide the medical services foreseen in the Code of Practice, (recourse being had at night to doctors from local hospitals). It is also noteworthy that medical examinations always took place out of the sight and hearing of police officers.

A form is completed in respect of each medical examination, on which the Medical Officer is requested to certify, inter alia, whether the person concerned is fit to be detained and interviewed by the police and any special conditions which should apply in this respect. In this connection, **the CPT would like to be informed of whether a statement by a Medical Officer that a detainee is not fit to be detained or interviewed can be overridden by the police.**

69. Medical Officers at the holding centres have the difficult task of combining aspects of the role of a treating doctor with the carrying out of certain duties requested by the police. The CPT's delegation found that the Medical Officers had successfully adapted to this hybrid function; it also noted that neither detainees nor police officers had any complaints about the manner in which they performed their duties.

The delegation was impressed by the independence displayed by the Medical Officers and the quality of care provided to detainees.

70. An important advantage which flows from the arrangements concerning access to a doctor in the holding centres is that it enables the independent and objective recording, on a regular basis, of medical evidence of injuries sustained by detainees. In this connection, the CPT considers that the record drawn up following a medical examination of a person detained by the police should contain (i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment), (ii) an account of objective medical findings based on a thorough examination, and (iii) the doctor's conclusions in the light of (i) and (ii).

The medical form (No 38/17(b)) used in the holding centres provides for such information to be recorded, containing, as it does, inter alia the following headings: "allegations of ill-treatment"; "allegedly caused by"; "details of injuries sustained"; and, "is medical evidence consistent with allegations".

71. Particular difficulties arise in this context when a detainee who bears injuries makes allegations of ill-treatment to the doctor but requests that those allegations are not recorded, and perhaps even requests that his injuries are not recorded. In such a situation, the doctor must exercise his clinical judgement in a manner consistent with medical ethics.

At Castlereagh, the CPT's delegation observed that in such a case no entry was made under the heading "details of injuries sustained" if the person concerned, after discussion with the doctor, insisted on making no allegation of ill-treatment. As a result, the medical form placed in the detainee's custody record would not contain a record of objective clinical findings. However, injuries would be noted on the pre-printed medical report form which is kept separately (and privately) by the Medical Officer, to which reference might be made when preparing a statement for use in any subsequent court proceedings.

The CPT would point out that to leave completely blank the heading "details of injuries sustained" on the medical form placed in the custody record, when in fact the detainee concerned does bear injuries, is potentially misleading. Perhaps this problem could be resolved by an appropriate entry under the above-mentioned heading, or by not completing the medical form in such a case and transmitting the other information requested by the police (in particular, the doctor's opinion as to whether the detainee is fit to be detained/interviewed) in another manner.

The CPT would like to receive the comments of the United Kingdom authorities on the above question.

e. information on rights

72. The CPT has already stressed the importance which it attaches to people detained by the police being expressly informed without delay of all their rights (cf. paragraph 53 above), including those referred to in paragraphs 54 to 71 above.

The Codes of Practice issued under P.A.C.E. (N.I.) and the E.P.A. provide for such information to be given, including in the form of a written notice. Further, the detainee is called upon to certify on his custody record that he has been informed of his rights. Discussions with detainees confirmed that the practice of the police was fully in compliance with these provisions. However, the written notice given to detained persons does not refer expressly⁸ to the right of access to a medical doctor.

The CPT recommends that detained persons be expressly informed of their right to request a medical examination, including by a medical practitioner of their own choice/from the practice with which they are registered.

⁸ The form used does inform detained persons of their right to consult the Codes of Practice, from which the right to be examined by a doctor could be ascertained.

f. custody records

73. The CPT considers that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers facilitated) by the existence of a single and comprehensive custody record for each person detained. Such a custody record existed in Northern Ireland and was used both for persons detained under P.A.C.E. (N.I.) and for those detained under the P.T.A.. It recorded all relevant aspects of a detainee's custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told of rights; signs of injury, mental illness, etc; when a friend or relative and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.).

The CPT's delegation observed that those records were scrupulously completed by police officers.

g. conduct of interrogations

74. The art of conducting interrogations will no doubt always be based, in large measure, on experience. Nevertheless, in the CPT's view it is essential for there to be a formal code of conduct for interrogations containing a clear prohibition of recourse to any form of ill-treatment and setting out in detail the procedures to be followed on a number of specific points. The existence of such a code can, inter alia, serve to underpin the lessons taught during police training.

Such a corpus of standards can be found in the Codes of Practice issued under P.A.C.E. (N.I.) and the E.P.A., which deal at length with the subject of interviews, including as regards the physical conditions under which they may take place. These provisions would appear, in principle, to be satisfactory.

Nevertheless, the CPT has some concerns about the system of interrogation used at the holding centres.

75. The delegation learned that detainees could be questioned for up to twelve hours a day, during six sessions of approximately two hours each, as follows: from 9am to 11am, then a fifteen minute break; from 11.15am to 1pm then a break for lunch from 1pm to 2pm; from 2pm to 4pm, then a fifteen minute break; from 4.15pm to 6pm, then a break of one hour for dinner from 6pm to 7pm; from 7pm to 9pm, followed by a fifteen minute break, and finally, from 9.15pm to 11pm. Questioning of each detainee was conducted by two teams of two detectives operating in relays throughout the day - two officers always being present at each interview. This process might continue for several days and, exceptionally, for up to seven days.

Such intensive interrogation, particularly if applied over a prolonged period of time, could - depending on the individual concerned - produce a degree of psychological pressure amounting to ill-treatment. **The CPT therefore recommends that Medical Officers at the holding centres pay particular attention to the psychological and mental state of detainees when examining whether they are (still) fit to be interviewed. In addition, special care must be taken when considering whether detainees who are particularly vulnerable (eg. juveniles, the mentally ill or mentally handicapped) are fit to be interviewed.**

h. monitoring and electronic recording of interviews

- closed circuit television (CCTV) monitoring

76. Concern about the treatment of persons detained in the holding centres led, in 1980, to the introduction of a system of closed circuit television monitoring of interviews **without sound**.

The CPT's delegation observed that every interview room was fitted with two cameras fixed close to ceiling level on opposite sides of the room. Each of these cameras was linked to a screen situated in a central monitoring room. When interviews took place it was obligatory for the system to be switched on, and for the monitoring room to be manned at all times by an officer of at least the rank of Inspector. Further, although this is not expressly stated in the Code of Practice, the task of monitoring is apparently always entrusted to uniformed (as distinct from detective) officers.

The Inspector was empowered to interrupt or even terminate an interview; and consultation of the monitoring room's incident file, discussions with detectives and information received from detainees indicated that, on occasion, this power was exercised.

77. Members of the CPT's delegation spent some time in the monitoring room at Castlereagh. There it met the Inspector on duty, who had the task of observing a bank of 40 small (13 x 18cm) black and white screens, two per interview room, as well as two other screens perched on an adjacent shelf for want of room .

Only a handful of interviews were in progress at the time of the delegation's visit to the room. Nevertheless, the delegation found that it was difficult to concentrate fully on the screens in operation for more than a few minutes at a time. Observing the screens quickly became a tedious and tiring experience, an effect which could only be amplified, the greater the number of interviews taking place. It was clear from all of the delegation's observations during a stay of approximately 30 minutes in the room that it would be unrealistic to expect a monitoring officer to keep his eyes fixed continuously to the screens throughout his time on duty. Further, constant surveillance of the images from a given interview room was only possible to the exclusion of surveilling others.

78. A diligent monitoring officer would probably quite rapidly spot any sustained bouts of physical violence in an interview room. However, it is likely that he would see such an incident for the first time only some moments after it had begun; a state of affairs which was borne out by certain entries in the monitoring room's incident file. It follows that the present monitoring arrangements will often fail to assist in the attribution of blame for incidents of violence. Further, an isolated and/or surreptitious act of violence might well pass completely undetected.

Clearly, the present CCTV system is not a foolproof means of detecting physical ill-treatment of persons detained at the holding centres or of preventing unjustified allegations of physical ill-treatment. Nevertheless, it is far preferable to no system at all.

79. The fact that only a silent image is relayed to the monitoring room means that the present system has little value as a means of detecting and preventing psychological ill-treatment. As already indicated (cf. paragraph 35), in the absence of any means of being able to hear what is said during the interview process, tangible evidence of psychological ill-treatment is difficult to obtain.

80. The introduction of a sound relay between the interview rooms and the CCTV monitoring room in holding centres would be one way of addressing this problem. However, police officers with whom this possibility was raised argued that it would give rise to technical problems and compromise security. The CPT does not find either of those arguments convincing.

It would certainly be technically possible to install a sound relay from each interview room which could be activated by the monitoring officer vis-à-vis a particular interview room when he deemed it appropriate (e.g. if the demeanour of the interviewers or the detainee made him suspicious that the latter was being verbally abused or threatened; if the detainee or his lawyer had complained that the former had been verbally abused/threatened during an earlier interview). Further, it is difficult to believe that enabling the monitoring officer - a police inspector - to hear what is being said in an interview room would involve an appreciable security risk.

The CPT recommends that a sound relay between the interview rooms and the monitoring room in holding centres be introduced.

81. It should be emphasised, however, that just as the CCTV system is not a foolproof means of detecting physical ill-treatment and preventing unjustified allegations of such treatment, nor will adding a sound relay render it a foolproof means of detecting psychological ill-treatment and of preventing unjustified allegations of that sort of ill-treatment. Were psychological ill-treatment to be occurring in an interview room, there might well be nothing on the CCTV screens to prompt the monitoring officer to make use of the sound relay; further, he could in any event only listen attentively to one interview at a time.

- electronic recording of interviews

82. The CPT considers that the electronic recording of police interrogations represents an important safeguard for detainees, as well as offering advantages for the police. In particular, it can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of allegations of ill-treatment and the correct attribution of blame.

83. The CPT notes that the audio tape-recording of police interviews of persons arrested under P.A.C.E. (N.I.) is a standard practice but that there is, to date, no electronic recording of interviews with persons detained under the P.T.A..

Whether interviews with persons detained under the P.T.A. should be electronically recorded and, if so, in what way, has been considered in depth by numerous authorities over the last fifteen years or more; and that debate continues. The CPT shall refrain from rehearsing all of the many arguments which have been advanced for and against electronic recording. It notes, however, that it is not seriously contested by anyone that electronic recording would both reinforce the protection of detained persons against ill-treatment during interrogation by the police and help to protect police officers against unfounded allegations of ill-treatment.

84. The central argument against electronic recording would appear to be that it could enable paramilitary groups to monitor the content of interviews at the holding centres, in particular as a result of legal procedures involving the disclosure of such recordings in court. The corollary of this, it is said, is that the introduction of electronic recording might well discourage suspects from providing valuable information to the security forces.

In the context of Northern Ireland, this argument should be given due weight. There can be no doubt that certain, if not all, paramilitary groups operating in the Province possess both the organisational capacity to "police" the interview process and, where they judge appropriate, the ruthlessness to exact severe retribution.

85. Police officers with whom the delegation spoke expressed particular concern about the suggestion that interviews with persons detained under the P.T.A. should be audio-tape recorded. In this connection, the delegation was inter alia given to understand that certain intelligence information could be obtained in the course of an interview which would not necessarily be reflected in the interview records (notes). Consequently, the fact that such information had been obtained would not be revealed in the event of the interview notes being the subject of disclosure in the context of a voir dire or a civil action arising out of an allegation of ill-treatment. However, it would be revealed if a tape-recording of the interview was disclosed in court.

It might be thought that a suspect who provided intelligence information would be unlikely to instigate procedures involving the disclosure of the tape recording. However, police officers pointed out that a suspect could be instructed to begin such a procedure. Further, it was advanced that allowing detainees to request that an interview not be recorded would not overcome the problem, as the fact that such a request was made might well itself subsequently be revealed (thereby jeopardising the position of the person concerned).

86. Nor were police officers well disposed to the idea of silent video recording of interviews. It was accepted that the potential problem of police officers being identified to a wide audience could be overcome by technical means. However, it was advanced that the possibility of a video recording which showed a too relaxed demeanour on the part of a suspect, or even the very fact that he had spoken with police interviewers, being disclosed in court proceedings could jeopardise the suspect's position; and knowing this, the suspect might refrain from communicating with the interviewers.

87. It is indisputable that, in the course of an interview with a person detained under the P.T.A., sensitive information can be revealed which is of great utility to the security forces in the fight against terrorism, and the CPT recognises the need to ensure that those who provide such information are not unnecessarily endangered.

However, the advantages which would flow from the introduction of electronic recording in terms of the prevention of ill-treatment during police interrogations and the protection of the police against unfounded allegations of ill-treatment must also be taken into account. This is all the more true when the available evidence suggests that the safeguards against ill-treatment already in place may not be proving fully effective.

88. Striking the right balance in this area is a delicate and complex matter. However, it could be argued that the current absence of any form of electronic recording of interviews with persons detained under the P.T.A. places undue emphasis upon security considerations. Another approach would be to envisage the introduction of electronic recording, but subject to appropriate adjustments to the procedures on the disclosure of matters in court proceedings and the introduction of safeguards guaranteeing the material security of the recordings.

In this connection, the CPT notes that, with effect from 1 December 1992, all interviews with terrorist suspects at police stations in England and Wales are, on a trial basis, audio-tape recorded in full unless the detained person requests to the contrary. Although the situation in Northern Ireland is not on all fours with that in England and Wales, the results of the above-mentioned trial could presumably offer some useful guidance.

As to the form of electronic recording to be envisaged, clearly an audio (with or without video) recording would be preferable from the standpoint of preventing ill-treatment and unfounded allegations of ill-treatment. However, even a silent video recording would represent an important step forward as compared to the present situation, at least insofar as physical ill-treatment is concerned.

89. The CPT recommends that the possibility of introducing electronic recording of interviews with persons detained in Northern Ireland under the P.T.A. be reviewed by the United Kingdom authorities, taking into account the remarks set out under paragraphs 76 to 88 above.

90. Finally, the CPT would add that the electronic recording of interviews of persons detained under the P.T.A. should not necessarily result in the existing monitoring arrangements being discarded.

Despite its defects, the present CCTV monitoring system has the advantage of enabling action to be taken immediately to put a stop to ill-treatment during the interview process (and its capacity in this respect would be further enhanced if, as recommended, a sound relay to the monitoring room was introduced). This is a useful safeguard in a place such as a detention and interrogation centre for those suspected of involvement in terrorist activities, where there will inevitably always be a higher risk of ill-treatment occurring than elsewhere.

i. complaints and inspection procedures

- complaints procedures

91. The existence of an independent mechanism for examining complaints about treatment whilst in police custody is an essential safeguard against ill-treatment. Certain elements of the system for examining complaints concerning the police in Northern Ireland have been set out above (cf. paragraph 25).

92. The CPT observes from the 5th Annual Report of the Independent Commission for Police Complaints (I.C.P.C.) that, during 1992, the Commission dealt with 395 cases arising from complaints from persons arrested under the emergency legislation. These 395 cases involved, inter alia, 271 allegations of assault during interview and more than 80 allegations of different forms of psychological ill-treatment. None of the 395 cases resulted in disciplinary sanctions against police officers. In one case (which involved an allegation of assault during interview) the Commission did make a recommendation of disciplinary charges. However, the disciplinary tribunal subsequently found the two officers concerned not guilty.

The CPT notes that in the majority of the cases (246), the investigation of the complaint was discontinued as a result of the complainant's "failure to co-operate with the investigation" and that in 135 cases there was insufficient evidence on which to base disciplinary charges.

93. The total absence of any disciplinary sanctions in the above-mentioned cases is striking. In this connection, the CPT agrees with the comments made by Lord Colville in paragraph 6.3 of his Report on the operation of the E.P.A. in 1992, namely that:

" ... if a disciplinary system seldom if ever reaches an adverse decision about a person who works, after training, within a disciplined structure, it is more likely that the system is faulty than that nobody in that profession or discipline ever makes even the most minor mistake or commits some foible. The public do not believe it and lose confidence in the system. The profession or discipline loses more in efficiency and usefulness than its individual members gain by a perceived, or real immunity".

94. Various suggestions for reforms of the disciplinary system were heard by the CPT's delegation, including changing the standard of proof required from the criminal to the civil standard. **The CPT would like to receive the comments of the United Kingdom authorities on this question.**

95. Further, the CPT considers that the composition of the disciplinary tribunal might usefully be reviewed.

At first sight, a tribunal which, on the one hand, has as its Chairman the head of the police force to which the person facing charges belongs and, on the other hand, has as its other members two persons from the body which has recommended disciplinary charges, is unlikely to be considered as impartial by either complainants or police officers. The I.C.P.C. has itself been critical of the present arrangements and recently called for the establishment of "a truly independent tribunal with a legally qualified Chairman to hear disciplinary charges".

This recommendation was not accepted by the Secretary of State for Northern Ireland in 1992. However, the CPT understands that further consideration is now being given to the matter and **would appreciate being informed of future developments in this respect.**

96. Even if the independence of the tribunal were to be reinforced, this would not solve the problem of a large number of investigations being discontinued as a result of the failure of the complainant to cooperate. It is neither in the interests of the prevention of ill-treatment, nor in the legitimate interests of the R.U.C., that the investigation of allegations of ill-treatment should be thwarted in this way in so many cases.

The CPT would like to be informed whether consideration is being given to ways of overcoming this problem. Similarly, it wishes to know whether an investigation which has been discontinued as a result of a failure to cooperate can subsequently be re-activated, in the light of the outcome of civil proceedings.

- inspection procedures

97. As in England and Wales, a system of Lay Visitors to police stations exists in Northern Ireland. By virtue of this system, ordinary members of the public are appointed as independent observers with the right to visit police stations without prior notice, inspect conditions of detention and speak in private with detainees. The CPT can only commend the existence of this system, which has few parallels in other Western European countries.

The CPT considers that the Lay Visitors' activities are capable of making an important contribution towards the prevention of ill-treatment of persons held by the police and, more generally, of ensuring satisfactory conditions of detention in police stations.

98. The above-mentioned Lay Visitors are not authorised to visit the holding centres. However, an Independent Commissioner for the Holding Centres, Sir Louis Blom-Cooper Q.C., has recently been appointed. According to his terms of reference, the principal purpose of the appointment is: "to provide further assurance to the Secretary of State that persons detained in Holding Centres are fairly treated and that both statutory and administrative safeguards are being properly applied. His appointment is also intended to reassure the public that the police have nothing to hide and that persons detained in Holding Centres are not being ill-treated or denied their rights."

99. Under the Independent Commissioner's terms of reference he may, on an unannounced basis, inspect the areas where persons are detained or to which they have access, scrutinise custody records to ensure compliance with the Codes of Practice issued under the E.P.A. and conduct interviews with detained persons. It is foreseen that his inspections shall include attention to the monitoring of interviews by CCTV and the electronic time stamping of interview notes.

The terms of reference are unclear as to whether the Commissioner is to have access to interview rooms while interrogations are in progress. The CPT's delegation learned from Sir Louis Blom-Cooper that, in practice, he did not have such access. However, it was open to him to request that an interrogation be interrupted, in order that he might speak with a detainee.

The Commissioner might, in exceptional circumstances (when it was felt interruption would seriously prejudice an important police investigation), be invited to forego immediate access. However, if after observing the interview on the CCTV monitor, the Commissioner was of the opinion that there were grounds for concern about the welfare of the person concerned, he was to be granted immediate access to him.

100. In the view of the CPT, the creation of the office of Independent Commissioner for the Holding Centres is a most positive development. However, the CPT considers that it is very important that a means be found of enabling the Commissioner, at his discretion, to hear for himself what is said during police interviews at the Holding Centres. In the absence of such a facility, it could prove difficult for the Commissioner effectively to advise the Secretary of State as to whether persons detained at the Centres are being fairly treated.

101. One possible option would be for the Commissioner to have access to interview rooms while interrogations are in progress; though it must be said that, in the experience of the CPT, the presence of an external investigatory authority during police interrogations can prove to be a disruptive influence, without serving any useful purpose from the standpoint of the prevention of ill-treatment.

The CPT has already recommended that a sound relay to the monitoring room be introduced (cf. paragraph 80) and the Commissioner should certainly be able to use that facility; it could not reasonably be advanced that such a measure could jeopardise security, or inhibit detainees from providing information to the police.

The CPT recommends that the United Kingdom authorities take appropriate steps to provide the Independent Commissioner with a means of hearing what is said during police interviews at the Holding Centres.

102. Further, **the CPT believes that consideration might usefully be given to allowing the Commissioner to have a right of access to any electronic recordings made of interviews with persons detained in Northern Ireland under the P.T.A..**

j. maximum periods of police custody without charge

103. The maximum possible period of police custody without charge is another issue of direct relevance to the CPT's mandate. Prolonged periods of detention of criminal suspects in police premises can lead to high risk situations.

The relevant legal provisions in the United Kingdom on this question have already been the subject of comments in the report on the CPT's first visit to the country in 1990 (cf. CPT/Inf (91) 15, paragraphs 223 and 224). The CPT remarked, in particular, that the need for the continued application of the provisions of section 14 of the P.T.A. should be kept under close review.

104. As already indicated, the majority of persons detained under the P.T.A. are released or charged within two days. Statistics provided by the Northern Ireland Office show that during 1993, 76% of the persons detained in Northern Ireland under the P.T.A. (ie. 1252 out of a total of 1638) were released or charged within 48 hours.

It is also noteworthy that in 1993, only 3.6% of persons detained in Northern Ireland under the P.T.A. were held for more than five days.

105. Seven days in police custody without charge is a long period of time. Even if the continued application of exceptional measures relating to the detention of persons suspected of terrorist activities is considered necessary, the CPT wonders whether there might not be scope for some reduction in the maximum period of police custody which is possible under those measures.

The CPT would like to receive the comments of the United Kingdom authorities on this subject.

E. Assessment

106. The information gathered by the CPT would suggest that persons detained in Northern Ireland in relation to ordinary criminal offences run little risk of being ill-treated.

Few allegations were made to the CPT's delegation by such persons concerning their treatment at the time of arrest and hardly any about their treatment while detained at a police station. Further, an impressive array of safeguards against ill-treatment (right not to be held incommunicado; access to a lawyer; access to a doctor, including a doctor of one's own choice; provision of information on rights; tape-recording of police interrogations; a scheme of Lay Visitors to police stations) is provided for, and those safeguards appear to operate effectively in practice.

Moreover, material conditions of detention at the P.A.C.E.-designated police stations visited by the CPT's delegation were quite satisfactory.

107. The picture is somewhat different as regards those detained for offences related to terrorism. A substantial proportion of such persons met by the CPT's delegation alleged that they had been ill-treated by the security forces at the time of their arrest and/or during their detention at the holding centres.

The CPT has set out above a certain number of allegations of ill-treatment, together with related medical findings. As regards, more particularly, ill-treatment during detention at the holding centres, the information gathered by the CPT's delegation would suggest that instances of physical ill-treatment have sharply decreased (although not entirely disappeared) in recent times; however, that decline has apparently not been matched by a fall in instances of psychological forms of ill-treatment.

108. The questioning of persons detained in relation to terrorist offences cannot be expected to be a pleasant process. However, threats of death or serious injury (whether direct or oblique), threats to put "dirt" in the interview notes unless information requested is provided, shouting into the ears of detainees or insulting them with expressions such as "provie mattress" is behaviour which has no proper place in the interrogation process. This position was fully accepted by senior R.U.C. officers with whom the CPT's delegation spoke. Of course, resort to physical violence would be equally unacceptable.

109. The sheer number of allegations of ill-treatment received, and their consistency as regards the types of ill-treatment employed and the authors of that ill-treatment (detective, as opposed to uniformed, officers) is striking. The fact that, unlike persons detained under P.A.C.E. (N.I.), no tape-recordings are made of interviews with persons detained under the P.T.A. must also be taken into account. At present there is no means whatsoever for anyone other than the detainee and his interviewers to know what is said during an interrogation; detective officers minded to resort to psychological forms of ill-treatment could therefore do so with virtual impunity.

Even in the absence of overt acts of ill-treatment, there is no doubt that a stay in a holding centre may be - and is perhaps designed to be - a most disagreeable experience. The material conditions of detention are poor (especially at Castlereagh) and important qualifications are, or at least can be, placed upon certain fundamental rights of persons detained by the police (in particular, the possibilities for contact with the outside world are severely limited throughout the whole period of detention and various restrictions can be placed on the right of access to a lawyer). To this must be added the intensive and potentially prolonged character of the interrogation process. The cumulative effect of these factors is to place persons detained at the holding centres under a considerable degree of psychological pressure. The CPT must state, in this connection, that to impose upon a detainee such a degree of pressure as to break his will would amount, in its opinion, to inhuman treatment.

110. In the light of all the information at its disposal, the CPT has been led to conclude that persons arrested in Northern Ireland under the P.T.A. run a significant risk of psychological forms of ill-treatment during their detention at the holding centres and that, on occasion, resort may be had by detective officers to forms of physical ill-treatment.

To address this matter, the CPT has made a number of recommendations and comments with a view to improving material conditions of detention and strengthening safeguards against ill-treatment. **The CPT also recommends that senior R.U.C. officers deliver the clear message to their subordinates that resort to ill-treatment, whether physical or psychological, is not acceptable and will be the subject of severe sanctions.**

111. The CPT believes that the measures proposed in this report could be implemented without undermining the capacity of the security forces in Northern Ireland to combat terrorism, and at the same time would place members of those forces in a better position to counter unjustified allegations of ill-treatment.

The Committee would add that the effectiveness of any police force depends, in large measure, on the degree of support which it enjoys among the public at large; this support will depend, at least to some extent, on public confidence that those taken into police custody will be fairly treated. Moves towards consolidating safeguards against the ill-treatment of persons detained by the police should also be viewed in that light.

F. Some observations concerning the prisons visited

a. ill-treatment

112. It should be said at the outset that the CPT's delegation heard no allegations of torture and hardly any allegations of other forms of ill-treatment of prisoners by prison staff in Northern Ireland.

113. At Belfast Prison the delegation was impressed by the efforts of staff to treat inmates in a humane manner, despite the rather poor physical conditions in which prisoners lived (and the staff worked) and the great complications arising from the de facto segregation of prisoners with opposing paramilitary allegiances (cf. paragraphs 118 et seq.).

114. At Mourne House, Maghaberry Prison, relations between staff and prisoners appeared, on the whole, to be satisfactory; however, the delegation sensed that staff-prisoner contacts were still to some extent affected by an involuntary full body search of all inmates which took place on 2 March 1992.

115. The delegation spoke at length with prisoners, prison staff (including the Governor) and a member of the Board of Visitors, about the above-mentioned full body search, the basic facts of which are well-known and do not need to be repeated here.

The CPT is satisfied that the Governor's decision to carry out the search - preceded by full consultation with Prison Service Headquarters - was taken in response to what was believed to be a genuine security problem.

As regards the manner in which the search was carried out, the CPT heard partially conflicting versions from prison staff and prisoners. According to prison staff, the search -carried out in the face of fierce resistance from prisoners accommodated in the "paramilitary" areas of Mourne House - was in all respects in compliance with the relevant provisions of the Northern Ireland Prison Service Security Manual. On the other hand, some prisoners alleged that male officers had adopted a very provocative attitude and that certain women inmates were forcibly strip searched by women prisoner officers within the sight of male officers.

The CPT has no means of verifying which of these competing versions is the truth. In any event, the Committee is pleased to record that no such incident has occurred in the prison in the meantime.

116. On the subject of full body searches in general at Mourne House, in advance of the visit the delegation had heard a number of allegations that excessive use was made of such searches there. An examination of the search records showed that, in the first twenty four days of July 1993, thirty full body searches had been performed - nine on committal to the prison and twenty one on discharge.

117. It appeared that, at Mourne House, full body searches would be performed in the following circumstances;

- on first committal by a court;
- when leaving for an inter prison visit (but not on return, when a rub down search would be performed);
- when leaving for, or returning from, home leave; and
- on final discharge from the establishment.

By far the highest number of searches were performed on those leaving the prison. The CPT can understand that, for security reasons, it may be necessary to perform full body searches on certain prisoners entering the prison; however, it does not understand why it is necessary, as a rule, to perform such searches on prisoners who leave.

The CPT wishes to receive information from the United Kingdom authorities on the reasons for the existence of this practice.

b. conditions of detention⁹

i. Belfast Prison

118. Belfast Prison dates from 1854 and was built to a radial design. It has an optimum capacity of 433 and, on the first day of the visit, was holding 474 prisoners, most of whom were awaiting trial. It is the only establishment in Northern Ireland which receives male remand prisoners.

Inmate accommodation was in four wings - A, B, C and D. At the time of the visit, A Wing and the top two landings of B Wing were being used to hold prisoners who professed either loyalist or republican paramilitary allegiances, a system of self-segregation being in operation in those areas. C Wing accommodated remand prisoners with no, or a lesser degree of, paramilitary involvement. Sentenced prisoners were housed in D Wing, which also contained three assessment units - for juveniles, for remand prisoners and for sentenced prisoners.

- material conditions of detention

119. Belfast Prison was overcrowded at the time of the visit. Prisoners were accommodated two to a cell in most areas of the establishment - a situation which was recognised by all concerned as being far from ideal. The cells measured approximately 8m², a satisfactory size for one person but cramped accommodation for two. The cells contained 2 beds, 2 tables, 2 plastic patio chairs, a pinboard, 2 shelf units and a call system. Natural and artificial light appeared to be adequate.

The CPT recommends that efforts be made to reduce overcrowding at Belfast Prison.

⁹ It should be recalled, in this context, that the CPT's delegation did not carry out what the Committee would consider to be full visits to the establishments concerned.

120. The cells did not contain lavatories; prisoners were provided with buckets or pots equipped with a lid, with a view to enabling them to comply with the needs of nature. The buckets or pots were later "slopped out" into sluices at fixed times. As the CPT has already had occasion to point out, it considers that the act of discharging human waste, and more particularly of defecating, in a bucket or pot in the presence of another person, in a confined space used as a living area, is degrading (cf. the report on its first visit to the United Kingdom CPT/Inf (91) 15, paragraph 47).

The effect of this system upon the quality of life of the prisoners concerned varied according to the amount of time which they were able to spend out of their cells. In A and B Wings, where out of cell time was lowest, prisoners might have to rely to a considerable extent on their buckets or pots.

121. Prisoners should have ready access to proper toilet facilities at all times. More specifically, either a toilet facility should be installed in the cell (preferably in a sanitary annexe) or measures should be taken to enable prisoners to be released from their cells to use a lavatory without undue delay (including at night).

In this respect, the Committee has taken note of the Northern Ireland Office "Belfast 2000" plan which, inter alia, provides for the installation of lavatories and washbasins (either in-cell, or by converting every third cell into a sanitary annexe). The CPT welcomes those plans **and recommends that their implementation be given a high priority.**

122. It should be added, however, that the CPT's delegation noted that considerable efforts had been made to keep the prison premises in a spruce condition - a task which cannot be easy given the age and state of repair of the buildings concerned.

123. Finally, the CPT has misgivings about certain aspects of the material conditions of detention in the disciplinary unit in the basement of D Wing. In particular, at least some of the cells had no access to natural light. Further, although the first of the unit's yards offered an adequate exercise facility, conditions in the second yard left a great deal to be desired.

The CPT recommends that steps be taken to remedy these shortcomings.

- *regime*

124. As already mentioned, A and B wings of Belfast Prison were used to accommodate prisoners who professed opposing paramilitary allegiances. The CPT's delegation observed that this produced a major difference between the regime which could be offered in those wings and that available in C and D Wings.

125. In principle, Belfast Prison does not segregate prisoners who profess allegiances to opposing paramilitary groups. Such inmates are held on the same landings in A and B wings; however, they are not required to share cells with prisoners from opposing factions. In practice, the paramilitary groups concerned have applied a system of self-segregation since the mid 1970's. All prisoners are offered two periods of exercise and two periods of association every day. However, exercise will be accepted by one group only in the morning, and by the other only in the afternoon. Further, two periods of association will be successively accepted and then successively refused by prisoners from a given group. As a result of this system, prisoners would, every second day, spend some 24 hours locked in their cells, save for time spent slopping out and outdoor exercise.

Apart from any in-cell activities, association in the recreation areas represented the core of the regime for paramilitary prisoners in A and B Wings. Such prisoners do not work (the delegation's suggestion that they might be interested in so doing being met with astonishment). The recreation areas contained tables and chairs, a snooker table, a dartboard and television. Tea and coffee were available on a self-service basis. The facilities in these areas were rather basic.

126. Clearly, the situation described above cannot be considered satisfactory; however, it is, to a large extent, a reflection of the wishes of the prisoners concerned. Both loyalist and republican paramilitary groups are strongly opposed to living in an integrated regime. The delegation was told that any attempt to bring together prisoners from opposing groups would lead immediately to violence between the inmates concerned. In fact, a large amount of staff time was committed to keeping such prisoners apart at all times.

127. The Northern Ireland Office is opposed to the creation of distinct units based on paramilitary affiliation, on the grounds that it would render those areas more difficult to manage, while tightening the control of the paramilitary groups concerned. An alternative approach is set out in the "Belfast 2000" plan, under which wing and landing-based activities would be increased. The plan makes provision for a study centre, multi gym and hobby/handicraft room in each wing and for a library on every landing. **The CPT welcomes those plans and hopes that their implementation will be given a high priority.**

128. The regime offered to remand prisoners in C Wing and to sentenced prisoners in D Wing was superior in many respects. Out-of-cell time was far longer (on average, between seven and eight hours per day). The delegation was particularly impressed by the C Wing outdoor exercise yard - which was of a satisfactory size and equipped for sporting activities -and by the well-equipped gymnasium.

As regards work, the delegation noted that the majority of sentenced prisoners in D Wing worked, primarily in general services, but that very few of the remand prisoners in C Wing had jobs (approximately 10 out of a population of 127, on the day of the visit). **The CPT recommends that ways be explored of increasing the number of employment places available to remand prisoners who wish to work.**

- *the assessment units*

129. In addition to accommodation for sentenced prisoners, D Wing also contained three assessment units. D1 was used to assess young offenders, both sentenced and on remand. Those remanded for ordinary offences were kept for two weeks and then transferred to a Young Offenders Centre. Those held on suspicion of having committed offences related to terrorism were administratively re-classified as adults and held in D1 until their trial.

D2 was used as the assessment unit for all incoming remand prisoners. They were kept there for seven days and interviewed every other day by prison staff, who compiled a report on the location within Belfast Prison in which they should be placed.

D3 received all prisoners with sentences of more than 12 months - both for ordinary and terrorism-related crimes. The staff had been instructed to interview such prisoners every day - in the case of ordinary prisoners and paramilitary prisoners with life sentences, over a four week period, and for other paramilitary prisoners, over two weeks.

130. The regime in the assessment units for ordinary prisoners was reasonable. They were unlocked between 9.15am and 10.45am for exercise; between 11.00 am and 2.00 pm, during which time they were allowed to go to the canteen; between 2.25pm to 4.25pm; and between 5.15 pm and 7.30 pm. There was a small workshop in which it was possible to engage in handicrafts and other light work for outside charities, a facility to which prisoners had access throughout the day. They were also encouraged to make use of the services of welfare and education officers and a psychologist.

131. Prisoners convicted of terrorism-related offences could benefit from the same regime if they indicated that they were prepared to serve their sentences in Maghaberry or Magilligan prisons, where they would be "free from paramilitary influence". If they insisted on going to the Maze Prison they would spend their time in the assessment unit locked in their cells for 23 hours a day or more, being released only to slop out and wash. This situation would continue for either fourteen days, or for up to twenty eight days if the prisoner was serving a life sentence.

The delegation was told by staff that this very restricted regime had been in force since November 1992 and was intended to persuade prisoners to choose to be allocated to a prison other than the Maze. They added that it was relatively uncommon for prisoners convicted of terrorism-related offences to choose to go to Maghaberry or Magilligan prisons -in the previous six weeks, only two prisoners had made such a choice. They estimated that over the course of an average year, only some 10% of loyalist prisoners and 2% of republicans would make a similar choice. However, they ventured the opinion that, given the length of the sentences which might be involved, the benefit to each individual prisoner who did choose not to go to the Maze Prison justified the restrictions placed upon certain other prisoners in D3 for two to four weeks.

132. The CPT recommends that all prisoners held in the assessment unit on landing D3 be guaranteed one hour of outdoor exercise every day. The CPT would add that the placement of prisoners in non-voluntary solitary confinement for other than disciplinary or security reasons is a questionable practice, even when it is said that that measure is being effected for the long term good of the prisoners concerned.

- *segregation*

133. At the time of the CPT's visit, the ground floor of B Wing (B1) was being used to hold remand prisoners who were awaiting trial for sex offences. Material conditions of detention were similar to those elsewhere in the establishment; however, regime activities appeared to be very limited. The delegation was told by prisoners that they could not take part in work or sporting activities and received only one hour of outdoor exercise per day.

Further, several of the inmates held there complained that they had had hot water thrown at them by prisoners on the upper landings in B Wing. More generally, these prisoners expressed concern about their future safety within the prison system, if convicted and transferred elsewhere.

The CPT invites the United Kingdom authorities to develop additional activities for prisoners held on landing B1 and to take steps to improve the physical security offered to such inmates in Belfast Prison, in the light of the above remarks. The CPT would also like to be informed of the arrangements made for accommodating such inmates in the event of their transfer to other prisons.

134. In A wing, two prisoners belonging to a particular paramilitary faction were being held in isolation (removal from association) on a voluntary basis. The delegation spoke with one of the prisoners concerned, who had been in isolation for seven months. An earlier attempt to integrate the prisoner in C wing had failed. Apart from one hour of exercise per day and the occasional visit, the prisoner spent all of his time inside his cell.

While recognising that the prisoner's isolation was self-imposed, the CPT would emphasise that all forms of isolation without appropriate mental and physical stimulation are likely, in the long term, to have damaging effects, resulting in changes in social and mental faculties.

The CPT trusts that attempts will continue to be made to persuade the two prisoners concerned to rejoin the prison community, and, in the meantime, invites the prison authorities to make special efforts to provide them with purposeful activities and to guarantee them appropriate human contact.

- *issues relating to the Human Immuno-deficiency Virus (HIV)*

135. In the course of its visit to the prison hospital, the CPT's delegation met an HIV+ prisoner who had been held there since his arrival in the prison some six months before. He did not have access to sports facilities and had not been offered work. In this connection, the CPT must point out that, in its view, there is no medical justification for the segregation of an HIV+ prisoner who is well.

The CPT wishes to be informed of the reasons for the segregation of the prisoner in question. More generally, it would like to receive copies of any directives or guidelines drawn up on the approach to be adopted in the Northern Ireland prison system towards HIV+ prisoners and those who have developed AIDS.

The CPT also wishes to stress the importance of a policy for combatting transmissible diseases in general in prisons, based on the provision of full information on the modes of transmission and means of protection and the introduction of appropriate preventive measures.

136. Further, while examining the prisoner card index in the establishment's central office, the delegation found that the HIV+ status of one prisoner was prominently indicated on his card. The CPT would emphasise that such information should be protected by strict medical confidentiality and should not be available in an area readily accessible to prison staff.

The CPT recommends that appropriate measures be taken to ensure the confidentiality of the HIV status of prisoners.

ii. Mourne House, Maghaberry Prison

137. Mourne House was a modern prison for women, located within its own wall, inside the perimeter of the Maghaberry prisons complex. The establishment consisted of four two storey buildings - Units A, B, C and D. In Units A to C, each storey had a capacity of seven to eight persons (in six single cells and one double cell, the double cell being used either for two prisoners or for a mother and baby). Unit D, which housed inter alia the disciplinary cells, was out of service at the time of the delegation's visit.

Units A1, A2 and B1 accommodated ordinary prisoners and "conforming" paramilitary prisoners, both sentenced and on remand. Units B2 and C2 each held prisoners who professed to have paramilitary allegiances - all to the same group - and Unit C1 held two young offenders. The prison had an optimum capacity of 56 and 36 persons were being held there on the day of the visit.

138. Conditions of detention at Mourne House were of a very high standard. The single cells measured over 8m² and were well-furnished (bed, table, wooden desk and wardrobe) and fitted with a washbasin and a lavatory in a sanitary annex. The mother and baby/double cells measured over 10m² and, in addition to the fittings of the single cells, were equipped with a shower.

139. The regime activities offered to inmates at Mourne House were also of a good standard. Each set of seven cells had its own spacious and well-furnished common room, fitted with a television and other audio-visual equipment, to which prisoners had access for up to eleven hours per day. Sports facilities offered included tennis and volleyball courts and a gymnasium. Further, prisoners were encouraged to attend an education unit, which inter alia offered courses in computer studies, Irish, maths, and yoga. Other courses available included handicrafts, cookery and woodwork.

140. Although the programmes of activities offered to prisoners at Mourne House were satisfactory, the CPT does have some concerns about the manner in which prisoners were allocated within the prison. The architectural design of the establishment would permit it to operate as a number of discrete units or flats, each flat offering a regime which was appropriate to the status of prisoners detained there. This was not the case at the time of the delegation's visit.

Instead, all prisoners with a paramilitary allegiance were kept together in B2 and C2, and in units A1, A2 and B1, remand and sentenced, conforming and ordinary, prisoners were mixed together. This policy had some unfortunate consequences, in that prisoners serving very long sentences were obliged to share accommodation with inmates who might be there for a very short period on remand. The delegation was told by some of the long-term prisoners that the result was that they ended up acting as "social workers" for those passing through on remand, while themselves becoming depressed by continued contact with a volatile population of short-term inmates.

The CPT understands that this situation stems from the need to keep prisoners with a paramilitary allegiance segregated on two, and, on occasion, three landings. It was said that, in the past, the areas for ordinary and conforming prisoners had been overcrowded (with doubling up in single cells) while cells had remained empty in the "paramilitary areas". At the time of the visit, there had been a fall in the numbers of prisoners with paramilitary allegiances. This had released one landing in the "paramilitary areas", enabling ordinary and conforming prisoners to be held without doubling up in the remaining areas of the prison. However, it appeared that, were the numbers of prisoners with paramilitary allegiances again to increase, an additional landing of the prison would once more be required to hold them.

141. The above-mentioned situation was all the more surprising, given that one complete unit was out of service. Unit D was in most respects similar to Units A, B and C - although it had previously been used only as accommodation for one "supergrass" prisoner, who had lived there for six years. In the opinion of the CPT, Unit D could usefully be brought back into service, in order to relieve any overcrowding which might again occur in the ordinary areas of the prison and to enable the prison authorities to allocate inmates in such a way as to ensure regimes which are appropriate to their needs.

The CPT invites the United Kingdom authorities to take appropriate steps to ensure that sentenced and remand prisoners at Maghaberry Prison are held in conditions, and offered regimes, which are appropriate to their status.

APPENDIX

SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

A. Introduction

requests for information

- the CPT asks that its request for a copy of the R.U.C. Code be reconsidered, having regard to the provisions of Articles 3 and 8 (2) (d) of the Convention and to the fact that it would be treated as strictly confidential by the Committee (paragraph 15);
- information on the regulative framework which applies to the power of the Army to arrest and detain under section 18 of the E.P.A. (paragraph 16);
- information on the regulative framework which applies to the general power of the police to arrest under section 17 of the E.P.A. (paragraph 20);
- information on whether the notion of "oppression" in Article 74 (2) of P.A.C.E. (N.I.) is broader than the test for disallowing evidence employed in section 11 (2) (b) of the E.P.A. If that is the case, an account of the forms of conduct which would fall foul of Article 74 (2) but which would not be sufficient to result in evidence being excluded under section 11 (2) (b) (paragraph 22).

B. Ill-treatment of persons detained by the security forces

a. ill-treatment at the time of arrest

recommendations

- members of the security forces to be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them (paragraph 30).

requests for information

- whether the act of standing on the backs of the legs of arrested persons once they are in a kneeling position would constitute an authorised method of restraint (paragraph 30).
- b. ill-treatment during detention at the holding centres

recommendations

- senior R.U.C. officers to deliver the clear message to their subordinates that resort to ill-treatment, whether physical or psychological, is not acceptable and will be the subject of severe sanctions (paragraph 110).

C. Conditions of detention in police establishments

a. the Holding Centres

recommendations

- conditions of detention at Castlereagh Holding Centre to be substantially improved without delay. If such an improvement were not to prove possible, the Holding Centre to be relocated elsewhere, in premises capable of offering better detention facilities (paragraph 45);
- appropriate steps to be taken to provide access to natural light in the cells and interview rooms at Gough Barracks (paragraph 47).

requests for information

- confirmation that detainees held for lengthy periods at Gough Barracks are given access to the exercise yard and details of the extent of access allowed (paragraph 48);
- the comments of the United Kingdom authorities on the advisability of fixing to the floor the chair used by the detainee in holding centre interview rooms (paragraph 49).

b. other police establishments

requests for information

- whether it is intended that Strand Road Police Station will again be used for the holding and questioning of persons arrested under the P.T.A. (paragraph 51);
- information on the outdoor exercise facilities for persons detained at Strand Road (paragraph 51).

D. Safeguards against ill-treatment

recommendations

- steps to be taken to ensure that persons detained under P.A.C.E. (N.I.) and the P.T.A. have the right of access to an independent lawyer, as from the outset of their detention (paragraph 58);
- the United Kingdom authorities to verify that the confidentiality of a detainee's discussions with his lawyer at Castlereagh Holding Centre is ensured (paragraph 61);
- detained persons to be expressly informed of their right to request a medical examination, including by a medical practitioner of their own choice/from the practice with which they are registered (paragraph 72);
- Medical Officers at the holding centres to pay particular attention to the psychological and mental state of detainees when examining whether they are (still) fit to be interviewed. In addition, special care to be taken when considering whether detainees who are particularly vulnerable (eg. juveniles, the mentally ill or mentally handicapped) are fit to be interviewed (paragraph 75);
- a sound relay to be introduced between the interview rooms and the monitoring room in holding centres (paragraph 80);
- the possibility of introducing electronic recording of interviews with persons detained in Northern Ireland under the P.T.A. to be reviewed by the United Kingdom authorities, taking into account the Committee's remarks in paragraphs 76 to 88 (paragraph 89);
- the United Kingdom authorities to take appropriate steps to provide the Independent Commissioner for the Holding Centres with a means of hearing what is said during police interviews at those centres (paragraph 101).

comments

- the exercise of the power under section 45 (6) (b) of the E.P.A. should not be allowed to undermine the right of access to an independent lawyer. If it is felt that grounds exist which justify the exercise of that power vis-à-vis a particular lawyer, access to another lawyer should be arranged (paragraph 59);
- if resort is had to the power granted by section 45 (11) of the EPA, the detainee in question should have the right to consult in private with another independent lawyer (paragraph 60);
- the introduction of electronic recording of interviews of persons detained under the P.T.A. should not necessarily result in the existing monitoring arrangements being discarded (paragraph 90);
- consideration might usefully be given to allowing the Independent Commissioner for the Holding Centres to have a right of access to any electronic recordings made of interviews with persons detained in Northern Ireland under the P.T.A. (paragraph 102).

requests for information

- information on the percentage of cases during 1993 in which resort has been had to the power to delay the exercise of the right to have someone notified of the fact of custody, under both P.A.C.E. (N.I.) and the E.P.A. (paragraph 54);
- the comments of the United Kingdom authorities on the absence in the Code of Practice concerning persons detained under the P.T.A. of any reference to facilities (letters, telephone calls, visits) for detainees to remain in contact with the outside world while in police custody (paragraph 55);
- concrete examples of situations in which recourse to the power set out in section 45 (6) (b) of the E.P.A. would be considered necessary, as well as statistics on the percentage of cases during 1993 in which resort was made to that power (paragraph 59);
- information on the reasons for denying a person detained in Northern Ireland under the P.T.A. the right to have a lawyer present during his interrogation and, more particularly, on why it is considered necessary for this right to be denied throughout the whole of that person's period of custody (as distinct from only during the period of up to 48 hours during which access to a specific solicitor can be denied) (paragraph 63);
- clarification of the reasons for providing that a PTA detainee's access to a medical practitioner from the practice with which he is registered may be delayed for up to 48 hours (paragraph 67);
- whether a statement by a Medical Officer that a detainee is not fit to be detained or interviewed can be overridden by the police (paragraph 68);
- the comments of the United Kingdom authorities on the remarks set out in paragraph 71 concerning the notation of injuries by Medical Officers (paragraph 71);
- the comments of the United Kingdom authorities on the question of changing the standard of proof required in police disciplinary proceedings from the criminal to the civil standard (paragraph 94);
- information on developments concerning the composition of the tribunal which hears disciplinary charges against police officers (paragraph 95);
- whether consideration is being given to ways of overcoming the problem of a large number of investigations concerning complaints about police conduct being discontinued as a result of the failure of the complainant to cooperate; whether an investigation which has been discontinued as a result of a failure to cooperate can subsequently be re-activated, in the light of the outcome of civil proceedings (paragraph 96);
- the comments of the United Kingdom authorities on the possible reduction of the maximum period of police custody under section 14 of the P.T.A. (paragraph 105).

E. Some observations concerning the prisons visited

a. Belfast Prison

recommendations

- efforts to be made to reduce overcrowding (paragraph 119);
- implementation of the "Belfast 2000" proposals to install lavatories and washbasins to be given a high priority (paragraph 121);
- steps to be taken to remedy the shortcomings concerning material conditions of detention observed in the disciplinary unit in the basement of D wing (paragraph 123);
- ways to be explored of increasing the number of employment places available to remand prisoners who wish to work (paragraph 128);
- all prisoners held in the assessment unit on landing D3 to be guaranteed one hour of exercise every day (paragraph 132);
- appropriate measures to be taken to ensure the confidentiality of the HIV status of prisoners (paragraph 136).

comments

- the CPT welcomes the "Belfast 2000" proposals to increase wing and landing-based activities in A and B wings, and hopes that their implementation will be given a high priority (paragraph 127);
- the placement of prisoners in non-voluntary solitary confinement for other than disciplinary or security reasons is a questionable practice, even when that measure is said to be effected for the long term good of the prisoners concerned (paragraph 132);
- the United Kingdom authorities are invited to develop additional activities for prisoners held on landing B1 and to take steps to improve the physical security offered to such inmates (paragraph 133);
- the CPT trusts that attempts will be continue to be made to persuade the two paramilitary prisoners who were held in voluntary isolation in A wing to rejoin the prison community, and, in the meantime, invites the prison authorities to make special efforts to provide them with purposeful activities and to guarantee them appropriate human contact (paragraph 134);
- it is important that there be a general policy for combatting transmissible diseases in prisons, based on the provision of full information on the modes of transmission and means of protection and the introduction of appropriate preventive measures (paragraph 135).

requests for information

- information on the arrangements made in prisons other than HMP Belfast for accommodating inmates convicted of sex offences (paragraph 133);
- the reasons for the segregation of an HIV+ inmate met by the CPT's delegation in the prison hospital (paragraph 135);
- copies of any directives or guidelines drawn up on the approach to be adopted in the Northern Ireland prison system towards HIV+ prisoners and those who have developed AIDS (paragraph 135).

b. Mourne House, Maghaberry Prison

comments

- the United Kingdom authorities are invited to take appropriate steps to ensure that sentenced and remand prisoners at Maghaberry Prison are held in conditions, and offered regimes, which are appropriate to their status (paragraph 141).

requests for information

- information on the reasons for the practice of performing full body searches on prisoners leaving Mourne House, Maghaberry Prison (paragraph 117).

