

UNOG-OHCHR
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Name
Address

19 04 2024

Dear Chairperson Justice Committee and UNOG-OHCHR,

The British Police and their immunity for the crime of Torture in England and Wales via a veto at section 135 of the Criminal Justice Act 1988. The British deceived the UN.

Where is the UN duty of care to investigate and challenge the veto?

Why are the English Constitution Society members bringing cases against King Charles III? Why in another jurisdiction other than England and Wales? Why is the only recourse being under “universal Jurisdiction”.

British Police constables are servants of the crown. State officials. They are being systematically protected by the crown for the internationally recognised crime of Torture.

Torture was defined by UNCAT and the British ratified the convention and incorporated into English law via Criminal Justice Act 1988 section 134. It also created a criminal prosecution **veto at paragraph 135** which we say is internationally and domestically ultra vires.

Three example cases there are many more;

1. Charles Staple (victim) – tortured 28 11 2020 – declined justice via the only application made to the Attorney General to privately prosecute British police for the crime of torture under CJA 1988 section 134/135. The tort case is before the Kings Bench for a strike out hearing 26 04 2024 Royal Courts of Justice, the strike is being brought by the police (crown servants) and is being heard by a Judge Eastman (crown servant). Charles Staple is asking the Kings Bench to create and hear the case as a Tort of Torture. The first part of the case is already transferring to Texas, USA as King Charles III the head of state and principle in the crime of torture under universal jurisdiction. The second part will be transferred when the torture tort is struck out, again the principal tortfeasor will be King Charles III.

2. Police Constables Stephen Smith and Rachel Comotto will appear at Westminster Magistrates' Court on 25 April 2024, charged with assault occasioning actual bodily harm (ABH) in connection to their use of force on Donald Burgess (victim) in St Leonards-on-Sea, 93 years old, wheel chair bound, one leg with dementia. The use of force by police included a Taser, PAVA spray, handcuffs and a baton. He died three weeks later.

3. Ian Tomlinson (victim), the inquest Jury returned unlawful killing. PC Simon Harwood was charged and found not guilty of the manslaughter of Ian Tomlinson. The correct charge was Torture CJA 1988 section 134 of which he would have been found guilty as charged by a Jury.

The question; why have they not been charged under the Criminal Justice Act 1988 section 134 Torture? The CPS and IOPC are failing in their duty of care to the public and so is the Justice Committee. The government's own words – at page 4 – issues raised by UN and Governments response.

<https://assets.publishing.service.gov.uk/media/64b00912c033c10010806284/uncat-response.pdf>

"The UK Government takes allegations of torture and cruel, inhuman or degrading treatment very seriously and any allegations are investigated appropriately. The UK Government does not participate in, solicit, encourage or condone the use of torture for any purpose.

Torture is a criminal offence in the UK under section 134 of the Criminal Justice Act 1988, with a maximum penalty of life imprisonment. Aiding and abetting torture is a criminal offence under section 8 of the Accessories and Abettors Act 1861 and subject to the same maximum penalty.

Further, Article (3) of the ECHR, as given further effect in the HRA, provides that no one shall be subjected to torture, inhuman or degrading treatment or punishment, and victims can rely upon this right in civil and criminal proceedings.

We have a long, proud and diverse history of freedoms in this country. Any legislative changes would not erode the prohibition of torture and other ill-treatment provided in the UK. The UK Government is of the view that UK law including section 134 (4) and (5) of the Criminal Justice Act 1998 is consistent with the obligations imposed by the Convention for the reasons set out in our previous reports."

The issue at hand revolves around the practice commonly referred to as "selective prosecution" or "prosecutorial bias." This pertains to instances where the entity responsible for law enforcement consistently opts for lesser or more challenging-to-prove offences, thus perpetuating outcomes that systematically favour the organisation's interests or the state over those of the victim or the law itself (Ian Tomlinson case). Particularly troubling is when this pattern emerges in cases where the offender is affiliated with the state (Justice system), indicating an intent to conceal systemic criminal behaviour of the most grievous nature.

Allow me to substantiate this claim with statistical evidence. Since the incorporation of the United Nations Convention against Torture (UNCAT) into English law via the Criminal Justice Act 1988, specifically sections 134 and 135, a disconcerting trend has emerged. While ostensibly designed to enhance legal protections against torture and ill-treatment, this incorporation has left individuals in England and Wales devoid of a non-biased remedy for the first time since 1640 because of section 135.

Remarkably, despite the legal framework ostensibly in place to address instances of abuse of power, records reveal a disturbing lack of accountability. Since 1988, not a single prosecution of any British state official for offences related to torture and ill-treatment has been initiated when the offender is a British police constable, even though reports indicate the deaths of 1888 individuals in police custody or during restraint. **It appears the UNCAT definition of Torture, ratified by the British regime is not being applied or prosecuted.**

In stark contrast, the recent enactment of legislation aimed at safeguarding emergency workers, particularly within the NHS, has led to a significant surge in prosecutions. Between 2018 and 2019 alone, approximately 19,600 prosecutions were initiated under the offence of assaulting an emergency worker. Notably, 90% of these prosecutions were against individuals accused of assaulting police officers. This glaring disparity, raises serious questions about the fairness and integrity of our criminal justice system.

Furthermore, to underscore the severity of the situation, I draw your attention to the tragic events of Peterloo in 1819, where 19 defenceless and peaceful individuals exercising their constitutional rights, including men, women, and children, lost their lives at the hands of the British state. This incident has been commemorated annually since. However, in stark contrast, last year alone, 23 individuals lost their lives at the hands of the police in England and Wales, **underscoring** the urgency of addressing systemic issues within law enforcement.

In light of these compelling statistics and historical precedents, I respectfully urge the Human rights organisations and the **Justice Committee** to scrutinise the actions of the prosecuting authority in this matter. Justice must be administered impartially and without prejudice, and all individuals, regardless of their affiliation, must be held equally accountable under the law.

Written on behalf of the members and subscribers to The English Constitution Society and approved 19 04 2024.

Name

Member English Constitution Society.