

CPD Workshop - Mandate of UK National Preventive Mechanism & An overview of the UK PACE 1984

The IJLS organised a CPD course on the mandate of the National Preventive Mechanism and the salient features of the UK Police and Criminal Evidence Act 1984 on 13th March 2019. The course was delivered by Mr John Wadham, Chairman of the UK National Preventive Mechanism and Member of the UK Independent Advisory Panel on Deaths in Custody, and Mr D B Seetulsingh, Chairman of the National Human Rights Commission and Retired Supreme Court Judge.

Mrs Cheong, Chairperson of the IJLS, started the event with a welcoming address and expressed her appreciation to the Chair of the UK National Preventive Mechanism who has responded positively to delivering a lecture at the IJLS. Mr Seetulsingh then intervened on the topic of human rights in Mauritius. He highlighted that Mauritius is a signatory to most of the UN human rights treaties, including the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol (OPCAT). The OPCAT is an international human rights treaty designed to strengthen the protection of people deprived of their liberty. It acknowledges that such people are particularly vulnerable to ill-treatment, and advocates that efforts to end ill-treatment focus on prevention through a system of regular visits to places of detention. Mr Seetulsingh further commented that the National Human Rights Commission has been established under the Protection of Human Rights Act 1998, and is structured to have a Human Rights Division and a National Preventive Mechanism Division. The latter is the body responsible to visit police stations, prisons and other places of detention, and is also empowered to entertain complaints from detainees.

Mr Wadham intervened firstly on the UK National Preventive Mechanism. The UK ratified OPCAT in December 2003 but did not designate its NPM until March 2009. A number of complexities may have prolonged the designation process. Firstly, a number of existing bodies already carried out roles which were similar to that of the NPM. While an initial decision was made that the functions of the NPM in the UK would be performed by the collective action of existing bodies, the government still had to consider which existing bodies were OPCAT-compliant and which should be designated. Secondly, despite the pre-existing bodies, there remained gaps in coverage of places of detention. For example, while inspection of prisons was well established, inspection of military detention and police custody, at that time, was limited. Thirdly, the UK government had to liaise with the devolved administrations in Wales, Northern Ireland and Scotland over arrangements in those countries. Finally, the government also had to think about whether and how to coordinate the activities of the multiple bodies being considered for designation.

He further gave some statistics on the population of those detained in the UK. The UK NPM estimates that in excess of 124,000 people in the UK are detained on any given day in secure hospitals, prisons, immigration facilities, secure children's homes, police cells and military

prison. The actual number of people detained on any given day is likely to be much higher as we have not been able to include data for a number of settings. While a range of population data is available for specific detention settings, there is no collated data that provides an overview of detention across every setting in the four jurisdictions of the UK.

Their findings are as follows: (i) the throughput of individuals into police custody in a year was at least 1.2m. They do not know how many of these were children; (ii) an estimated 89k adults over the age of 21 were detained across the UK in adult prisons; (iii) in England, Wales and Scotland there were 6,3k people aged 20 or under detained in youth custody. There were a further 155 under 21s detained in Northern Ireland; (iv) there were 3,4k people held in both residential and non-residential immigration detention; (v) there were 63,6k “detention events” under mental health legislation in England; and (vi) 76k applications for Deprivation of Liberty Safeguards were granted in England.

In the second part of his intervention, Mr Wadham provided a comprehensive overview of the UK PACE Act 1984 and focused on key cases relating to stop and search, search of premises, detention and treatment, identification procedures, recording interviews, visual recording, arrest powers, and terrorism powers. His main contention was that PACE has given a wide array of powers to enforcement authorities but that there are rigorous processes that should be observed in the exercise of those powers. While these processes are not always observed in practice, PACE does indeed provide for well-defined powers that should first and foremost allow for the protection and respect of fundamental rights of individual.

The course ended on a high note with a short Q&A session. The event was a highly successful one insofar as members of the legal profession have been able to capitalise on the expertise of the Chairman of the UK National Preventive Mechanism as well as the Chairperson of the National Human Rights Commission of Mauritius.