



House of Commons  
Foreign Affairs Committee

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# Human Rights Annual Report 2005

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First Report of Session 2005–06





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**First Report of Session 2005–06**

*Report, together with formal minutes, oral and  
written evidence*

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## Foreign Affairs Committee

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## Conclusions and recommendations

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1. We conclude that the Foreign and Commonwealth Office's Human Rights Annual Report 2005 makes a substantial contribution to the transparency and visibility of the Government's work in this important area. (Paragraph 5)
2. We conclude that the Government risks downgrading its human rights work by combining human rights responsibilities with trade in the person of the same minister and also by subsuming human rights work into the more general category of sustainable development. (Paragraph 9)

### The international framework

3. We welcome moves to establish a permanent Human Rights Council. We recommend that the Government ensure that the Council starts its work at the earliest opportunity. We further recommend that the Government outline what measures will be put in place to ensure that the Council's work does not suffer from tactical voting or ideological opposition from particular states, as was the problem with the UN Commission on Human Rights. We also recommend that the United Kingdom, as a permanent member of the UN Security Council, should continue to make its utmost endeavours to bring the serious human rights situation in states such as Burma, Uganda and Zimbabwe to the Security Council's attention. (Paragraph 15)
4. We recommend that the Government set out in its response to this Report the human rights achievements and disappointments of its Presidency of the European Union. (Paragraph 17)
5. We conclude that the incentive of EU accession has played an important role in prompting human rights improvements in Turkey. We recommend that the Government support the Turkish government in its implementation of legislative changes, and that it maintain pressure on Turkey to make further reforms. (Paragraph 22)
6. We recommend that in its response to this Report the Government set out what it is doing to encourage other states actively to support the ICC. (Paragraph 28)
7. We conclude that the capture of war crimes indictee Ante Gotovina is a most welcome development, but stress that accession to either the EU or NATO should remain impossible for any of the Balkan states, including Croatia, until they have fulfilled all of their obligations to the International Criminal Tribunal for the former Yugoslavia. (Paragraph 32)

### War against terrorism

8. We conclude that the continued use of Guantánamo Bay as a detention centre outside all legal regimes diminishes the USA's moral authority and is a hindrance to the effective pursuit of the war against terrorism. We recommend that the

Government make loud and public its objections to the existence of such a prison regime. (Paragraph 39)

9. We conclude that the Government has a duty to enquire into the allegations of extraordinary rendition and black sites under the Convention against Torture, and to make clear to the USA that any extraordinary rendition to states where suspects may be tortured is completely unacceptable. (Paragraph 52)
10. We welcome the Government's new frankness on the question of the use of information derived by other states from torture. We recommend that a policy of greater transparency be maintained. However, we conclude that the use of such information presents serious ethical dilemmas in terms of complicity, especially in the wake of a ruling by the House of Lords which described the use of torture as "dishonourable". We recommend that the Government clearly set out its policy on the use of information derived by other states through torture in its response to this Report and that it encourage a public debate on the ethical dilemmas it faces. (Paragraph 58)
11. We conclude that the Government should only use Memoranda of Understanding when it can be sure that the monitoring mechanisms in place are entirely effective, and that the Memoranda must not be used as a fig leaf to disguise the real risk of torture for deported terrorism suspects. We recommend that in its response to this Report the Government give full information on the monitoring arrangements which apply under existing Memoranda of Understanding, including where possible examples of how they work in practice. (Paragraph 66)
12. We recommend that the 2006 edition of the Annual Report should incorporate more information about the human rights situation in Iraq, including the impact on civilians of intense military operations such as those in Falluja in 2004, the position of Christian and other religious minorities and the treatment of detainees by the Iraqi government. (Paragraph 70)
13. We urge the Government to ensure that all appropriate measures are in place to curtail any possibility of abuses by coalition forces, and we recommend that the Government set out what it has done to prevent their re-occurrence. (Paragraph 72)
14. We conclude that the United Kingdom has a responsibility to engage its ally both privately and publicly on the question of abuses by US troops. We recommend that the Government make clear and public its condemnation of human rights abuses committed by any of the multinational forces in Iraq, and that its coverage in the human rights report should expand to include more detail of the USA's investigations into abuses committed by its soldiers and of the measures in place to prevent their recurrence. (Paragraph 76)
15. We conclude that while the trial of Saddam Hussein is a matter for the Iraqi people, the Government should urge the Iraqi administration to ensure the trial fulfils the accepted norms of justice. We recommend that the Government set out in its response to this Report how the United Kingdom will do so, for instance by providing security for lawyers and witnesses at the trial and by offering support for

the Iraqi authorities in ensuring the application of due process of law. (Paragraph 81)

### General themes

16. We conclude that while the expansion of democracy in the former Soviet Union is most welcome, free elections are still a rarity and human rights abuses are widespread. We recommend that the Government work to support civil society organisations and regional institutions, such as the South Caucasus Parliamentary Initiative (SCPI), as well as supporting the election monitoring and evaluation work of the Organisation for Security and Co-operation in Europe (OSCE) and in particular its Office for Democratic Institutions and Human Rights (ODIHR), in order to help implant strong and enduring human rights norms in the post-Soviet world. (Paragraph 87)
17. We commend the Government's backing for the Arms Trade Treaty. We recommend that in its response to this Report the Government report on progress to increase support for the ATT and to ensure forward momentum in 2006. (Paragraph 90)
18. We recommend that the Government include a detailed explanation of export licence decisions in each of the countries of concern sections of the Annual Report so as to ease public concern about military exports to those states, including Colombia. (Paragraph 96)
19. We conclude that the Government must do its utmost to encourage states to improve their corporate social responsibility (CSR) standards so that companies can compete on a level playing field and that states with human rights failings are not tempted to work with unethical trading partners. We recommend that the Government work to broaden international support for instruments, like the UN Convention against Corruption, which enshrine ethical standards for business at an international level. (Paragraph 100)

### States of concern

20. We conclude that the human rights situation in the Russian Federation has deteriorated over the last year. We recommend that the Government make clear to President Putin and other Russian authorities that a creeping return to authoritarianism is not an acceptable policy to pursue. We also recommend that the British Government engage with the Russian government on the question of Chechnya and the North Caucasus. We are concerned that the Kremlin's policy in Chechnya may result in further radicalisation of the population and an increase in recruits to Islamic terrorist groups. (Paragraph 107)
21. We conclude that the Government must maintain pressure on the Islam Karimov regime in Uzbekistan. We recommend that the Government should work hard to establish a consensus with its allies in the EU and NATO, including Germany, to put pressure on the Uzbek government and to add weight to its call for reform. (Paragraph 115)

22. We recommend that the Government include more information about its work to strengthen human rights standards in Angola in its Human Rights Annual Report. (Paragraph 119)
23. We conclude that the appalling human rights abuses in the Democratic Republic of Congo are a matter of grave concern. We recommend that the Government make clear to the Democratic Republic of Congo and its neighbours that interference is unacceptable. We further recommend that the Government do its utmost to ensure that those guilty of human rights abuses in the DRC are held accountable for their crimes. (Paragraph 122)
24. We conclude that the Annual Report should include information about the state of human rights in Equatorial Guinea, and that the Government should press the Equato-Guinean authorities to improve human rights. (Paragraph 125)
25. We conclude that a resumption of hostilities in the Horn of Africa would seriously damage human rights in the region, and recommend that in its response to this Report the Government set out what measures it is taking with its Security Council partners to prevent an outbreak of war and establish respect for human rights and democratic governance in the region. (Paragraph 133)
26. We conclude that the Government must maintain pressure in all possible forums on the Sudanese government in order to bring the abuses in Darfur to an end. We recommend that the Government continue to call for an end to the slaughter and an end to the immunity of the abuses from judicial proceedings, to support referrals to the International Criminal Court, and to offer resources to the African Union and UN missions in Darfur. We also recommend that the Government urge its Chinese counterparts to support UN Security Council measures against Sudan. (Paragraph 137)
27. We conclude that the United Kingdom must urge the Ugandan authorities to cease their interference in the Democratic Republic of Congo (DRC) and to curtail the trade in illegal gold which underpins the wartime economy in Ituri and other regions which suffer severe human rights abuses. We recommend that the Government make clear its condemnation of the arrest of opposition politicians in Uganda and support for free and democratic elections there. We also recommend that the Government continue its efforts to bring the question of human rights in Uganda before the UN Security Council. (Paragraph 140)
28. We conclude that the Government should continue its policy of putting pressure on the Mugabe regime in Zimbabwe, and should do its utmost to win support for this policy from other states in Southern Africa in general and from South Africa in particular. We recommend that the United Kingdom start a campaign for the referral of Robert Mugabe to the International Criminal Court for his manifold and monstrous crimes against the people of Zimbabwe. We also recommend that the Government should continue its efforts to place the question of human rights in Zimbabwe before the UN Security Council. (Paragraph 147)
29. We conclude that human rights in Iran have deteriorated over the last year, and worsening relations are making dialogue increasingly difficult. We recommend that

the Government set out what it hopes to achieve with the human rights dialogue with Iran, and that it continue its efforts to bring Iranian human rights to international attention and to urge its EU counterparts to do the same. (Paragraph 155)

30. We conclude that the human rights situation for Palestinians in the Occupied Territories is not acceptable and we recommend that the Government expand its coverage in the Report to include more detail on the problem of impunity in the Israeli Defence Forces (IDF). We also recommend that the Government urge Israel to take human rights issues into greater account when dealing with the Palestinians, and that the Government should continue to restate its position that those parts of the barrier beyond the Green Line are illegal. (Paragraph 160)
31. We recommend that the Government should explore the human rights situation in the Palestinian Territories in a separate section in its next Report, and that it should explore in greater detail the extent of the abuses committed in the Territories. (Paragraph 163)
32. We conclude that the human rights situation in Saudi Arabia continues to give cause for grave concern. We recommend that the Government continue to make clear that the Saudi Kingdom's instances of discrimination against women and other human rights abuses which are endemic in Saudi Arabia, breed discontent and fall far short of universal standards. We recommend that the Government engage the Saudi authorities on the questions of women's rights and the rights of guest workers, the use of torture and of the death penalty for a wide range of crimes including apostasy, adultery and 'acts of sabotage and corruption on earth'. (Paragraph 168)
33. We recommend that the Government set out in its response to this Report what it is doing to seek to improve human rights in Syria, and we also recommend that its next report should contain more information about Syria. (Paragraph 170)
34. We conclude that human rights abuses in Afghanistan are manifold and serious, and that security is a particularly difficult challenge. We also have major concerns about the lack of judicial process against human rights abusers in Afghanistan and urge the Government to do its utmost to support any mechanisms which will implement justice and aid reconciliation in Afghanistan. We also recommend that the Government increase its support for women's rights programmes in Afghanistan. (Paragraph 176)
35. We conclude that the United Kingdom should maintain its policy of pressing the Burmese military junta to permit reform and introduce basic rights which are universal and inalienable, and that its efforts to bring other ASEAN states around to its perspective should not falter. We recommend that the Foreign and Commonwealth Office should continue to report on Burmese human rights in its Annual Report, and redouble its efforts to bring the question of abuses by the Burmese authorities to the attention of the UN Security Council. (Paragraph 179)
36. We conclude that the UK-China human rights dialogue appears to have made glacial progress. We recommend that the Government set out in its response to this Report what measures it uses to determine whether the dialogue is a success, what it sees as

the achievements of the dialogue to date, and why it wishes it to continue. (Paragraph 186)

37. We conclude that the situation in Tibet is of great concern, and we recommend that the Government should make public its condemnation of the human rights abuses carried out by the Chinese authorities in Tibet. (Paragraph 189)
38. We conclude that the improvements in human rights in Indonesia are welcome, but that the Government must engage with its Indonesian partners to move further towards reform, particularly in the light of the USA's decision to reinstate military to military ties with Indonesia. We also recommend that the Government should expand its coverage of the West Papua conflict in its Annual Report. (Paragraph 194)
39. We conclude that the Government should include more information in the next Annual Report on the human rights situation in the Maldives. (Paragraph 197)
40. We conclude that the Government should maintain pressure on the King of Nepal to reintroduce democracy and to work to establish human rights standards throughout Nepal. We also condemn the bloody acts of terrorism perpetrated by the Maoist insurgents in Nepal. We recommend that the Government maintain only limited military assistance to the Nepali government until accountable government is reinstated. (Paragraph 202)

# 1 Introduction

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1. In 1998, the Foreign and Commonwealth Office (FCO), in collaboration with the Department for International Development (DFID), published the first of what has become a series of Annual Human Rights Reports.<sup>1</sup> Robin Cook MP, the then Foreign Secretary, and Clare Short MP, the then Secretary of State for International Development, introduced the first Report by stating their intent to work “for a more just and peaceful world, in which human rights are genuinely universal”, and emphasising that “we cannot afford to treat human rights as an optional extra”.<sup>2</sup>

2. In 2005, the eighth Annual Human Rights Report was published.<sup>3</sup> As has been our practice since the publication of the first Report in 1998, we have scrutinised the Report in order to evaluate its successes and identify its shortcomings. We announced our inquiry on 7 October 2005 and received a wide range of written evidence from Non-Governmental Organisations (NGOs) and other interested parties. We also took oral evidence on 16 November 2005, from Kate Allen, Director, and Tim Hancock, Head of Policy and Government Affairs, Amnesty International UK, and Steve Crawshaw, London Director, Human Rights Watch, and on 23 November 2005 from Ian Pearson MP, Minister of State for Human Rights and Minister of State for Trade, Foreign and Commonwealth Office. We would like to thank all those who assisted us in this process by submitting evidence to the inquiry.

3. The Human Rights Annual Report 2005 begins with a chapter examining the challenges posed by some of the world’s most problematic states, followed by thematic chapters covering the multiplicity of Foreign and Commonwealth Office work on human rights. Over the years we have been pleased to see our comments on the form and content of the Human Rights Report reflected in the finished product. This year we were gratified to note that, in accordance with recommendations we made in our last Report, a number of positive changes had been made.

4. Commenting on the Report, Amnesty International wrote: “The 2005 Report is a slimmer document than its two immediate predecessors. Nevertheless, it is still a comprehensive report providing a thorough overview, on the whole, of the work that the government has been doing to protect and promote human rights worldwide.”<sup>4</sup>

**5. We conclude that the Foreign and Commonwealth Office’s Human Rights Annual Report 2005 makes a substantial contribution to the transparency and visibility of the Government’s work in this important area.** Notwithstanding these remarks, there are aspects of the Report which we feel could be improved, which we discuss below.

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1 Foreign and Commonwealth Office and Department for International Development, *Annual Report on Human Rights*, April 1998

2 *Ibid*, p 5

3 Foreign and Commonwealth Office, *Human Rights Annual Report 2005*, Cm 6606, July 2005, hereafter *Human Rights Annual Report 2005*

4 Ev 2, para 2

6. Two general concerns were expressed to us about the FCO's work. First, Amnesty International pointed to the FCO's decision to subsume human rights within sustainable development work, which they felt indicates that human rights work does not "warrant treatment as a stand alone strategic priority."<sup>5</sup> We asked the FCO how it defined a human rights project. The FCO told us that a "human rights project is one that furthers HMG's human rights priorities and objectives in the country concerned. This means that projects will vary from one country to another and from one region to another, according to the human rights issues in that country...The Government does not therefore categorise a human rights project according to whether or not this is explicitly stated in the project title, but whether we judge it will have a positive impact on the human rights situation in that country or region concerned."<sup>6</sup> This definition is the same as provided last year, and raises the same fears for Amnesty International: "It is difficult not to interpret this to mean that a human rights project is what the FCO says it is."<sup>7</sup> We share these concerns.

7. Second, the Minister of State who is responsible for human rights has two seemingly contradictory roles. He is also the Minister of State for Trade. He therefore combines the two jobs of on the one hand prosecuting the United Kingdom's trading interest and on the other hand advocating human rights. It is inevitable that these two roles will sometimes stand in sharp contradiction. The Committee asked the Minister about his dual responsibilities. He said: "I think that it is pretty much standard practice that UK Ministers have raised human rights issues but raised a lot of other issues as well...I certainly do not have any problems in raising the issue of human rights at appropriate opportunities and then also raising trade matters."<sup>8</sup>

8. In the light of these developments we share some of Amnesty International's concerns, when they said: "The manner in which the 2005 report has been produced, the less than rational inclusion of human rights under sustainable development, changes to the funding arrangements for human rights projects, and even the less central location for the Human Rights, Democracy and Good Governance Group within the FCO all point to what we consider to be the declining influence of human rights in shaping UK foreign policy."<sup>9</sup>

**9. We conclude that the Government risks downgrading its human rights work by combining human rights responsibilities with trade in the person of the same minister and also by subsuming human rights work into the more general category of sustainable development.**

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5 Ev 2, para 6

6 Ev 47, para 1

7 Ev 3, para 7

8 Q 72

9 Ev 3, para 11

## 2 The International Framework

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### The United Nations

10. The UN Commission for Human Rights (UNCHR) is at present the chief UN forum for discussion of human rights. The 61st session of the UNCHR took place in Geneva from March to April 2005. The FCO Report commented on the events at the last session.

- “The issue of how to address the human rights situation in individual countries is now, more than ever, the main area of disagreement within the CHR”.
- EU successes: resolutions on Democratic People’s Republic of Korea, Burma, Belarus, Colombia and Afghanistan, and secured “strong, consensus texts” on Sudan and Nepal.

11. However, the UNCHR has come under criticism, since some countries argue that ‘naming and shaming’ at UNCHR is an infringement of national sovereignty, while others regret the role played by states with bad human rights records, such as Libya, in the work of the Commission thanks to the intricacies of UN General Assembly voting alliances.

12. In an effort to resolve these problems, at the World Conference in August 2005 the United Nations General Assembly agreed to establish a Human Rights Council (HRC), which would replace the UNCHR. The HRC “will assume the mandate of the Commission on Human Rights”. The HRC will have 30 to 50 members, each elected by the General Assembly for three years by a two thirds majority, on a geographical basis. Each member will undertake to fulfil human rights standards and face evaluation under the review mechanism. The HRC will serve as a forum on thematic human rights questions; promote international co-operation in concert with the Office of the High Commissioner for Human Rights; streamline human rights work in the UN system; review human rights in Member States; consult with non-governmental organisations; and publish an Annual Report for the General Assembly. The UN World Conference also strengthened the powers of the High Commissioner on Human Rights.<sup>10</sup> The United Kingdom has welcomed the establishment of the Council, although its establishment is taking longer than its advocates had hoped.<sup>11</sup>

13. Kate Allen from Amnesty International made clear what she hoped for from the Council, saying that it should operate on the same level as the Economic and Social Council. “We think that it needs to meet regularly, we think it needs to examine all countries; and we think it needs to have ability to deal with urgent situations.”<sup>12</sup> She went on to emphasise the necessity of an expanded budget and of consultation with NGOs.<sup>13</sup>

14. The Minister went some way to assuage Amnesty International’s concerns, when he told the Committee: “We also want [the HRC] to be a standing body that provides good

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10 United Nations World Conference, Draft Outcome Document, 5 August 2005

11 Royal Institute of International Affairs, Speech by Ambassador John Bolton of the USA, 14 October 2005

12 Q 1

13 Q 1

access to non-governmental organisations.”<sup>14</sup> He outlined how the “UK as the EU Presidency, has taken a leading role in developing the EU’s position [on the HRC], including drafting and co-ordinating all the EU statements and position papers on the Council.”<sup>15</sup> The Minister described the international lobbying campaign the UK is undertaking on the Human Rights Council, stating that “we are just about to enter a process of negotiations in terms of the exact remit of the Human Rights Council.”<sup>16</sup> We also recognise that the United Kingdom has worked hard to bring serious human rights abusers to the attention of the UN Security Council; for instance, the UN Security Council discussed a report on human rights in Zimbabwe in July 2007 at the request of the United Kingdom and the USA, and the Government has previously called for discussions on Burma and Uganda.<sup>17</sup>

**15. We welcome moves to establish a permanent Human Rights Council. We recommend that the Government ensure that the Council starts its work at the earliest opportunity. We further recommend that the Government outline what measures will be put in place to ensure that the Council’s work does not suffer from tactical voting or ideological opposition from particular states, as was the problem with the UN Commission on Human Rights. We also recommend that the United Kingdom, as a permanent member of the UN Security Council, should continue to make its utmost endeavours to bring the serious human rights situation in states such as Burma, Uganda and Zimbabwe to the Security Council’s attention.**

## European Union

16. The European Union has placed human rights at the centre of its Common Foreign and Security Policy (CFSP). Our predecessor committee asked the Government how it would shape the human rights debate in 2005 during its presidency of the European Union. The Government responded by describing its work to extend the remit of the European Monitoring Centre on Racism and Xenophobia (EUMC) in order to create a Fundamental Rights Agency (FRA). The Government also outlined its support for Michael Matthiessen in his post of Personal Representative of the Secretary General/High Representative on Human Rights in the area of Common Foreign and Security Policy, and said that the United Kingdom would urge him to implement the EU’s existing human rights tools.<sup>18</sup> The FCO wrote: “The Government’s primary objective on human rights during their EU presidency is effective and results-focused delivery of the EU’s current wide range of human rights activity...We also aim to use our presidency to further embed “mainstreaming” of human rights in wider EU work.”<sup>19</sup>

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14 Q 76

15 Q 75

16 Q 75

17 “Zimbabwe discussed at UN Security Council”, *BBC News Online*, 27 July 2005, news.bbc.co.uk; “UN stages rare Burma discussion”, *BBC News Online*, 17 December 2005, news.bbc.co.uk; “UK wants UN report on war in North”, *Daily Monitor*, 16 December 2005

18 Foreign & Commonwealth Office, *Response of the Secretary of State of Foreign and Commonwealth Affairs, Annual Report on Human Rights*, Cm 6571, May 2005

19 Foreign & Commonwealth Office, *Response of the Secretary of State of Foreign and Commonwealth Affairs, Annual Report on Human Rights*, Cm 6571, May 2005

**17. We recommend that the Government set out in its response to this Report the human rights achievements and disappointments of its Presidency of the European Union.**

18. One particular area of success for the EU's human rights policy is in Turkey. Ankara's application to the European Union is dependent on complying with European standards in many areas, including human rights. The FCO Annual Report outlined some of the improvements recently made by Turkey, including:

- Turkey's work to implement the Council of Europe's Committee for the Prevention of Torture's recommendations, although impunity continues to exist in the security forces.
- The introduction of a new penal code which has "narrowed the scope for convictions of those expressing non-violent opinion" and growing freedom of religion thanks to a new law on foundations, which will put to rest some legal disputes over legal institutions.<sup>20</sup>
- Greater efforts to comply with the decisions of the European Court of Human Rights, including a review of the controversial sentence of death against Kurdish guerrilla leader, Abdullah Ocalan, in 1999.
- The appointment of a civilian to the National Security Council for the first time.
- A slow process of transformation in the Kurdish regions thanks to a series of reforms implemented since 2000; these changes included new Kurdish language TV channels.
- A strengthening of women's rights, by removing sentence reductions for honour killings.

19. Yet, much work still needs doing. Human Rights Watch contend that:

torture remains common in Turkey today. While the government has declared "zero tolerance" for torture and introduced important reforms in the past five years that have significantly reduced the frequency and severity of torture, ill-treatment persists because police and gendarmes (soldiers who police rural areas) in some areas ignore the new safeguards. Due to poor supervision of police stations, certain police units deny or delay detainees access to a lawyer, fail to inform families that their relatives have been detained, attempt to suppress or influence medical reports which record ill-treatment, and still do not reliably apply special protections for child detainees.<sup>21</sup>

20. The Kurdish Human Rights Project have similar concerns, describing the report as "too conciliatory", and saying that "although it is agreed that Turkey has recently introduced a wide range of legal and other reforms, KHRP...remain concerned that these reforms have

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20 *Human Rights Annual Report 2005*, p105

21 "Torture Worldwide", *Human Rights Watch*, 27 April 2005

not been put into practice.”<sup>22</sup> Violations included torture and the limited implementation of the new laws on the use of the Kurdish language.<sup>23</sup>

21. However, the FCO stressed its belief in the implementation of human rights improvements in Turkey thanks to the incentive of EU accession, stating: “The Government has every confidence that the impetus towards human rights improvements in Turkey will be maintained following the start of EU accession negotiations. In response to the publication on 9 November of the European Commission’s 2005 Regular Report on Turkey, the Turkish Foreign Minister said ‘Our government is determined to implement the reforms, to deepen and strengthen democracy. We know our deficiencies and we are determined to overcome them in the coming process.’”<sup>24</sup>

**22. We conclude that the incentive of EU accession has played an important role in prompting human rights improvements in Turkey. We recommend that the Government support the Turkish government in its implementation of legislative changes, and that it maintain pressure on Turkey to make further reforms.**

## International criminal architecture

### *The International Criminal Court (ICC)*

23. The United Kingdom is a longstanding supporter of the International Criminal Court (ICC). The FCO’s response to the Committee’s Report last year said: “We believe in a strong International Criminal Court with global membership and jurisdiction to fight impunity for the most heinous crimes; crimes against humanity, genocide and war crimes. We are working with EU partners to urge more states to accede to the Rome Statute of the ICC so that the Court can enjoy the widest possible jurisdiction.”<sup>25</sup> The Minister also told the Committee that the United Kingdom has “concluded agreements on information sharing and on witness relocation with the Court and we are negotiating an agreement on sentence enforcement.”<sup>26</sup>

24. The Annual Report describes:

- The first referral to the ICC by the UN Security Council, in March 2005, of the case of Darfur in Sudan, and the subsequent start of an investigation by the Prosecutor, in June 2005.
- Investigations into two other cases: abuses in the Democratic Republic of Congo and the Lord’s Resistance Army in Uganda.
- A budget of £46.4 million for 2005, of which the United Kingdom pays £5.9 million (12.8%).

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22 Ev 100

23 Ev 100

24 Ev 48, para 5

25 Foreign & Commonwealth Office, *Response of the Secretary of State of Foreign and Commonwealth Affairs, Annual Report on Human Rights*, Cm 6571, May 2005.

26 Q 86

- Ratification of the Rome Statute by five more states, taking the total to 99.

25. The Annual Report also touched on the question of the United States' unwillingness to support the ICC, saying: "Not all states support the ICC. Some, most notably the US, are concerned that their citizens could be subjected to politically motivated 'nuisance' cases. We are satisfied that the safeguards in the ICC Statute will prevent the Court from pursuing such cases. We welcomed the flexibility shown by the US in allowing the Security Council to refer Darfur to the ICC."<sup>27</sup>

26. The United States has sought the agreement of states to sign non-surrender agreements for American citizens in the event of a request from the ICC; around 100 have been signed so far.<sup>28</sup> Commenting on the problem of the USA and the ICC, Human Rights Watch regretted "that the UK support for the court has not always been as strong as we would have hoped. Thus, in July 2004, the UK was ready to permit the United States to force through a resolution which would have allowed Washington to renew a special immunity from the court. Other governments resisted the proposal strongly, and the US was eventually forced to withdraw its dangerous resolution. Britain was, at that time, supporting rather than confronting Washington's dangerous actions."<sup>29</sup> Human Rights Watch did, however, praise the Government's role in persuading the USA not to block the referral of Darfur to the ICC, "by the end if not at the beginning."<sup>30</sup> Human Rights Watch also raised concerns that the presentation of the referral of the Lord's Resistance Army indictment "was done at a press conference by the Ugandan president, and it almost appeared to be a government indictment...and I think it was very unfortunate for the prosecutor to be standing there publicly side by side with the president."<sup>31</sup>

27. We asked the Minister about the ICC and he made clear to the Committee that the USA's stance on the ICC was "a point of disagreement between us and the Americans."<sup>32</sup> He also stated that the United Kingdom had not signed a non-surrender agreement with the USA, and had no plans to do so.<sup>33</sup>

**28. We recommend that in its response to this Report the Government set out what it is doing to encourage other states actively to support the ICC.**

### ***International Criminal Tribunal to the former Yugoslavia (ICTY)***

29. The Annual Report describes the work of the International Criminal Tribunal for the former Yugoslavia (ICTY), outlining how the Tribunal needs to transfer some smaller scale cases to local courts and how UNSCR 1581 will make trial proceedings more efficient. Recent events have changed circumstances. On 4 October 2005 Prosecutor Carla del Ponte announced that Croatia was in compliance with the ICTY demands and Croatia's

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27 *Human Rights Annual Report 2005*, p157

28 "Court probes Sudan 'war crimes'", *BBC News Online*, 6 June 2005, news.bbc.co.uk

29 Ev 24

30 Q 2

31 Q 2

32 Q 80

33 Q 87

negotiation talks for accession to the EU started.<sup>34</sup> Then on 8 December 2005, Croatia's foremost war crimes indictee, General Ante Gotovina, was arrested in Spain.<sup>35</sup>

30. Before these events, concerns existed that Croatia's entry to the EU was part of a political deal to ease Turkish entry to the European Union. Indeed, Steve Crawshaw told the Committee: "We would regret very deeply if political deals were done which meant that justice was put to one side."<sup>36</sup>

31. Other states such as Bosnia and Herzegovina and Serbia and Montenegro now need to fulfil their obligations to the ICTY; the war crimes indictees Radovan Karadic and Ratko Mladic are still at large. The Minister told us: "We have made it very plain to Croatia and to Serbia that they must co-operate with the International Criminal Tribunal to the former Yugoslavia and we have stressed to them that their Euro-Atlantic integration—ie their membership of the European Union and of NATO—would depend on it."<sup>37</sup>

**32. We conclude that the capture of war crimes indictee Ante Gotovina is a most welcome development, but stress that accession to either the EU or NATO should remain impossible for any of the Balkan states, including Croatia, until they have fulfilled all of their obligations to the International Criminal Tribunal for the former Yugoslavia.**

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34 "Analysis: Croatia in EU limbo", *BBC News Online*, 3 October 2005, news.bbc.co.uk

35 "Croatian fugitive general seized", *BBC News Online*, 8 December 2005, news.bbc.co.uk

36 Q 4

37 Q 92

## 3 War against Terrorism

33. The Human Rights Annual Report explicitly states: “Our experience in counter-terrorism tells us that respect for human rights is vital for long term success in the fight against terrorism”.<sup>38</sup> However, both Amnesty and Human Rights Watch contend that the war against terrorism has led to a large number of human rights abuses and both identify the behaviour of the United States over the past year as a significant challenge to the international consensus on human rights. Pointing to this contradiction, the Council for Arab-British Understanding wrote: “It is our belief that in the war on terrorism, it is vital that we uphold the standards of the rule of international law and demonstrate fairness in application. A failure to do so serves only the interests of the extremists who will highlight this in their propaganda.”<sup>39</sup>

34. The Government has made clear its opposition to the use of torture. Jack Straw told the Committee in December 2005: “Plainly torture is illegal, complicity in torture is also illegal—it is illegal under our law and under international law.”<sup>40</sup> Moreover, a growing number of issues linked to the war against terrorism have raised concerns about the widening gulf between the rhetoric of freedom and the implementation of extrajudicial detentions and other human rights abuses. Human Rights Watch commented on the United Kingdom’s softening position on the use of torture and its silence on the USA’s abuses. “In effect, torture has become a relative matter—to be condemned in all circumstance, except where toleration of torture may appear useful in the war on terror. There appears to be a creeping belief that human rights and security should be treated as alternatives. They are not.”

### Guantánamo Bay

#### The FCO Report

- In January 2005 the remaining four detainees returned to the United Kingdom. Five came back in March 2004. However, since the Australian detainee David Hicks won a legal judgement to award him UK citizenship which is subject to appeal by the Government. been awarded UK citizenship. Six non-UK citizens, formerly resident in the United Kingdom, are also in the camp.
- “The UK position has always been clear. The Government believe that [the British detainees] should either be tried fairly in accordance with international standards or be returned to the UK.”
- “British detainees have made a number of allegations about their treatment at Guantánamo Bay. The Government has pursued the allegations with the US government.”

38 *Human Rights Annual Report 2005*, p187

39 Ev 104

40 Oral evidence taken before the Foreign Affairs Committee on 13 December 2005, HC 768-i, Q 35

- The Government argues that the information given by the detainees “has helped to protect the international community from further Al Qaida and related terrorist attacks.”
- The Government welcomes the US talks with UN Special Rapporteurs on Torture seeking access to Guantánamo, in the hope that engagement will lead to agreement.

35. Amnesty International has attacked the system of detentions at Guantánamo Bay, saying:

The detention camp at the US Naval Base in Guantánamo Bay in Cuba has become a symbol of the US administration’s refusal to put human rights and the rule of law at the heart of its response to the atrocities of 11 September 2001. Hundreds of people of around 35 different nationalities remain held in effect in a legal black hole, many without access to any court, legal counsel or family visits. As evidence of torture and widespread cruel, inhuman and degrading treatment mounts, it is more urgent than ever that the US Government bring the Guantánamo Bay detention camp and any other facilities it is operating outside the USA into full compliance with international law and standards. The only alternative is to close them down.<sup>41</sup>

According to Human Rights Watch, detainees in Guantánamo are subjected to sleep deprivation, loud music, dietary manipulation, isolation, ‘hooding’, sensory deprivation, exposure to extremes of temperature, and ‘water boarding’, which involves the simulation of drowning.<sup>42</sup> However, the US government has issued strong denials of mistreatment at the facility.<sup>43</sup> The USA has also made clear that it will continue to hold detainees at Guantánamo Bay, and the US Supreme Court ruled in June 2004 that detainees had a right to appeal their detention, but that they can also be held without charge or trial. The House of Representatives Armed Services Committee has also heard evidence on the Guantánamo Bay complex, but has not opposed the prison complex’s existence.<sup>44</sup> In its Report last year, the Committee called on the Government to make strong representations about the abuses committed at Guantánamo Bay. The Government responded both by saying that the US authorities were familiar with the UK position and by expressing support for the negotiations between the UN Rapporteurs on Torture and the US government.<sup>45</sup>

36. However, Human Rights Watch contend that “the UK government chooses to praise the US government even while it remains in blatant defiance of international law. As far as we are aware, the British government has not expressed its concerns about the US failure

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41 Amnesty International, “Guantánamo Bay: A Human Rights Scandal”, at [http://web.amnesty.org/pages/Guantánamo\\_bay-index-eng](http://web.amnesty.org/pages/Guantánamo_bay-index-eng)

42 “Interrogation techniques for Guantánamo Detainees”, *Human Rights Watch*, 2003

43 “US rejects Guantánamo criticism”, *BBC News Online*, 10 January 2006, [news.bbc.co.uk](http://news.bbc.co.uk)

44 “At hearing Guantánamo wins praise and criticism”, *Boston Globe*, 30 June 2005

45 Foreign & Commonwealth Office, *Response of the Secretary of State of Foreign and Commonwealth Affairs, Annual Report on Human Rights*, Cm 6571, May 2005

to provide the conditions in which rapporteurs can do their work. Instead, it has publicly ‘welcomed’ the alleged ‘engagement’, which has so far proved worthless.”<sup>46</sup>

37. Kate Allen of Amnesty International told the Committee, in relation to the Annual Report: “I think we have moved from commenting in that report on Guantánamo to an attempt to offer an explanation as to why Guantánamo might be necessary.”<sup>47</sup> She added that Amnesty International saw the Government’s record on Guantánamo as “lamentable and not improving”.<sup>48</sup> Amnesty International also brought forward their concerns about the 210 men on hunger strike in Guantánamo Bay, and said that if diplomatic routes are not working, then the United Kingdom should take a more publicly critical stance against the detention facility.<sup>49</sup>

38. The Minister for Human Rights was quick to reject these suggestions. He told us: “We made clear to the US authorities on many occasion and at every level that we regard the circumstances under which detainees are held in Guantánamo Bay as unacceptable, and the US Government knows our view on this.”<sup>50</sup>

**39. We conclude that the continued use of Guantánamo Bay as a detention centre outside all legal regimes diminishes the USA’s moral authority and is a hindrance to the effective pursuit of the war against terrorism. We recommend that the Government make loud and public its objections to the existence of such a prison regime.**

### Extraordinary or irregular rendition

40. As part of its efforts in the war against terrorism, the US government has made use of extraordinary rendition, a procedure whereby criminal suspects are sent to other countries for interrogation. That interrogation may involve the use of torture by the recipient state. Detainees have no access to lawyers and details of their detention may not be passed to the relevant consulates; they may be sent to Egypt, but other destinations may include Jordan, Morocco, Uzbekistan and Pakistan. Accusations have also emerged suggesting that the USA sends or renders terrorism suspects to a system of prisons across Eastern Europe, possibly in Poland and Romania, and Asia, known to the CIA as “black sites”. This policy is known as “extraordinary rendition”. An article by Dana Priest in the Washington Post referred to a Soviet era compound in Eastern Europe: “The secret facility is part of a covert prison system set up by the CIA nearly four years ago that at various times has included sites in eight countries, including Thailand, Afghanistan and several democracies in Eastern Europe, as well as a small centre at the Guantánamo Bay prison in Cuba...The hidden global network is a central element in the CIA’s unconventional war on terrorism.”<sup>51</sup>

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46 Ev 27

47 Q 6

48 Q 6

49 Q 6

50 Q 94

51 “CIA holds terror suspects in secret prisons”, *Washington Post*, 2 November 2005

41. Other evidence of extraordinary rendition includes details Amnesty International outlined to us of “ghost detainees”. This was referred to in the report by Major General Taguba into the scandal at Abu Ghraib prison in Iraq, and described by Amnesty International as the “clear documentation that these are the practices that the US administration is using.”<sup>52</sup> The Intelligence and Security Committee also quoted the Security Service in a report of March 2005 saying: “Clearly the US is holding some Al Qaida members in detention, other than at Guantánamo, but we do not know the locations or terms of their detention and do not have access to them. The US authorities are under no obligation to disclose to us details of all their detainees and there would be no reason for them to do so unless there is a clear link to the UK.”<sup>53</sup> Additionally, Kate Allen of Amnesty International pointed in her testimony to the cases of two men, Muhammed Bashmilah and Salah Salim Ali, from Yemen; they were arrested in Jordan in 2003, and then held incommunicado for more than a year, were transported between detention facilities and interrogated by guards they said were from the USA.<sup>54</sup> Steve Crawshaw of Human Rights Watch referred to a series of investigations carried out by Human Rights Watch into airplane logs, and flights between Afghanistan and Romania and Poland.<sup>55</sup>

42. These accusations raise serious concerns about the scale of the USA’s extrajudicial detentions. Critics have suggested this policy amounts to torture by proxy and argued that it is in breach of international law since the Convention against Torture and other Degrading or Inhuman Treatment (CAT) prohibits sending people to destinations where they may be in danger of torture. The Convention states in Article 2(2): “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”<sup>56</sup> Article 3(1) states: “No State party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”<sup>57</sup>

43. An element of debate revolved around differences in definition of torture between the USA and the UK, which may have given the US wider leeway to carry out these activities. However, the Foreign Secretary Jack Straw was quick to emphasise that while US law differed from that in the United Kingdom, both states adhered to the CAT.

On the question of definitions [of torture], the United Kingdom understands the term “torture” to have the meaning set out in Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Article 1 CAT defines torture as ‘any act by which severe pain or suffering whether physical or mental is intentionally inflicted...’. It does not, however, give specific examples of what constitutes torture. The understanding of the definition of torture made by the US on ratifying CAT specifies the meaning of “mental pain or suffering”

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52 Q 10

53 Intelligence and Security Committee, *The handling of detainees by UK Intelligence personnel in Afghanistan, Guantánamo Bay and Iraq*, Cm 6469, March 2005

54 Q 13; “US challenged over secret jails”, *BBC Online News*, 5 August 2005, news.bbc.co.uk

55 Q 9

56 DJ Harris, *Cases and materials in international law*, (London, 1998) p 711

57 DJ Harris, *Cases and materials in international law*, (London, 1998) p 711

in more detail than Article 1 CAT. The UK made no reservations or understandings on ratification and has not adopted a formal definition of what constitutes mental pain or suffering for the purposes of Article 1. Section 134 of the Criminal Justice Act 1988 provides that a public official commits torture if he intentionally inflicts severe pain or suffering on another in the performance of his duties, and does not define “severe pain or suffering”.... On the question of definitions, I would also note that, under US legislation, the term ‘cruel, inhuman or degrading treatment’ is to be interpreted according to the US Constitution. But the essential fact is that “cruel, inhuman or degrading treatment” of any detainees held by the US Government anywhere is legally banned under US law.<sup>58</sup>

Nonetheless, a range of investigations into extraordinary rendition and black sites have been launched across Europe, driven by concerns about the use of torture. The Council of Europe has launched an investigation and invoked Article 52 of the European Convention on Human Rights, formally requesting information from forty-five governments.<sup>59</sup> Investigations are also under way at a judicial level in Germany, Italy and Spain into extraordinary renditions.

44. The US Secretary of State, Condoleeza Rice has denied the use of torture, in response to a letter written by Foreign Secretary Jack Straw on behalf of the United Kingdom as Presidency of the European Union. On 5 December 2005 she said:

Rendition is a vital tool in combating trans-national terrorism. Its use is not unique to the United States, or to the current administration...[However] the United States does not permit, tolerate or condone torture under any circumstances.

- The United States has respected—and will continue to respect—the sovereignty of other countries.
- The United States does not transport, and has not transported, detainees from one country to another for the purpose of interrogation under torture.
- The United States does not use the airspace or the airports of any country for the purpose of transporting a detainee to a country where he or she will be tortured.
- The United States has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured. Where appropriate, the United States seeks assurances that transferred people will not be tortured.<sup>60</sup>

45. Although the Annual Report makes no mention of the British stance on rendition, allegations have also surfaced that the United Kingdom may be playing a role in the process of extraordinary rendition by turning a blind eye to the USA’s activities,. Reports in the Guardian newspaper in September 2005 said: “Aircraft involved in the operations have flown into the UK at least 210 times since 9/11, an average of one flight a week. The 26-

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58 Ev 81

59 “Reports of illegal detention and ‘rendition flights’ in Council of Europe member states—the Secretary General activates the procedure under Article 52 of the European Convention on Human Rights”, Council of Europe Press Release, 636a (2005), 23 November 2005

60 US Department of State, Secretary Condoleeza Rice, Remarks upon her departure for Europe, 5 December 2005

strong fleet run by the CIA have used 19 British airports and RAF bases, including Heathrow, Gatwick, Birmingham, Luton, Bournemouth and Belfast. The favourite destination is Prestwick, which CIA aircraft have flown into and out from more than 75 times. Glasgow has seen 74 flights, and RAF Northolt 33.”<sup>61</sup> The Government outlined what obligations flights passing through the United Kingdom had to disclose passenger lists:

Official permission (ie diplomatic clearance) is not needed for non-scheduled, non-commercial civil aircraft, including VIP flights over-flying or landing at civilian airports in the UK. In such cases the flight operator simply files the aircraft flight plan to the central Integrated Flight Plans Systems (IFPS). In the case of military or State aircraft landing at military airfields, clearance is sought from the MOD. Certain countries have a block clearance on a yearly renewable basis in a quid pro quo agreement (US, Germany, Italy and many others). Otherwise all nations must formally request permission to land or transit. However, neither international nor national aviation regulations require the provision of passenger information when transiting UK territory or airspace.<sup>62</sup>

46. A range of instruments to which the United Kingdom is a signatory prohibit torture, including the European Convention on Human Rights, and prohibition of torture is considered a customary international law in some circles.<sup>63</sup> While the evidence at present is circumstantial, the United Kingdom has an obligation to investigate these allegations, according to Professor James Crawford of Cambridge University. He wrote in an opinion for the All Party Group on Extraordinary Rendition, chaired by Andrew Tyrie MP: “Regardless of the United States’ position, the United Kingdom has an independent obligation to ensure that its territory is not used to send any person to a country where there is a real risk that he may be tortured.” He went on to describe how international law requires that torture be guarded against by active measures, pointing particularly to the duty to enquire. “The duty to investigate arises where a prima facie case exists that the Convention has been breached. Credible information suggesting that foreign nationals are being transported by officials of another state, via the United Kingdom, to detention facilities for interrogation under torture, would imply a breach of the Convention and must be investigated.”<sup>64</sup> Steve Crawshaw agreed with this point of view when he told us: “I think merely to say, “Oh we did not know”, is a most inappropriate response...If they did not know, why are they not asking the questions?”<sup>65</sup>

47. Last year the Committee examined the issue of extraordinary rendition and concluded in its Report on Foreign Policy Aspects of the War against Terrorism: “If the government believes that extraordinary rendition is a valid tool in the war against terrorism, it should say so openly and transparently so that it may be held accountable. We recommend that

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61 “CIA terror flights: destination Cairo”, *The Guardian*, 12 September 2005

62 Ev 80

63 DJ Harris, *Cases and materials in international law*, (London, 1998) p 727

64 Professor James Crawford, Opinion: Extraordinary rendition of terrorist suspects through United Kingdom territory from All Party Group on Extraordinary Rendition

65 Q 11

the Government end its policy of obfuscation and that it give straight answers to the Committee's questions of 25 February."<sup>66</sup>

48. The Government responded by claiming that its response had given a clear explanation of its policy towards rendition, saying that its "policy is not to deport or extradite any person to another state where there are substantial grounds to believe that the person will be subject to torture...The British Government is not aware of the use of its territory or airspace for the purposes of 'extraordinary rendition'."<sup>67</sup> The Foreign Secretary also issued a long statement on extraordinary rendition on 20 January 2006, in which he made reference to a leaked document which appeared to demonstrate the Government's determination to limit debate on rendition; in the statement, Jack Straw said again that the United Kingdom had no knowledge of the transfer of people through British airspace for the purposes of extraordinary rendition, and that the FCO had completed a search for any requests from the USA.<sup>68</sup>

49. The Government is sticking to this line. The Foreign Secretary told us on 24 October 2005 that its position in respect of extraordinary rendition "has not changed. We are not aware of the use of our territory or air space for the purpose of extraordinary rendition. We have not received any requests or granted any permissions for use of UK territory or air space for such purposes. It is perfectly possible that there have been two hundred movements of United States aircraft in and out of the United Kingdom and I would have thought it was many more; but that is because we have a number of US air force bases here, which, under the Visiting Forces Act and other arrangements they are entitled to use under certain conditions."<sup>69</sup> On 12 December 2005 the Foreign Secretary issued a written answer stating that research by Government officials had failed to identify any occasion since 11 September 2005 when the USA had requested permission for a rendition from or through the United Kingdom.<sup>70</sup>

50. Ian Pearson, the Minister of State, echoed this stance, saying: "We have not received any requests and we have not granted any permission for the use of UK territory or airspace for such purposes, so we can be very clear on that. The issue, however, arises because under UK and international law carriers are not obliged to provide a passenger list or to obtain permission from the Government to refuel."<sup>71</sup> He also rejected suggestions that officials had kept the information from Ministers, and made clear that the Government, which included officials and ministers, was "not aware" of the use of British airspace for extraordinary rendition, although the Government was "very aware of the allegations."<sup>72</sup> Kim Howells, Secretary of State for Foreign and Commonwealth Affairs, said on 10 January 2006: "If we were requested to assist another state in a rendition operation and

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66 Foreign Affairs Committee, Sixth Report of Session 2004–05, *Foreign Policy Aspects of the War against Terrorism*, HC 36-I, para 94

67 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, June 2005, Cm 6590

68 HC Deb, 20 January 2006, col 38WS

69 Oral evidence taken before the Foreign Affairs Committee on 24 October 2005, HC 573-ii, Q 105

70 HC Deb, 12 December 2005, Col 1652W

71 Q 100

72 Q 119

such assistance were lawful, we would decide whether or not to do so, taking into account all the circumstances. We would not assist in any case if doing so put us in breach of UK law or our international obligations, including those under the UN convention against torture.”<sup>73</sup>

51. While we welcome the decision to ask for more information at the EU level, we seriously regret that the Government failed to request information at a bilateral level and that only after prodding by European Union member states has the Government made any effort to investigate serious allegations.

**52. We conclude that the Government has a duty to enquire into the allegations of extraordinary rendition and black sites under the Convention against Torture, and to make clear to the USA that any extraordinary rendition to states where suspects may be tortured is completely unacceptable.**

53. In December 2005 Foreign Secretary Jack Straw told us: “At the same time we have to take account of our suspicions as to where [intelligence] has come from and not ever either to authorise the use of torture in the obtaining of intelligence or to suggest that we are somehow complicit or accommodating to this, because we are not, and I am not. I am against it.”<sup>74</sup> However, a number of allegations about extraordinary rendition have continued to arise, such as that involving Benyam Mohammed al-Habashi who claims that he was subject to rendition,<sup>75</sup> and the Committee has requested additional information from the Foreign and Commonwealth Office. We intend to pursue the matter of extraordinary rendition further in our ongoing inquiry into Foreign Policy Aspects of the War against Terrorism.

## Use of information derived by torture

54. Another related concern is the use of information derived from states which practise torture. Former British Ambassador to Uzbekistan Craig Murray has contacted the Committee to allege the Government’s use of information provided by states which practise torture. He has drawn the Committee’s attention to certain documents which he feels demonstrate that the UK has used information acquired by torture, and the Committee has written to the FCO requesting the documents, which are classified.

55. Human rights organisations have concerns about the use of information derived from states which practise torture. The Campaign Against Criminalising Communities (CAMPACC) contend that the “UK cooperates with governments who regularly practise torture against detainees, thus acting in complicity in those acts. This liaison provides an incentive for such countries to torture their detainees.”<sup>76</sup> Steve Crawshaw from Human Rights Watch also told the Committee that when she was questioned on the use of information acquired by torture to the House of Lords, “Eliza Manningham-Buller in one of her submissions said as much as [this]: ‘We’re not going to ask, because that would

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73 HC Deb, 10 January 2006, Col 152

74 Oral evidence taken before the Foreign Affairs Committee on 13 December 2005, HC 768-i, Q 28

75 “Straw faces MPs over claims MI6 delivered subject”, *The Independent*, 12 December 2005

76 Ev 109, para 2

make things difficult.”<sup>77</sup> Human Rights Watch condemned the Government’s use of information derived from states which use torture, saying that this “cannot simply be portrayed, as ministers are sometimes inclined to do, as a one-off example about when a government receives a key piece of information about an imminent attack. The policy cloaks a clear long-term relationship between the torturing regimes and recipients of the torturer’s information...It is regrettable if the UK government fails to understand the extent to which such a relationship gives comfort and encouragement to the torturers.”<sup>78</sup> The submission adds that often if the Government does not know about torture, “that is because it chooses not to know.”<sup>79</sup> Additionally, in a ruling by the House of Lords against the admissibility of evidence derived from torture on 8 December 2005, Lord Hofman stated: “The use of torture is dishonourable. It corrupts and degrades the state which uses it and the legal system which accepts it.”<sup>80</sup>

56. In our Report Last year, we concluded that “we find it surprising and unsettling that the Government has twice failed to answer our specific question on whether or not the UK receives or acts upon information extracted under torture by a third country.”<sup>81</sup> In response the Government told us that it evaluates all information, and takes its origins into account, but contended that this approach “is not the same as operating a general policy of use of information extracted under torture.”<sup>82</sup>

57. We welcome the Minister of State Ian Pearson’s comments to us on 23 November 2005, when he told us that the United Kingdom had “extensive safeguards in regard to evidence that may be obtained by torture.”<sup>83</sup> However, we note that he added that when “we get to the situation where there is evidence that might prevent a future suicide bombing and we have suspicions that that evidence might have been obtained through torture, well, I think we have to use the evidence. I do not think that you can take a purist approach and completely ignore what might turn out to be vital evidence that will save the lives of UK citizens.”<sup>84</sup> He went on to say that if “we could save British lives by using some information which has been obtained by horrible means then I think we probably do have to do that.”<sup>85</sup>

**58. We welcome the Government’s new frankness on the question of the use of information derived by other states from torture. We recommend that a policy of greater transparency be maintained. However, we conclude that the use of such information presents serious ethical dilemmas in terms of complicity, especially in the**

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77 Q 49

78 Ev 26

79 Ev 26

80 Professor James Crawford, Opinion: Extraordinary rendition of terrorist suspects through United Kingdom territory from All Party Group on Extraordinary Rendition

81 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

82 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

83 Q 121

84 Q 122

85 Q 126

wake of a ruling by the House of Lords which described the use of torture as “dishonourable”. We recommend that the Government clearly set out its policy on the use of information derived by other states through torture in its response to this Report and that it encourage a public debate on the ethical dilemmas it faces.

## Diplomatic Assurances

59. The Government wrote in its response to the Committee’s latest report on Foreign Policy Aspects of the War against Terrorism, that its “policy is not to deport or extradite any person to another state where there are substantial grounds to believe that the person will be subject to torture or where there is a real risk that the death penalty be applied.”<sup>86</sup> However, the Government has also sought measures to expel people suspected of engaging in terrorism or terrorism sponsoring activities. Part of this effort has included obtaining Memoranda of Understanding from a number of states including Jordan, Egypt, Libya and Algeria which offer diplomatic assurances that the extradited people will not suffer torture or ill treatment.<sup>87</sup> Libya for instance signed a Memorandum of Understanding with the UK on 18 October 2005.<sup>88</sup>

60. There are however some doubts about the system of monitoring. Manfred Nowak, the UN Special Rapporteur on Torture, has expressed opposition to the use of diplomatic assurances by the United Kingdom.<sup>89</sup>

In November 2004, the Committee against Torture, the body responsible for monitoring implementation of the [Convention Against Torture], the body responsible for monitoring implementation of the CAT, expressed concern at the UK’s use of diplomatic assurances...in circumstances where its minimum standard for such assurances, including effective post-return monitoring arrangements and appropriate due process guarantees were not wholly clear. The Committee requested that within one year the United Kingdom provide it with details on how many cases of extradition or removal subject to receipt of diplomatic assurances or guarantees has occurred since 11 September 2001, what the State Party’s minimum contents are for such assurances or guarantees and what measures of subsequent monitoring it has undertaken in such cases.<sup>90</sup>

61. The legality of the Memoranda of Understanding is also questionable. The UN Convention against Torture and other Cruel, Degrading or Inhuman Treatment (CAT) explicitly prohibits the transfer of a person to a state where they may be in danger of torture, and recent jurisprudence has raised serious doubts about the validity of diplomatic assurances as a guarantee against torture. A ruling in the case of *Chahal v United Kingdom* (1996) by the European Court of Human Rights also established that diplomatic assurances

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86 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

87 “Clarke outlines moves to expel troublemakers who back terror”, *Daily Telegraph*, 25 August 2005

88 “Libya promises not to torture deportees”, *Daily Telegraph*, 19 October 2005

89 Q 28

90 “Torture and other cruel, inhuman or degrading treatment or punishment”, United Nations Committee on Torture, 60th Session, 30 August 2005

are an inadequate guarantee where torture is “endemic” or a “recalcitrant or enduring problem”; and more recently a UK court found against extradition in *Russia v Zakayev* (2003) because Akhmed Zakayev, a prominent Chechen exile in London, since his treatment in detention in Russia could prejudice the outcome of his trial.<sup>91</sup>

62. Steve Crawshaw of Human Rights Watch attacked the use of Memoranda of Understanding, saying that “these things absolutely do not work, and indeed, that they cannot work.”<sup>92</sup> Evidence from Human Rights Watch to the Human Rights Committee outlined why they feel they cannot work:

The issue of post return monitoring is clearly the most contested area presently in the debate over the use of diplomatic assurances. I think it is important to begin by saying what these proposed post return monitoring mechanisms are not. What they are not is anything that is comparable to the kind of systematic institutional-wide monitoring that the International Committee of the Red Cross undertakes. The International Committee of the Red Cross will not undertake monitoring in a detention facility unless they have global access to all of the prisoners in that facility. There are a number of reasons for that. One of the reasons is a moral one, which is that it is not morally acceptable to be in a situation where you are monitoring a select group of detainees within a facility while allowing the other detainees in the facility to be subject to whatever treatment they may be subject...The second reason is a practical one, which is that if you are conducting interviews with detainees, assuming that you have confidential access to the detainees, you are monitoring the entire population, if reports of ill-treatment come to your attention and you have interviewed 100 prisoners, you can take those reports as the International Committee of the Red Cross to the prison authorities without fear that the person who provided that information to you will be clearly identified and will be subject to reprisals or, indeed, their family members will be subject to reprisals. That is not the case in respect of the kind of monitoring which is proposed under these diplomatic assurances, or these Memoranda of Understanding as the UK terms them.<sup>93</sup>

63. However, the Government claims the Memoranda of Understanding overcome any concerns, since they include a number of provisions for treatment in line with international standards, a prompt judicial process which would include a right to defence, and rights to meetings with an organisation nominated by both states as a monitor.<sup>94</sup> The Minister told us: “The wording of the MOUs makes clear that treatment is expected to be in accordance with international obligations...we will not send people back where there is a substantial risk that they will be tortured.”<sup>95</sup>

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91 “Empty Promises: Diplomatic assurances no safeguard against torture”, *Human Rights Watch*, April 2004

92 Q 25

93 Uncorrected transcript of oral evidence taken before the Joint Committee on Human Rights on 21 November 2005, HC 701-i, Q 15

94 Memorandum of understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Hashemite Kingdom of Jordan regulating the provision of undertakings in respect of specified persons prior to deportation, at [www.statewatch.org](http://www.statewatch.org)

95 Q 129

64. The text of the Memorandum of Understanding with Jordan reads: “If a returned person is arrested, detained or imprisoned within 3 years of the date of his return, he will be entitled to contact, and then have prompt and regular visits from the representative of an independent body nominated jointly by the UK and Jordanian authorities. Such visits will be permitted at least once a fortnight, and whether or not the returned person has been convicted, and will include the opportunity for private interviews with the returned person. The nominated body will give a report of its visits to the authorities of the sending state.”<sup>96</sup> The Minister described the purpose of such wording: “Written into the memoranda of understanding is information about the monitoring requirements, and so the intention is that we would deport suspected terrorists and we would do so to countries who signed memoranda of understanding and who agreed to monitoring arrangements.”<sup>97</sup> He added that the monitoring arrangements were still under discussion.<sup>98</sup>

65. Nonetheless, we retain strong concerns that the monitoring arrangements are not adequate. Steve Crawshaw of Human Rights Watch made an important point when he told us: “I think [the Government] feel that the British public perhaps does not mind so much because they assume that those people deserve to have whatever happens to them happening to them, and that is a quite different argument which I would like to hear rather more bluntly put by the British government. If that is what they are thinking, then they should say that and not pretend that the torture will not in fact take place.”<sup>99</sup>

**66. We conclude that the Government should only use Memoranda of Understanding when it can be sure that the monitoring mechanisms in place are entirely effective, and that the Memoranda must not be used as a fig leaf to disguise the real risk of torture for deported terrorism suspects. We recommend that in its response to this Report the Government give full information on the monitoring arrangements which apply under existing Memoranda of Understanding, including where possible examples of how they work in practice.**

## Iraq

67. The Annual Report contains an extensive section on Iraq, which describes among other things the photographs taken in Abu Ghraib prison in 2004, and the subsequent investigation into abuses by the United States. It comments: “These enquiries concluded that the incidents of abuse were the result of the behaviour of a few sadistic individuals and a failure of oversight by commanders, rather than the result of US policy or procedures.”<sup>100</sup>

68. However, some witnesses were critical of this part of the Annual Report. Kate Allen told the Committee that Amnesty “would question the broadly positive tone of that entry.” In addition, the Council for Arab-British Understanding (CAABU) in its submission pointed to gaps in the report, saying: “The primary concern that CAABU has with regards

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96 Memorandum of understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Hashemite Kingdom of Jordan regulating the provision of undertakings in respect of specified persons prior to deportation, at [www.statewatch.org](http://www.statewatch.org)

97 Q 130

98 Q 130

99 Q 25

100 *Human Rights Annual Report 2005*, p 63

to the Iraq section of the Human Rights Report is the startling lack of a response to the alleged human rights violations during the assault on Falluja in November 2004. Amnesty International reported a number of breaches in human rights law on the part of American and Iraqi forces as well as on the part of insurgents. For example, health workers and medical facilities appeared to be a direct target of American and Iraqi forces... We strongly recommend the Foreign Office to make efforts to improve its monitoring of human rights abuses on the part of occupying forces in Iraq.”<sup>101</sup> Our Committee also has particular concerns about the revelations about the use of white phosphorous in the campaign in Falluja in 2004.<sup>102</sup>

69. The Jubilee Campaign also raised the lack of reference in the Report to some religious minorities in Iraq, saying: “The fact that the Iraq section of the FCO’s annual report gave no specific attention to the desperate situation of Iraq’s Christian community suggests that the Foreign Office has seriously underestimated the vulnerability of this community and the intensity of the pressures and attacks they are facing.”<sup>103</sup> The discovery by US troops of 170 detainees held by Iraqi government forces in terrible conditions in November 2005 raised other concerns; the Human Rights Minister told us that the Government was taking a strong interest in the subsequent investigation.<sup>104</sup>

**70. We recommend that the 2006 edition of the Annual Report should incorporate more information about the human rights situation in Iraq, including the impact on civilians of intense military operations such as those in Falluja in 2004, the position of Christian and other religious minorities and the treatment of detainees by the Iraqi government.**

71. Another major human rights concern has been the treatment of detainees by US and UK troops, to which our predecessor committee gave serious attention last year. In response to our predecessor committee’s report, the Government wrote: “The Government have made clear to the US Government our concerns about the treatment of detainees in Iraq, Guantánamo Bay and Afghanistan and will continue to do so, as necessary.”<sup>105</sup>

72. The Annual Report contains a section on the abuses committed by coalition forces in Iraq, which states that “the UK condemns utterly all forms of abuse and take allegations of abuse extremely seriously.”<sup>106</sup> It outlines the abuses committed by US personnel at Abu Ghraib and the subsequent investigations.<sup>107</sup> The report also describes the outcome of investigations of abuses committed by UK personnel, which resulted in a court martial in Osnabruck finding four men guilty of abuses. The Chief of General Staff Mike Jackson apologised and said that the British Army would examine the situation and implement

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101 Ev 104

102 “White Phosphorous: A weapon on the edge”, *BBC News Online*, 16 November 2005, news.bbc.co.uk

103 Ev 115, para 9

104 Q 135

105 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

106 *Human Rights Annual Report 2005*, p 62

107 *Human Rights Annual Report 2005*, p 63

measures to ensure they do not take place again.<sup>108</sup> However, a video of British soldiers abusing Iraqis in early 2004, which was revealed in February 2006, raises renewed concerns.<sup>109</sup> **We urge the Government to ensure that all appropriate measures are in place to curtail any possibility of abuses by coalition forces, and we recommend that the Government set out what it has done to prevent their re-occurrence.**

73. However, Human Rights Watch was very critical on the question of US abuses. “These sections are seriously misleading. They appear to be deliberately framed in order to avoid confronting the reality. The evasion is inexcusable...We find it difficult to reconcile the facts set forth in Human Rights Watch’s reports on this subject with the conclusion in [the FCO Annual Report] report that ‘five substantial inquiries’ were conducted. In reality, the inquiries were not comprehensive, and were framed in a manner which ensured that senior military commanders and politicians would not be held accountable.”<sup>110</sup>

74. Tim Hancock from Amnesty International echoed Human Rights Watch’s concerns, saying: “We are still concerned about the way in which detainees are being treated. We do not think...that all the inquiries and all of the learning about Abu Ghraib has been done, particularly by the US government, and so in no way would we say we are comfortable with the US in particular continuing to hold detainees.”<sup>111</sup>

75. The United Kingdom should play a particular role on this issue given its close alliance with the USA. Human Rights Watch said: “The voice of the UK is loudly heard in the United States. UK silence, in this context, is thus especially eloquent. In effect, the silence makes the United Kingdom complicit with US crimes. This silence, combined with misleading characterisations which actively seek to exculpate the US administration in its trampling of international commitments, should finally come to an end.”<sup>112</sup>

**76. We conclude that the United Kingdom has a responsibility to engage its ally both privately and publicly on the question of abuses by US troops. We recommend that the Government make clear and public its condemnation of human rights abuses committed by any of the multinational forces in Iraq, and that its coverage in the human rights report should expand to include more detail of the USA’s investigations into abuses committed by its soldiers and of the measures in place to prevent their recurrence.**

## Trial of Saddam Hussein

77. Another issue of the greatest interest for human rights in Iraq is the trial of Saddam Hussein which opened on 19 October. The only charges so far detailed against Saddam and seven associates relate to 143 executions in the Shia village of Dujail in 1982, which followed a failed assassination attempt on Saddam as his motorcade passed through the

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108 *Human Rights Annual Report 2005*, p 63

109 “Blair promises Iraq abuse probe”, *BBC News Online*, 12 February 2006, news.bbc.co.uk

110 Ev 22

111 Q 30

112 Ev 22

town. All eight men pleaded not guilty and after just over three hours, the trial was adjourned until 28 November. The trial has since reopened.

78. In its Report in July 2004, our predecessor committee assessed the role played by the United Kingdom in assisting the new Iraqi judiciary and Iraqi Special Tribunal (now known as the Supreme Iraqi Criminal Tribunal). The British assistance involved:

- a “significant contribution” in the area of human rights;
- developing the tribunal’s investigations strategy;
- training judges for the tribunal;
- assisting the drafting of the Statute and Rules of Procedure for the tribunal; and
- assisting the redrafting of the Rules of Procedure and the drafting of Elements of Crime.<sup>113</sup>

79. However, a report by Human Rights Watch released on 16 October 2005 sets out a list of problems with the tribunal that it argues risk violating basic fair trial guarantees protected by international human rights law. These include:

- No requirement to prove guilt beyond reasonable doubt.
- Inadequate protections for the accused to mount a defence on conditions equal to those enjoyed by the prosecution.
- Disputes among Iraqi political factions over control of the court, jeopardising its appearance of impartiality.
- A draconian requirement that prohibits commutation of death sentences by any Iraqi official, including the president, and compels execution of the defendant within 30 days of a final judgment.<sup>114</sup>

In their submission, Human Rights Watch said that “it is wrong to think that judicial shortcuts—including, for example a lower threshold of guilt than the international norm—help to create a more stable Iraq.”<sup>115</sup> Another problem raised in our evidence sessions was the question of security of lawyers and witnesses. Kate Allen said: “I think that the murder of some of the lawyers involved is deeply to be regretted and I think that the Court needs to consider what protection it needs to be able to restart this process.”<sup>116</sup>

80. We asked the Minister for Human Rights about these problems and he told us: “We want to ensure that Saddam receives proper justice and a transparent and an open trial process...We have been encouraging the Iraqi government to make sure that all the necessary steps are taken to provide protection for the legal team and, indeed, all those

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113 Foreign Affairs Committee, Seventh Report of Session 2003–04, *Foreign Policy Aspects of the War against Terrorism*, HC 441–I, paras 65–70

114 “The Former Iraqi Government On Trial”, *Human Rights Watch Briefing Paper*, 16 October 2005

115 Ev 21

116 Q 34

others who are involved in the trial process.”<sup>117</sup> The walk out of the indictees from the trial in February 2006 also raises issues about the efficacy of the process.

**81. We conclude that while the trial of Saddam Hussein is a matter for the Iraqi people, the Government should urge the Iraqi administration to ensure the trial fulfils the accepted norms of justice. We recommend that the Government set out in its response to this Report how the United Kingdom will do so, for instance by providing security for lawyers and witnesses at the trial and by offering support for the Iraqi authorities in ensuring the application of due process of law.**

## 4 General themes

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### Democratisation

82. In the Annual Report, the FCO writes: “The period covered by this Report has seen extraordinary progress in the spread of democracy around the world. Events in Georgia and Ukraine, in particular, have highlighted the changes across Europe since the collapse of the Soviet Union. Elections in Iraq and Afghanistan have shown the strength of will of people to participate in the democratic process; at the same time, these elections have been an important element in the process of conflict resolution.”<sup>118</sup>

83. The Report covers Ukraine’s “Orange Revolution” in some detail, pointing out that the United Kingdom provided many observers for the OSCE and worked on programmes to inform the public about democracy in the run up to the elections. The Report also comments on the reform process in Georgia, although with some provisos. “Freedom of information remains an issue in Georgia. The government claims that the media self-censors but there have been complaints that some media owners practice censorship.”<sup>119</sup>

84. However, Human Rights Watch has raised concerns about whether these revolutions have actually contributed to democracy in the former Soviet Union.

This time last year, after reformists in Georgia staged the “Rose Revolution” that ousted President Eduard Shevardnadze, many wondered what lessons governments in the region would draw. No leader relishes political instability. But the question was, what would the region’s leaders do to avoid it? Would they promote honest elections, greater accountability, better governance and peaceful transitions of power? Or would they ignore the issues that cause public discontent, such as entrenched, widespread corruption, and undermine the political opposition and democratic institutions in order to retain power at all costs? Overwhelmingly, governments in former Soviet states have chosen the latter path, continuing policies that had started well before the Georgian revolt. Uzbekistan may be one of the more acute examples of this trend but it has plenty of company.<sup>120</sup>

85. Some concerns about Georgia, Ukraine and Kyrgyzstan underplayed in the FCO Annual Report include: changes in electoral laws in Georgia’s capital, Tbilisi, and a restructuring of the Central Electoral Committee which offer advantage to President Saakashvili’s incumbent New Movement Party, alongside ongoing use of torture by security forces;<sup>121</sup> political assassinations of prominent figures in the revolution in Kyrgyzstan alongside strong concerns about the influence of organised crime in the governmental process;<sup>122</sup> and continued concerns about press freedom in Ukraine.<sup>123</sup>

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118 *Human Rights Annual Report 2005*, p 205

119 *Human Rights Annual Report 2005*, p 117

120 “Beyond Ukraine a Grim Picture”, *Human Rights Watch*, 8 December 2004

121 “Tbilisi’s election law fuels opposition”, *Eurasianet*, 6 July 2005, [www.eurasianet.org](http://www.eurasianet.org)

122 “Kyrgyzstan’s revolution at risk”, *Eurasianet*, 26 September 2005, [www.eurasianet.org](http://www.eurasianet.org)

123 “Opportunity for reform: human rights agenda in Ukraine”, *Human Rights Watch*, 21 January 2005

Additionally, the controversial elections in Azerbaijan and Kazakhstan raised concerns. The OSCE election monitoring mission wrote of the Azerbaijani elections that “the election day process deteriorated progressively during the day and, particularly, the tabulation of the votes.”<sup>124</sup> Other problems, such as intimidation of other candidates by the government, “limited the possibility for meaningful competition” in Kazakhstan.<sup>125</sup> These issues underline the importance of continued democracy building and effective international monitoring in the former Soviet Union, the crucial role played by civil society groups and nascent regional institutions and confidence building measures such as the South Caucasus Parliamentary Initiative (SCPI), and the work of major international institutions such as the Organisation of Security and Cooperation in Europe (OSCE).<sup>126</sup>

86. Steve Crawshaw pointed to a marked difference in tone in dealing with the relevant governments. He said: “Clearly there are lots of problems but again, as a human rights organisation, one does grasp at the times when you can say that the glass is at least half-full and not pretty much on empty. Broadly, the fact that those changes have taken place is to be welcomed.”<sup>127</sup> The Minister agreed that the revolutions were most welcome, and rejected the suggestion that human rights concerns might be subordinated to strategic interests when it came to dealing with states in the former Soviet Union.<sup>128</sup>

**87. We conclude that while the expansion of democracy in the former Soviet Union is most welcome, free elections are still a rarity and human rights abuses are widespread. We recommend that the Government work to support civil society organisations and regional institutions, such as the South Caucasus Parliamentary Initiative (SCPI), as well as supporting the election monitoring and evaluation work of the Organisation for Security and Co-operation in Europe (OSCE) and in particular its Office for Democratic Institutions and Human Rights (ODIHR), in order to help implant strong and enduring human rights norms in the post-Soviet world.**

## The arms trade and military assistance

88. The Annual Report on Human Rights includes a discussion on small arms and light weapons (SALW). The Report says: “Foreign Secretary Jack Straw announced during a speech at the Institute of Civil Engineers London on 15 March 2005 that the UK will work to secure an international Arms Trade Treaty (ATT) covering all conventional weapons. This would be a legally binding treaty negotiated at the UN and backed by the UN’s authority that would make the responsible transfer of all conventional arms a statutory requirement.”<sup>129</sup> The UK will work towards setting criteria within an ATT based on standards such as those in the UN Declaration on Human Rights, and so will regulate better the arms trade. The UK position is gathering strength; the European Union

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124 Organisation for Security and Co-operation in Europe, International Election Monitoring Mission, Parliamentary Election, Republic of Azerbaijan, 7 November 2005, Statement of Preliminary Findings and Conclusions

125 Organisation for Security and Co-operation in Europe, International Election Monitoring Mission, Presidential Election, Republic of Kazakhstan, 4 December 2005, Statement of Preliminary Findings and Conclusions

126 “Thousands in fresh Azeri protest”, *BBC News Online*, 5 December 2005, news.bbc.co.uk; “Kazakhstan election ‘not democratic’”, *BBC News Online*, 19 November 2005, news.bbc.co.uk

127 Q 37

128 Q 162

129 *Human Rights Annual Report 2005*, p 151

announced its backing for the ATT on 4 October 2005, marking a significant growth in international support for the treaty.<sup>130</sup>

89. This stance has been welcomed by human rights organisations. Kate Allen told us: “We are very pleased by the Foreign Secretary’s support for an arms trade treaty. I think that the support of the UK Government is absolutely brilliant and very essential to see the potential for that treaty, and we would very much want to congratulate the Foreign Secretary and the British Government on that support.”<sup>131</sup>

**90. We commend the Government’s backing for the Arms Trade Treaty. We recommend that in its response to this Report the Government report on progress to increase support for the ATT and to ensure forward momentum in 2006.**

91. However, concerns have been expressed to us about aspects of UK policy towards military exports. Saferworld raised general concerns about the United Kingdom’s arms export policy, and “that the Government’s policy on arms exports continues to undermine its commitments on human rights. In 2004, the Government authorised arms sales to 19 of the 20 states identified in the Human Rights Report as “major states of concern”.<sup>132</sup> Amnesty International made a similar point; Kate Allen said: “The only country of concern that is not receiving arms exports from the UK is North Korea.”<sup>133</sup>

92. The Human Rights Minister rejected such suggestions, saying that it was important to examine the details because “the reality of it is that in a lot of these cases it will be bomb-disposal equipment, it will be de-mining equipment, it will be body armour, it might be communications equipment to help their policing operations work more effectively in dealing with drugs problems.”<sup>134</sup>

93. One particular state of concern is Colombia.<sup>135</sup> The FCO Annual Report has an extensive section on Colombia, which it classes as a country of concern. The report outlines the many human rights problems in Colombia, such as the murder of trades unionists.<sup>136</sup> Human Rights Watch has also drawn attention to the culture of impunity and links between the army, paramilitary groups and criminal gangs and the grey area between the official military and those carrying out extrajudicial killings.<sup>137</sup>

94. AB Colombia raised concerns about the UK’s military assistance to Colombia, stating:

There are well established links between paramilitary groups and the State, and elements within the Armed Forces continue to carry out extrajudicial executions, torture and violations of due process...Despite this, the UK continues to express strong political support for the Colombian government, and provides significant

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130 “EU backs global small arms treaty”, *BBC News Online*, 3 October 2005, [bbc.news.co.uk](http://bbc.news.co.uk)

131 Q 53

132 Ev 97

133 Q 54

134 Q 157

135 *Human Rights Annual Report 2005*, p 49

136 Ev 93

137 “Colombia: Smoke and Mirrors”, *Human Rights Watch*, August 2005, Vol 17 No. 3

military support to the Colombian government, with little or no analysis of its impact. In this context, it is difficult to assess how the UK government can guarantee, as it claims to do, that this cooperation does not end up in any way contributing to human rights abuses or to impunity in the absence of Colombia's full implementation of the UN human rights recommendations.<sup>138</sup>

95. The Annual Report states that the FCO uses “the best information available to assure ourselves that Colombian civil and military authorities benefiting from UK assistance are not engaged in activities that violate human rights, aid internal repression or are in collusion with paramilitary organisations.”<sup>139</sup> Additionally, the Minister defended the United Kingdom's military assistance to Colombia in the evidence session. He said: “UK military assistance to Colombia focuses on mine-disposal training and human rights training...UK military training introduces security personnel to British defence concepts, including the importance of accountable and democratic action, and we use the best information available to assure ourselves that Colombian military personnel benefiting from UK assistance are not engaged in activities that violate human rights or that aid internal repression and that they are not in collusion with paramilitary organisations. This goes as far as including personal interviews and background checks.”<sup>140</sup>

**96. We recommend that the Government include a detailed explanation of export licence decisions in each of the countries of concern sections of the Annual Report so as to ease public concern about military exports to those states, including Colombia.**

### Corporate social responsibility (CSR)

97. The Annual Report describes the Government's recent work to advance CSR, outlining how the United Kingdom sponsored a successful resolution at the UNCHR calling for the appointment of a Special Representative on Corporate Social Responsibility. The new post will: identify standards of corporate responsibility and accountability; research and clarify concepts such as “complicity” and “sphere of influence”; and develop means to assess the impact of business on human rights.<sup>141</sup>

98. The Report states: “We want an outcome that will require multinationals to support, rather than inhibit, respect for human rights through their activities. But we must also address genuine business concerns about the extent of its responsibilities and maintain the principle that states only hold obligations under human rights law.”<sup>142</sup> The FCO's Annual Report on the Global Opportunities Fund describes its support for CSR programmes in China and outlines its support for two initiatives which seek to establish higher standards of CSR in business, such as the Extractive Industries Transparency Initiative (EITI) and the OECD Guidelines for Multinational Companies.<sup>143</sup>

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138 Ev 83

139 *Human Rights Annual Report 2005*, p 49

140 Q 176

141 *Human Rights Annual Report 2005*, p 178

142 *Human Rights Annual Report 2005*, p 178

143 Foreign & Commonwealth Office, *Global Opportunities Fund: Annual Report 2004-05*, 12 October 2005

99. However, some human rights organisations have concerns about the Government's approach to CSR. Global Witness, for instance, argues that companies should be subject to an International Financial Reporting Standard (IFRS), requiring them to reveal country by country activity in three particular areas: commercial performance, taxes and other benefits paid to host governments, and reserves.<sup>144</sup> Their concerns have gained weight from the willingness of companies from states such as China to do business in countries with documented records of human rights abuses. Beijing's lack of concern about human rights has also helped Chinese business win contracts in other states with poor human rights records like Zimbabwe and Sudan, as well as other states with a historical scepticism towards western intervention, economic or political, in Africa and Latin America.<sup>145</sup>

**100. We conclude that the Government must do its utmost to encourage states to improve their corporate social responsibility (CSR) standards so that companies can compete on a level playing field and that states with human rights failings are not tempted to work with unethical trading partners. We recommend that the Government work to broaden international support for instruments, like the UN Convention against Corruption, which enshrine ethical standards for business at an international level.**

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144 "Extracting transparency: The need for an International Financial Reporting Standard for the Extractive Industries", *Global Witness*, 2005, [www.globalwitness.org](http://www.globalwitness.org)

145 Jamestown Foundation, *China Brief*, Vol V, Issue 21, 13 October 2005

## 5 States of concern

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### Europe and former Soviet Union

#### *Russian Federation*

101. The Government rejected the Committee's assertion that the Annual Report did not place enough focus on human rights abuses throughout the Russian Federation in its last response to our previous Report.<sup>146</sup> This year the Annual Report covers Russia in some detail in its Countries of Concern section. In particular, it looks at the lack of media freedom in Russia, growing racism and xenophobia, and increasing constraints on the NGO community.<sup>147</sup>

102. The Report also includes an extensive section covering the turbulent North Caucasus, including matters of concern such as: disappearances and the work of killing squads in Chechnya; the undemocratic government in Chechnya underpinned by Ramzan Kadyrov's militia; and the corruption of the judiciary in the North Caucasus region.<sup>148</sup>

103. The Report takes into account the problem of terrorism in Chechnya, and accepts that Moscow has legitimate security concerns in the region. However it does not mention that the conflict has begun to spread beyond the borders of the Chechen Republic, and now threatens the neighbouring republics of Dagestan, Ingushetia, North Ossetia, Karbardino Balkaria, and the rest of the North Caucasus region, as the attacks in Nalchik on 13 October 2005 demonstrated.<sup>149</sup>

104. The problem of human rights abuses in Russia is broader than just the North Caucasus. One submission to the inquiry raised a series of concerns about human rights in the Russian Federation as a whole. According to Anton Drel and Robert Amsterdam, who acted as lawyers on behalf of Mikhail Khordokovsky, the jailed former owner of oil company Yukos, the FCO Human Rights Report "fails to connect the tragedy of Russian human rights today with the overall deterioration in the Corruption Perception Index as reported by Transparency International. The Russian Federation's Corruption Perception Index 2004 score was 90th out of 146 countries. In 2005 it was 126th out of 159 countries. We would argue that it is...corruption of the state administration that is a propulsive force behind the deterioration both in judicial independence and overall judicial corruption."<sup>150</sup> The submission also emphasised the political control of the judiciary as a major problem in Russia.<sup>151</sup> These concerns are particularly relevant given the adoption of the recent law curtailing the freedom of civil society organisations in Russia, which is another example of the looming power of the Kremlin which is of concern to the Committee.<sup>152</sup>

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146 Foreign & Commonwealth Office, *Response of the Secretary of State of Foreign and Commonwealth Affairs, Annual Report on Human Rights*, Cm 6571, May 2005

147 *Human Rights Annual Report 2005*, p 71

148 *Human Rights Annual Report 2005*, p 71

149 *Human Rights Annual Report 2005*, p 74

150 Ev 107

151 Ev 107

152 "Putin to scrutinise bill on NGOs", *BBC News Online*, 24 November 2005, news.bbc.co.uk

105. Human Rights Watch also criticised the United Kingdom's attitude to human rights in Russia, and said: "The report says that the UK 'pointed out that effective antiterrorism policies and respect for human rights are not mutually exclusive. Proper observance of human rights can be very effective in combating terrorism.' Sadly, there is a wide gap between the sentiments expressed here and the message that is sent by senior ministers, in their meetings with Russian government leaders and their public statements in that context. There still seems to be an eagerness not to confront the extent of the crimes being committed in Chechnya, let alone the fact that the crimes in Chechnya are now spilling over into greater instability in the entire region."<sup>153</sup>

106. However, the Minister for Human Rights contended that human rights were an important part of exchanges between Russia and the United Kingdom. He said: "During President Putin's visit to London...both he and the Prime Minister conducted high level talks regarding human rights issues, and we do have an EU/Russia and a UK/Russia human rights dialogue as well where we raise specifically our areas of concern with them."<sup>154</sup> He also pointed to the Government's concerns about extrajudicial killings, arbitrary detentions and torture.<sup>155</sup>

**107. We conclude that the human rights situation in the Russian Federation has deteriorated over the last year. We recommend that the Government make clear to President Putin and other Russian authorities that a creeping return to authoritarianism is not an acceptable policy to pursue. We also recommend that the British Government engage with the Russian government on the question of Chechnya and the North Caucasus. We are concerned that the Kremlin's policy in Chechnya may result in further radicalisation of the population and an increase in recruits to Islamic terrorist groups.**

108. The allegations of spying in Moscow by British diplomats also raise serious concerns about the Government's work to promote democracy and good governance. There is a risk that the FCO's support for human rights and democracy in the Russian Federation could be jeopardised by any linkage to UK intelligence operations. The allegations of spying also raises concerns about the effective use of the Global Opportunities Fund by the FCO to support NGO activity, since doubts about its lack of independence from FCO objectives within foreign governments could damage the effectiveness of the United Kingdom's work in support of democracy. The Westminster Foundation for Democracy, which operates under a board of governors representing all the political parties and with a large independent contingent while receiving its budget from the FCO, provides an interesting contrast; its work is carried out at arms length from the FCO and so would not so easily be subject to accusations of acting purely in the interests of the United Kingdom.<sup>156</sup> We have written to the FCO to inquire into this matter, and will be reporting further to the House in due course.

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153 Ev 23

154 Q 168

155 Q 168

156 "The lesson that the west must learn from the Moscow rock", *The Guardian*, 26 January 2006

## Uzbekistan

109. The Government has brought human rights to the forefront of its relationship with Uzbekistan. The former ambassador to Tashkent, Craig Murray, had accused the FCO of subordinating human rights to strategic concerns. The 2005 Annual Report singled out Uzbekistan as a country of concern, as it did in its 2004 Annual Report, and included sections on:

- Torture in prisons, thanks to a system of justice based on confessions;
- The lack of access to prisons for diplomats;
- The lack of independence of the judiciary;
- Slow movement towards the abolition of the death penalty, which the Karimov government has now announced;
- Controls on civil society organisations, both international and local;
- Media control;
- Lack of religious freedom.

110. The Report also draws attention to the massacres at Andijan in May 2005 in response to local protests against the arrest of a number of people for Islamic extremism. A Human Rights Watch report outlined the scale of the event: troops killed perhaps 500 protesters and arrested hundreds in the aftermath. Many detainees were tortured, and 15 people suspected of leading the protests were tried in Tashkent and were sentenced to imprisonment in November 2005.<sup>157</sup>

111. Frictions over the Andijan protests have contributed to worsened relations between Tashkent and the US and British governments, which resulted in the decision of Uzbekistan to request the dismantling of the US military bases in Uzbekistan, as well as with the European Union, which in October 2005 introduced an arms embargo on Uzbekistan, prohibited visas for senior officials and suspended its Partnership and Cooperation Agreement (PCA) with Tashkent.<sup>158</sup> The EU arms embargo raises questions about Uzbekistan's role in NATO's Partnership for Peace (PfP). The British Government has made clear that it will continue to demand an independent inquiry into the events at Andijan and will urge the Uzbek government to improve human rights. Last year, the Committee endorsed the FCO's decision to make human rights issues the focus of relations with Tashkent.<sup>159</sup>

112. Our witnesses made some mild criticisms of the Government's policy towards Uzbekistan. Human Rights Watch argue in their submission that maintaining pressure on Uzbekistan is essential, but contend that the claims in the Annual Report to have made progress on combating torture "is an exaggeration" because legislative changes have no

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157 "Uzbekistan: burying the truth", *Human Rights Watch*, Vol 17, No 6, September 2005

158 "EU bans arms exports to Uzbekistan", *BBC News Online*, 3 October 2005, news.bbc.co.uk

159 Foreign Affairs Committee, Fourth Report of Session 2004-5, *Human Rights Annual Report 2004*, HC 109

substantial impact in Uzbekistan.<sup>160</sup> Their submission also raised the question of the United Kingdom's military assistance to Uzbekistan before the Andijan massacres including training in marksmanship and "managing defence in a democracy".<sup>161</sup>

113. Steve Crawshaw emphasised the importance of maintaining pressure on Uzbekistan. "What would be very important...is that there is not the sense that. 'We have now taken action that was needed and now we can move and forget about this.' There is a visa ban for senior members of the regime...but I think that it is very important for it not to stop there, because Karimov still believes that he is sitting pretty, and he does not need to be under pressure."<sup>162</sup> However, it was recently reported that Uzbekistan's Interior Minister, Zakirjan Almatov, has taken cancer treatment in Germany despite having his name on a EU-wide visa ban.<sup>163</sup> We note that Germany has also maintained a military base in Uzbekistan, and is the only NATO member to do so.<sup>164</sup>

114. Commenting on the Government's policy towards Uzbekistan, the Minister said: "We supported the reorientation of the [European] Commission's funding programme in Uzbekistan to support an increased focus on poverty reduction and...democracy and human rights in a civil society."<sup>165</sup> He added that the United Kingdom had sponsored a UN General Assembly Resolution on human rights in Uzbekistan, and that the Government was "now calling very strongly on Uzbekistan to abide by what the UN resolution actually says."<sup>166</sup>

**115. We conclude that the Government must maintain pressure on the Islam Karimov regime in Uzbekistan. We recommend that the Government should work hard to establish a consensus with its allies in the EU and NATO, including Germany, to put pressure on the Uzbek government and to add weight to its call for reform.**

## Africa

### Angola

116. Angola's growing importance as an oil exporter has added to its strategic importance, but the FCO Annual Report contains very little information on the state of human rights in Angola. Human Rights Watch raised serious concerns about ongoing abuses following the end of the civil war in Angola in 2002, such as the failure of the government to support the reintegration of refugees from the civil war, despite adopting legislation in 2002 which obliges them to do so; a catalogue of abuses in Angola's exclave Cabinda committed by the army, which include arbitrary detentions and torture despite the end of the separatist conflict; and limits to press freedom outside the capital of Lusaka.<sup>167</sup>

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160 Ev 24

161 Ev 24

162 Q 47

163 "'Massacre' minister in hospital despite ban", *The Times*, 18 November 2005

164 "Uzbeks allow Germany to keep base", *BBC News Online*, 11 December 2005, news.bbc.co.uk

165 Q 171

166 Q 172

167 See Africa: Angola, *Human Rights Watch*, www.hrw.org

117. Kate Allen told us: “There is very little mention in the report of Angola. We do, from Amnesty, have some very clear concerns. There are, and there continue to be, clashes between the MPLA and UNITA. We see a country where one million civilians were estimated to hold firearms illegally, with all the effect of that. We are aware of some improvement in police behaviour, but there are still very many reports of the police committing human rights abuses.”<sup>168</sup>

118. Human Rights Minister Ian Pearson wrote to the Committee and said: “We are supporting projects related to human rights and conflict prevention. The UK is particularly concerned about the problem of illegally held small arms and light weapons in Angola and is working closely with the Angolan government to reduce this. We have recently agreed a contribution of \$286,622 towards the cost of the first phase of the HALO Trust’s support to the Angolan government’s civil disarmament effort.”<sup>169</sup>

**119. We recommend that the Government include more information about its work to strengthen human rights standards in Angola in its Human Rights Annual Report.**

### ***Democratic Republic of Congo (DRC)***

120. The Annual Report includes a lengthy section on the human rights abuses in the DRC. The Report marks its particular concerns as the abuses which occurred and are occurring in north-eastern DRC, in Ituri, which have included rape, murder, torture, cannibalism, forced labour and illegal detention. The lack of security is another major concern throughout the DRC, and means that people are unable to tend their land, as is the intervention by the DRC’s neighbours, such as Uganda and Rwanda, in its civil war.<sup>170</sup> The Report also describes the United Kingdom’s work on human rights in the DRC, which has included raising the problems with senior members of the government, funding programmes through the Department for International Development, and support for MONUC, the UN Mission in the DRC. The Report also makes mention of the MONUC’s problems with sexual abuse by its troops.<sup>171</sup>

121. Human Rights Watch raised the problem of mineral resource exploitation and conflict in their submission, and stated that: “The UK Government is playing an important role in highlighting concerns about natural resource exploitation through its development programme funded in Congo by the Department for International Development...The British government could play an important role by ensuring the application of appropriate business standards.”<sup>172</sup>

**122. We conclude that the appalling human rights abuses in the Democratic Republic of Congo are a matter of grave concern. We recommend that the Government make clear to the Democratic Republic of Congo and its neighbours that interference is unacceptable. We further recommend that the Government do its utmost to ensure**

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168 Q 68

169 Ev 68

170 *Human Rights Annual Report 2005*, p 53

171 *Human Rights Annual Report 2005*, p 53

172 Ev 21

that those guilty of human rights abuses in the DRC are held accountable for their crimes.

### **Equatorial Guinea**

123. The Annual Report contains very little information about human rights in Equatorial Guinea despite the large number of human rights abuses perpetrated by the government of Teodoro Obiang. The Committee raised the question of human rights in Equatorial Guinea with the Foreign Office.

124. The Foreign Secretary wrote to our Chairman, saying: “The human rights situation in Equatorial Guinea gives cause for considerable concern, particularly the poor prison conditions, torture, and the lack of freedom of expression and good governance... We have not yet discussed the 2008–09 elections with the Equato-Guineans. But we will urge the Government bilaterally and through the EU to make the considerable improvements needed to ensure the elections are free, fair and without violence. At the last elections in 2004, the UK provided transparent ballot boxes.”<sup>173</sup>

**125. We conclude that the Annual Report should include information about the state of human rights in Equatorial Guinea, and that the Government should press the Equato-Guinean authorities to improve human rights.**

### **Eritrea and Ethiopia**

126. Last year, the Committee raised concerns about the border dispute between Eritrea and Ethiopia as a source of tension between the two states, which remains deeply worrying, and with the human rights situation in Eritrea. The Government told the Committee in its response that the “Government are concerned by the human rights situation in Eritrea and raise this issue with the Eritrean government at every suitable opportunity,” going on to describe the EU-Eritrea dialogue on human rights.<sup>174</sup>

127. However, the 2005 Annual Report makes little mention of the problems in Eritrea. In contrast, Human Rights Watch says: “Eritrea is a highly repressive state. Since independence, the only political party that has been allowed to operate in the country is the ruling People’s Front for Democracy and Justice (PFDJ) led by President Issayas Afewerki. During this period, no national elections have been held. National elections were scheduled to be held in 1997 and in 2001, but both times they were cancelled. Political dissent is now totally suppressed. In September 2001, the government arrested eleven leaders of the PFDJ... Since then, scores of other Eritreans have been arrested because of their alleged ties to the dissidents or for their perceived political views. The Eritrean government has also arrested publishers, editors, and reporters—and even two Eritrean employees of the U.S. State Department, apparently in retaliation for a U.S. statement critical of these other arrests.”<sup>175</sup>

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173 Ev 74

174 Foreign Affairs Committee, Fourth Report of Session 2004–5, *Human Rights Annual Report 2004*, HC 109

175 “Ethiopia and Eritrea: Promoting stability, democracy and human rights”, *Human Rights Watch*, 5 May 2005

128. Eritreans for Human and Democratic Rights (EHDR) commented on the human rights situation in their submission, saying: “The Eritrean government continued [in 2005] to rule by decree and remained not accountable to anybody. The country is run without a constitution, rule of law and a budget. Arbitrary arrests and detentions are widespread and its economy is in freefall.”<sup>176</sup> EHDR also described the arrests of the 11 government officials in 2001, the suppression of free journalism, the murder of 161 Eritreans escaping from the Wia military training/detention camp, and the repression of minority evangelical Christians.<sup>177</sup>

129. The FCO wrote to the Committee, saying: “we have repeatedly urged the Eritrean government to respect religious and media freedom and the principles of international human rights. We have also asked for detainees who are held without charge to be released quickly.”<sup>178</sup>

130. Recent events in Ethiopia have also raised serious human rights concerns. Following an election in May 2005, Prime Minister Meles Zenawi arrested a number of opposition politicians and activists who claimed the polls were rigged. Another series of protests in early November resulted in arrests; the Ethiopian government now claims that the detainees will face treason charges and so the death sentence.<sup>179</sup> The FCO wrote to us, saying: “We have expressed particular concern over the killing of demonstrators and the arrests of opposition leaders and supporters and urge the government to allow the opposition political parties to function without intimidation and that there should be an independent inquiry into these events. The Ethiopian Parliament has now approved this.”<sup>180</sup>

131. The prospects of war between Ethiopia and Eritrea are also growing. Eritrea expelled US, Canadian and European members of the United Nations Mission to Ethiopia and Eritrea in December 2005, and contention over the frontier dispute has led to the massing of troops by both states.<sup>181</sup> Commenting on Eritrea’s decision to expel the UN, Lord Triesman, the FCO Minister with responsibility for Africa, said: “The Government of Eritrea must reverse its decision immediately, and comply with the demands contained within the UN Security Council Resolution 1640...Lasting peace between Ethiopia and Eritrea cannot be achieved without the full demarcation of the border between the parties, and the UK remains fully committed to seeing both Eritrea and Ethiopia fulfil their commitments in this regard.”<sup>182</sup>

132. The FCO wrote to us, saying: “We continue to underline to the governments of both Eritrea and Ethiopia that there must be no return to war; that the decision of the Boundary Commission is final and binding, and must be implemented; and that they should engage

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176 Ev 117

177 Ev 113

178 Ev 68

179 “Ethiopia opposition treason move”, *BBC News Online*, 9 November 2005, [new.bbc.co.uk](http://new.bbc.co.uk)

180 Ev 168

181 “UN warning on Horn of Africa war”, *BBC News Online*, 12 December 2005, [news.bbc.co.uk](http://news.bbc.co.uk)

182 “Eritrea—Statement by Minister for Africa”, Foreign and Commonwealth Office press release, 7 December 2005

in dialogue on all the issues that divide them. We are working closely with the UN and Security Council partners to achieve a political resolution to this problem.”<sup>183</sup>

**133. We conclude that a resumption of hostilities in the Horn of Africa would seriously damage human rights in the region, and recommend that in its response to this Report the Government set out what measures it is taking with its Security Council partners to prevent an outbreak of war and establish respect for human rights and democratic governance in the region.**

## **Sudan**

134. The Annual Report includes a lengthy section on human rights in Sudan in its Countries of Concern section, which among other matters comments on: the signing of a peace agreement on 9 January 2005; the dreadful humanitarian situation in Darfur, where 70,000 people died between March and October 2004 alone; efforts in the UN Security Council to resolve the Darfur crisis; the referral of the Darfur situation to the International Criminal Court; the commitment of £119.5 million in humanitarian aid; and other human rights abuses in Sudan.<sup>184</sup>

135. Amnesty International condemned the human rights abuses in their submission, but had some praise for the Government. “The UK Government has played a key role in responding to the crisis in Darfur. It was instrumental in securing UN Security Council resolution 1593 which referred the situation in Darfur to the International Criminal Court (ICC)...Ministers continue to give their attention to this conflict...It is crucial that the UK government ensures that the situation in Darfur remains high up its agenda and that it continues to apply pressure on the government of Sudan.”<sup>185</sup> Amnesty International also pointed to the United Kingdom’s role in supporting the work of the UN/African Union mission in Darfur. Human Rights Watch added that they

welcome the first step to sanctions, but note that the framework for sanctions remains extremely weak: as of November 2005, not a single individual has yet been sanctioned despite a serious escalation in the violence over the past two months. Considerable work will be needed at the Security Council to ensure that sanctions are in fact imposed and enforced on key individuals.<sup>186</sup>

136. One particular difficulty in bringing pressure to bear on the Sudanese government is the scale of its oil trade with China, which means that sanctions regimes do not function effectively. Currently, China receives about 5% of its oil imports from Sudan, and has invested about \$3 billion in the oil industry.<sup>187</sup> Additionally, Beijing reportedly has 4000 non-uniformed forces protecting its interests in Sudan.<sup>188</sup> Without support from China, any actions sponsored in the UN Security Council may face failure.

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183 Ev 68

184 *Human Rights Annual Report 2005*, p 81

185 Ev 18, para 146

186 Ev 23

187 “China’s strategic global influence”, *China Rights Forum*, No 3, 2005

188 Jamestown Foundation, *China Brief*, Vol V, Issue 21, October 13 2005

**137. We conclude that the Government must maintain pressure in all possible forums on the Sudanese government in order to bring the abuses in Darfur to an end. We recommend that the Government continue to call for an end to the slaughter and an end to the immunity of the abuses from judicial proceedings, to support referrals to the International Criminal Court, and to offer resources to the African Union and UN missions in Darfur. We also recommend that the Government urge its Chinese counterparts to support UN Security Council measures against Sudan.**

### **Uganda**

138. The Annual Report deals with a range of human rights abuses in Uganda, including child soldiers in the Lord's Resistance Army, the use of the death penalty, and female genital mutilation. Last year the Government wrote in its response to our predecessor Committee's Report: "Concerns about human rights abuses in northern Uganda are well founded. The Lord's Resistance Army (LRA) commits the majority of abuses. But Ugandan security personnel have also been identified as abusers and some individuals named in official Uganda Human Rights Commission (UHRC) Reports...The Government have consistently urged the Ugandan government to address these concerns, including by conducting full investigations and by removing those security personnel who violate human rights from the north of the country."<sup>189</sup> Uganda's Forum for Democratic Change also drew attention to the detention of opposition leader Dr Kizza Besigye and the threat his detention poses to democracy in Uganda.<sup>190</sup>

139. Human Rights Watch drew attention particularly to Uganda's role in gold smuggling from the Democratic Republic of Congo. "The Ugandan economy clearly benefits from the trade of illegal gold from Congo to Switzerland and elsewhere; a trade that is encouraged by the Ugandan government...In addition to involvement in natural resource exploitation, Uganda also continues to support armed groups operating in north-eastern Congo who carry out widespread violations of human rights including war crimes and crimes against humanity. Throughout 2005 there were clear indications that Uganda had not stopped such support. While pressure from the UK and other international actors did push Uganda to expel some of the Ituri armed group leaders from Ugandan soil, it has not yet halted support for these groups."<sup>191</sup> We also welcome the efforts of the United Kingdom's Permanent Representative to the United Nations to raise the question of human rights in Uganda on the UN Security Council.<sup>192</sup>

**140. We conclude that the United Kingdom must urge the Ugandan authorities to cease their interference in the Democratic Republic of Congo (DRC) and to curtail the trade in illegal gold which underpins the wartime economy in Ituri and other regions which suffer severe human rights abuses. We recommend that the Government make clear its condemnation of the arrest of opposition politicians in Uganda and support for free**

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189 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

190 Ev 123

191 Ev 21

192 "UK wants UN report on war in North", *Daily Monitor*, 16 December 2005

and democratic elections there. We also recommend that the Government continue its efforts to bring the question of human rights in Uganda before the UN Security Council.

### Zimbabwe

141. The Annual Report includes an extensive discussion of human rights problems in Zimbabwe in its Countries of Concern section. “The human rights situation in Zimbabwe remained very negative over the last 12 months, culminating in yet another flawed election. The government retained its repressive laws and in some cases strengthened them.”<sup>193</sup>

142. The Annual Report mentions:

- Flawed parliamentary elections, involving violence against political opponents, in March 2005, which strengthened Robert Mugabe’s control through his ZANU-PF;
- Repression against Movement of Democratic Change (MDC) parliamentarians, with abductions, torture and politically motivated murder;
- Further restrictions on media freedom and NGOs;
- The growing hunger of the population in general.

143. Since the Annual Report’s publication, the Mugabe regime has launched “Operation Murambatsvina” (“Operation Clear the Filth”), a campaign of forced evictions, mainly targeted against pockets of political opposition. The United Nations estimates that as many as 700,000 people have been evicted and their houses and properties demolished since the government launched the operation on 19 May 2005. The dislocation has caused great suffering for many who have lost their homes and possessions, and prevented effective AIDS treatment in the effected areas since clinics have been destroyed.<sup>194</sup> The Commonwealth Human Rights Initiative also raised the “deteriorating human rights and political situation in situation in Zimbabwe.”<sup>195</sup>

144. Kate Allen described the situation in Zimbabwe, saying: “What we are seeing at Amnesty is fewer cases of torture but a clearer and a different change of strategy, which has moved towards the manipulation of food, which only goes to those who support the Mugabe regime; and...the removal now of 700,000 people in Operation Restore Order. We do see a humanitarian disaster unfolding in Zimbabwe.”<sup>196</sup> She added that the United Kingdom had used its diplomatic pressure extensively.

145. Last year the Committee commended the Government’s policy of pushing for the isolation of Zimbabwe. However, many of Zimbabwe’s neighbours have not taken such a strong line against the Mugabe regime, and the Government said in its response that the Foreign Secretary was “surprised and saddened that Zimbabwe’s neighbours had chosen to

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193 *Human Rights Annual Report 2005*, p 91.

194 “Zimbabwe: Mass evictions lead to massive abuses”, *Human Rights Watch*, 11 September 2005

195 Ev 103

196 Q 52

ignore the obvious and serial flaws in [Zimbabwe's] elections and had declared them fair. We will continue our dialogue with [the Southern African Development Community] (SADC), encouraging them to press for the return of good governance and respect for rule of law in Zimbabwe."<sup>197</sup> Kate Allen agreed, saying "I think that the more the UK government and the EU can do to encourage African states, and in particular South Africa who have been such a disappointment, to raise their concerns, so that it is seen as something that is led from within Africa, the better."<sup>198</sup> We asked the Minister how the Government was working to persuade Zimbabwe's neighbours to take a tougher stance towards Mugabe, and he told us that the Government engaged Zimbabwe's neighbours.<sup>199</sup>

146. However, we fear that the United Kingdom's remonstrations have achieved nothing to date. We asked the Government if it had considered referring Mugabe to the International Criminal Court (ICC) as a means to increase the pressure on Zimbabwe. The FCO said: "While we keep the ICC option in the case if Zimbabwe under review, we do not judge that enough members of the Security Council would at this stage be prepared to accept that Zimbabwe constitutes a threat to international peace and security, and thereby agree to refer it to the ICC Prosecutor."<sup>200</sup> We welcome the efforts of our Permanent Representative to the United Nations, as well as his US counterparts, to raise the question of human rights in Zimbabwe on the UN Security Council.<sup>201</sup>

**147. We conclude that the Government should continue its policy of putting pressure on the Mugabe regime in Zimbabwe, and should do its utmost to win support for this policy from other states in Southern Africa in general and from South Africa in particular. We recommend that the United Kingdom start a campaign for the referral of Robert Mugabe to the International Criminal Court for his manifold and monstrous crimes against the people of Zimbabwe. We also recommend that the Government should continue its efforts to place the question of human rights in Zimbabwe before the UN Security Council.**

## Middle East

### Iran

148. The Annual Report has an extensive section on human rights in Iran, raising concerns about

- The punishment of juveniles;
- Freedom of expression;
- Pressure on NGOs and civil society groups;

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197 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

198 Q 52

199 Q 173

200 Ev 69

201 "Zimbabwe discussed at UN Security Council", *BBC News Online*, 27 July 2005, news.bbc.co.uk

- The detentions of Christians and other issues related to freedom of worship, particularly for Baha'is;
- Detentions of political opponents;
- Use of the death penalty and public executions;
- Women's rights.

149. Last year the Committee raised concerns that the dialogue with Iran on the question of Iran's nuclear weapons would eclipse work to improve human rights in Iran.<sup>202</sup> The Government failed to answer the question, and instead emphasised its decision to sponsor a resolution in the UN General Assembly in December 2004 on Iranian human rights.<sup>203</sup> Since the report, the failure of the EU's talks with Iran to result in a slowdown of the nuclear programme, the subsequent breach of its undertakings to the EU, and the provocative restarting of uranium reprocessing activities at Iran's nuclear facilities have raised serious concerns about the Iranian nuclear programme. This issue has combined with growing tensions over apparent Iranian involvement in attacks on British forces in Iraq and extremely inflammatory comments about the destruction of Israel and repeated denial of the Holocaust by the Iranian president, have seriously damaged relations between Iran and the international community.<sup>204</sup>

150. The Foreign Secretary, Jack Straw, told us on 8 February 2006: "The whole world is worried about [the threat Iran poses to Israel]. I would not have spent more time and effort on the Iran dossier than any other since the Iraq war were I not deeply concerned about this threat and the threat that it poses to international peace and security. Increasingly, there is a wide international consensus which shares our opinions."<sup>205</sup> The Foreign Secretary also highlighted the problems of Iran's continued efforts to expand its nuclear programme.

151. Kate Allen outlined some of the problems in Iran, which include "curtailing of freedom of expression; the arrest of 26 internet journalists who have received prison sentences; students who have been imprisoned following demonstrations. We have heard allegations of torture and ill-treatment, and of course the deaths in Khuzestan, where 31 people died, and in Kurdistan, where 20 demonstrators were killed."<sup>206</sup> The National Spiritual Assembly of the Baha'is of the United Kingdom also described the continued persecution of Baha'is in Iran, and commented on the Annual Report by observing "that the compartmentalised nature of [the UK government's] reports does not offer a single, comprehensive and impartial view of the human rights situation in Iran."<sup>207</sup>

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202 Foreign Affairs Committee, Sixth Report of Session 2004–05, *Foreign Policy Aspects of the War against Terrorism*, HC 36–I, para 132.

203 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

204 "Rice seeks UK support over Iran", *BBC News Online*, 16 October 2005, [bbc.news.co.uk](http://bbc.news.co.uk)

205 Uncorrected transcript of oral evidence taken before the Foreign Affairs Committee on 8 February 2006, HC 904–i

206 Q 45

207 Ev 85

152. Human Rights Watch, commenting on the human rights dialogue between Tehran and London, stated: “On human rights issues, however, it has sometimes seemed that the criticism has not gone beyond mere rhetoric.”<sup>208</sup> The National Spiritual Assembly of the Baha’is of the United Kingdom also cited problems with the UK-Iran dialogue, and their submission suggests the establishment of a “set of benchmarks by the which the process [of the UK-Iran human rights dialogue] could be evaluated.”<sup>209</sup> Amnesty International also expressed their thanks to the Government for its intervention on the question of the death penalty.<sup>210</sup>

153. Dr Nazila Ghanea-Hercock took a gloomier perspective of human rights in Iran. She wrote: “Increasingly the evidence has shown that Iran has a constitutional system that has the veneer of democracy and balance of powers, but that in reality its framework makes the very notion of the independence of the judiciary and a society built on equality of opportunity and respect for rights impossible. The Iranian legal system is inherently gender-biased, racist, and has built within it a hierarchy of discrimination based on religion or belief. ...I therefore fear that any encouragement by the UK and EU for Iran to commit to human rights and dialogue will, at present, prove futile.”<sup>211</sup> However, she stated her support for the UNCHR resolutions on Iran adopted between 1980 and 2002 as extremely important in identifying human rights violations in Iran.<sup>212</sup>

154. The Minister told us that the Government was “very deeply concerned about [human rights in Iran], and that is one of the reasons why we co-sponsored the United Nations General Assembly resolution on Iran.”<sup>213</sup> It is clear that the Government has only recently changed its approach to the situation in Iran, as a statement by Foreign Secretary Jack Straw made clear, in response to Iran’s decision to restart uranium enrichment activity.<sup>214</sup>

**155. We conclude that human rights in Iran have deteriorated over the last year, and worsening relations are making dialogue increasingly difficult. We recommend that the Government set out what it hopes to achieve with the human rights dialogue with Iran, and that it continue its efforts to bring Iranian human rights to international attention and to urge its EU counterparts to do the same.**

## *Israel*

156. The Annual Report contains an extensive section on human rights in Israel. The Report states that “Israel’s failure to respect the human rights of Palestinians in the Occupied Territories remains a matter of grave concern. Actions by the Israel Defence Force, the impact of the barrier, restrictions on freedom of movement and settler violence cause great suffering to Palestinian citizens.”<sup>215</sup> The FCO Annual Report deals with:

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208 Ev 21

209 Ev 85

210 Q 46

211 Ev 133

212 Ev 133

213 Q 144

214 HC Deb, 10 January 2006, Col 151

215 *Human Rights Annual Report 2005*, p 67

- The barrier and appropriations of Palestinian land
- Controls on freedom of movement for Palestinians
- Targeted killings
- Violence carried out by the Settler Community

The Committee explored some of these issues with Israeli and Palestinian interlocutors in a visit to the region in November 2005. We saw at first hand how the construction of the barrier had a serious impact on the daily lives of Palestinian people. Commenting on the impact of the barrier, Minister of State for Foreign and Commonwealth Affairs Kim Howells, said on 18 January 2006: “The wall is not a barrier within the old green line. It would be ugly if it were, but it could be justified. However, it goes deep into Palestinian territory. It has divided Jerusalem and locked 55,000 Palestinian Jerusalemites out of Jerusalem. It has cut the west bank in two...The checkpoints and the other obstructions mean that the rest of the tiny territory is being split up into tiny, ungovernable cantons.”<sup>216</sup>

157. Some commentators have criticised the FCO Report. The Council for Arab-British Understanding contend that in the Report “the scale of the human rights abuses [in Israel and the Palestinian Territories] are underestimated.”<sup>217</sup> Their submission goes on to argue that the Report does not highlight the problem of Israeli settlement expansion, thanks to: its “low-key” response to the construction of the barrier; the lack of mention of discussions with Israeli officials about the rights of Arab-Israelis; and the failure to comment on torture by Israeli forces.<sup>218</sup>

158. Human Rights Watch also emphasised the problem of impunity in the Israeli Defence Forces.<sup>219</sup> Steve Crawshaw told the Committee that “something which is still insufficiently addressed is this question of impunity, which underlies so much in terms of the message that is being sent. The language of the Human Rights Report...was quite soft. It praised the fact that there was some kind of justice in connection with the Britons who had been killed. Those are such extraordinary, exceptional cases that it is really most inappropriate to use those as though they were an indication that things are getting substantially better. They are not.”<sup>220</sup>

159. Ian Pearson, the Minister with responsibility for human rights, described how the FCO raised human rights issues and supported the peace process in the Middle East. He said: “It is important that we continue to exert and use what influence we have to encourage peace and prosperity in the region while at the same time keep pointing out human rights abuses and encouraging Israel to deal with those effectively.”<sup>221</sup> He added that the Government had raised its concerns about the construction of the barrier as an obstacle to the peace process and about its impact on the livelihoods of local people.

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216 HC Deb, 18 January 2006, Col 274WH

217 Ev 104

218 Ev 105

219 Ev 22

220 Q 54

221 Q 146

“When you are talking about confiscation or destruction of land, destruction of property, when you are talking about access...and particularly about the impact on farming...this is destroying people’s livelihoods...It is a matter of great concern to the UK government.”<sup>222</sup>

**160. We conclude that the human rights situation for Palestinians in the Occupied Territories is not acceptable and we recommend that the Government expand its coverage in the Report to include more detail on the problem of impunity in the Israeli Defence Forces (IDF). We also recommend that the Government urge Israel to take human rights issues into greater account when dealing with the Palestinians, and that the Government should continue to restate its position that those parts of the barrier beyond the Green Line are illegal.**

### ***The Palestinian Territories***

161. Human rights abuses, including extrajudicial detentions and torture, are frequent in the Palestinian Territories, where a history of limited democratic accountability within the political system, the lack of a rule of law and systematic abuses by the Palestinian security services continues on a daily basis.<sup>223</sup> The shelling of Israeli settlements from Palestinian Territory is also a major concern, while the victory of Hamas, which has espoused a policy of the destruction of Israel, raises fears of the rise of extremism among the Palestinian population at large. The FCO Annual Report also pointed to significant flaws in the Palestinian judicial system, such as the use of the death penalty by the Palestinian authorities, as well as frequent suicide bombings by non-state actors and terrorist groups, but did not otherwise examine in detail the human rights situation in the Palestinian Territories. The previous Committee had an opportunity to talk to victims of Palestinian suicide bombing attacks on a visit to Israel.

162. We asked Steve Crawshaw from Human Rights Watch about human rights in the Palestinian Territories. He told us: “On the one hand you have the continuance of suicide bombers, which are a crime against humanity...and a number of abuses, including physical abuse.”<sup>224</sup> Amnesty International was also critical of the FCO Annual Report, and said that it focuses primarily on political developments in the Palestinian Territories, without exploring human rights matters in sufficient detail.<sup>225</sup>

**163. We recommend that the Government should explore the human rights situation in the Palestinian Territories in a separate section in its next Report, and that it should explore in greater detail the extent of the abuses committed in the Territories.**

### ***Saudi Arabia***

164. The Annual Report has an extensive section on Saudi Arabia, which says: “There has been a small but significant improvement in the situation in Saudi Arabia since our last Annual Report. However, the Saudi government has continued to violate human rights,

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222 Q 148

223 Human Rights Watch, [www.hrw.org](http://www.hrw.org)

224 Q 55

225 Ev 16

including by restricting freedoms of expression and press, assembly, association, religion and movement. The government also continues to discriminate against women, foreigners, non-Muslims and non-Sunnis Muslims and to impose strict limitations on workers' rights."<sup>226</sup>

165. The Report refers in particular to:

- The introduction of a new code for criminal procedure, although torture of detainees is still routine
- Discrimination against non-Muslims and restriction of women's rights
- The slow process of reform

166. Last year, the Committee called on the FCO to keep pressing the Saudi authorities to improve human rights,<sup>227</sup> while the year before the Committee raised concerns about the treatment of UK nationals such as Dr William Sampson, who confessed to a bombing while in Saudi police custody.<sup>228</sup> We are unable to comment on this particular issue since it is currently *sub judice*. However, the case highlights the problems which arise from placing emphasis on confessions as part of the judicial process in Saudi Arabia.

167. Human Rights Watch have raised concerns that the Government "may be contemplating a possible Memorandum of Understanding (MOU) with the Saudis, regarding commitments not to torture those who might be deported to Saudi Arabia, along the lines of MOUs which have already been agreed with Jordan and Libya."<sup>229</sup> Additionally, Kate Allen of Amnesty International told the Committee: "We would recognise that there have been small steps. We are not sure whether those are significant or not. The human rights situation in Saudi Arabia is still absolutely dire in very many ways that we have documented, including appalling use of the death penalty and the use of torture."<sup>230</sup> The use of the death penalty for a broad range of crimes such as apostasy, drug offences, witchcraft, adultery and murder, as well as broad crimes such as 'acts of sabotage and corruption on earth', raises particular concerns.<sup>231</sup> The Committee had an opportunity to raise these and other issues with Saudi interlocutors on its visit to Riyadh in November 2005.

**168. We conclude that the human rights situation in Saudi Arabia continues to give cause for grave concern. We recommend that the Government continue to make clear that the Saudi Kingdom's instances of discrimination against women and other human rights abuses which are endemic in Saudi Arabia, breed discontent and fall far short of universal standards. We recommend that the Government engage the Saudi authorities on the questions of women's rights and the rights of guest workers, the use of torture**

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226 *Human Rights Annual Report 2005*, p 78

227 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004-05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

228 "Saudi bombing 'unlawful killing'", *BBC News Online*, 22 February 2005, [bbc.news.co.uk](http://bbc.news.co.uk)

229 Ev 23

230 Q 56

231 Amnesty International: Saudi Arabia, at [www.amnesty.org](http://www.amnesty.org)

and of the death penalty for a wide range of crimes including apostasy, adultery and ‘acts of sabotage and corruption on earth’.

## Syria

169. The Annual Report contains little information on human rights in Syria, despite the lack of pluralism and political repression which marks that state. The imprisonment of political opponents of the government of Bashar al-Assad raises concerns about political freedom in Syria, while Damascus’s efforts to interfere in Lebanon have earned Syria the condemnation of the international community. One particular concern was the assassination of Rafik Hariri, since a UN report established the involvement of Syrian officials in the killing,<sup>232</sup> and of other political opponents to the Syrian regime.<sup>233</sup>

170. **We recommend that the Government set out in its response to this Report what it is doing to seek to improve human rights in Syria, and we also recommend that its next report should contain more information about Syria.**

## Asia-Pacific

### Afghanistan

171. The Annual Report contains an extensive section on human rights in Afghanistan, outlining problems such as ongoing security risks and concerns about women’s rights.<sup>234</sup> However, our witnesses agreed that the situation had improved under President Karzai.<sup>235</sup>

172. Nonetheless, Kate Allen of Amnesty International raised serious concerns. She said: “I think that when you are in a situation such as in Afghanistan at the moment, where security is...absolutely the overwhelming issue, particularly outside of Kabul, the situation does become quite bad. It is very much our experience that the levels of violence, discrimination and humiliation of women remain high within the country; that for safety’s sake women are retreating back into the home; that it is very difficult for women and young girls, particularly in rural areas; and that we need to do more to support women in Afghanistan.”<sup>236</sup>

173. Human Rights Watch also raised concerns about the lack of judicial proceedings against human rights abusers in Afghanistan, despite the large number of atrocities carried out over the last thirty years. Major political players today are amongst those accused of complicity in the massacres and human rights abuses of the struggle against the Soviet Union and the subsequent civil war, making difficult a process of reconciliation which would help ordinary Afghans come to terms with their traumatic history.<sup>237</sup> In its submission, Human Rights Watch called on the Government to “take a leadership role in

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232 “New Hariri report blames Syria”, *BBC News Online*, 11 December 2005, [bbc.news.co.uk](http://bbc.news.co.uk)

233 “Crowds at Syria critic’s funeral”, *BBC News Online*, 14 December 2005, [bbc.news.co.uk](http://bbc.news.co.uk)

234 *Human Rights Annual Report 2005*, p 34

235 Q 57–58

236 Q 58

237 “Afghanistan: Bloodstained hands”, *Human Rights Watch*, 2005

addressing past abuses and make it clear to President Karzai that he should choose justice over good relations with abusive warlords.”<sup>238</sup>

174. The FCO answered our questions on this matter in a letter. They wrote: “Post-conflict situations require a balance to be struck between reconciliation and holding individuals to account for what they may have done in the period of the conflict itself. But this does not mean that the UK, our partners, and the Afghan authorities themselves, are turning a blind eye to impunity in Afghanistan. The Government of Afghanistan and the international community, including the UK, are discussing a ‘Transitional Justice Action Plan’ for Afghanistan. A great deal of the momentum for this plan followed the publication of the Afghanistan Independent Human Rights Commission’s report ‘A Call For Justice’, published in January 2005.”<sup>239</sup> The letter also mentioned a conference in The Hague in June 2005 on Transitional Justice in Afghanistan, and the draft action plan which has now been launched.<sup>240</sup> The London Conference in January 2006 also put forward a series of means to establish human rights norms in Afghanistan.

175. The Committee is also seriously concerned about the problem of narcotics production in Afghanistan, and has met with the Afghan Minister with responsibility for the reduction of opium production. We will discuss this issue further in our report into the Foreign Policy Aspects of the War against Terrorism.

**176. We conclude that human rights abuses in Afghanistan are manifold and serious, and that security is a particularly difficult challenge. We also have major concerns about the lack of judicial process against human rights abusers in Afghanistan and urge the Government to do its utmost to support any mechanisms which will implement justice and aid reconciliation in Afghanistan. We also recommend that the Government increase its support for women’s rights programmes in Afghanistan.**

## **Burma**

177. The Annual Report includes a section on human rights abuses in Burma. The Report states that the last year has seen no improvement in human rights in Burma, and that the political and security situation has deteriorated. The FCO’s chief concerns are the incarceration of Aung San Suu Kyi, the leader of the democratically elected opposition, corruption and political interference in the judicial system, prison conditions, constraints on freedom of expression, ethnic discrimination, child labour and the lack of religious tolerance.<sup>241</sup> In their submission, the Jubilee Campaign emphasised the campaign of repression against the Karen, Karenni and Shan peoples in Burma.<sup>242</sup>

178. The FCO wrote to us about Burma, saying: “We remain deeply concerned about the political and human rights situation in Burma. We have been at the forefront of efforts over many years to bring pressure to bear on the military regime to reform and to respect

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238 Ev 20

239 Ev 69

240 “Afghans adopt justice action plan”, *BBC News Online*, 12 December 2005, [bbc.news.co.uk](http://bbc.news.co.uk)

241 *Human Rights Annual Report 2005*, p 36–8

242 Ev 116–117

human rights...Through the EU's Common Position on Burma we have imposed a comprehensive programme of targeted measures on the regime."<sup>243</sup> The letter added: "The UK and the EU recognise the importance of working with ASEAN and other countries in the region to promote reform and democratisation in Burma. We take, therefore, every opportunity to raise our concerns with ASEAN countries."<sup>244</sup> The decision of ASEAN to raise the question of Burma on 12 December 2005, then, is most welcome; we hope it leads towards some degree of reform. We also welcome the efforts of the United Kingdom Permanent Representative to the United Nations to raise the question of human rights in Burma on the UN Security Council.<sup>245</sup>

**179. We conclude that the United Kingdom should maintain its policy of pressing the Burmese military junta to permit reform and introduce basic rights which are universal and inalienable, and that its efforts to bring other ASEAN states around to its perspective should not falter. We recommend that the Foreign and Commonwealth Office should continue to report on Burmese human rights in its Annual Report, and redouble its efforts to bring the question of abuses by the Burmese authorities to the attention of the UN Security Council.**

## China

180. A lengthy section covers the problem of human rights abuses in the People's Republic of China (PRC). The Report says:

The UK continues to have serious concerns about basic human rights in China, including extensive use of the death penalty; torture; shortcomings in judicial practices and widespread administrative detention, particularly re-education through labour; harassment of human rights defenders and activists (NGOs, political activists, journalists and lawyers); harassment of religious practitioners and adherents of Falun Gong; the situation in Tibet and Xinjiang; and severe restrictions on basic freedoms of speech and association.<sup>246</sup>

The Report also listed the projects which the UK Government is supporting in China, which cover areas including: promoting judicial justice; reforming the death penalty review system; policing and human rights; and research into Corporate Social Responsibility (CSR).<sup>247</sup>

181. The Annual Report section on China focused on:

- The question of ratification of the International Covenant on Civil and Political Rights (ICCPR);
- The lack of co-operation with UN monitoring mechanisms, such as Special Rapporteurs;

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243 Ev 49–50

244 Ev 49–50

245 "UN stages rare Burma discussion", *BBC News Online*, 17 December 2005, news.bbc.co.uk

246 *Human Rights Annual Report 2005*, p 40

247 *Human Rights Annual Report 2005*, p 44

- Reform of administrative detention centres;
- A reduced use of the death penalty;
- Respect of the fundamental rights of all prisoners;
- The lack of progress on freedom of religion;
- The lack of cultural rights, particularly for minorities;
- Human rights abuses in Xinjiang;
- An end to jamming of BBC programming.

182. Human Rights Watch outlined a series of concerns in their submission but said that these “stand in sharp contrast to the apparent reluctance of senior government ministers publicly to confront human rights abusers, in many important contexts. At a press conference on November 7, a day before President Hu Jintao arrived on a state visit to the UK, the Prime Minister failed even to mention human rights when answering a Chinese journalist’s question about what he would be discussing with President Hu.”<sup>248</sup> One area of particular concern which has re-emerged following the statements made by Manfred Novak, the UN Special Rapporteur for Torture, on his return from China in December 2005, is that of torture. Mr Novak made clear that torture in China is still widespread.<sup>249</sup>

183. Much of the exchange on human rights matters between London and Beijing takes place through the UK-China dialogue on human rights, which this year looked in particular at freedom of expression and civil society. However, last year the previous Foreign Affairs Committee criticised the Human Rights Dialogue, saying that it was failing to deliver results; in this context, the Committee recommended that the Government set specific goals and a timetable for the dialogue, and asked the Government how it worked with its partners in the EU. In its response, the Government argued that engaging China on human rights was a long term process and that setting timetables was inappropriate.<sup>250</sup>

184. Other commentators have criticised the dialogue. Kate Allen of Amnesty International told us: “We do not see any areas where progress is being made...What we have seen is that the UK-China human rights dialogue in June this year, which is now in its thirteenth round...We have no criticism of quiet diplomacy, if it is having an effect; but after the thirteenth round, we do question that and we would like to know what the British government sees as the progress to be made there.” She added that “it is time for the British government to be absolutely, publicly clear about what it sees as the advantages of the dialogue, what progress it wants to see.”<sup>251</sup>

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248 Ev 20

249 “China torture still widespread”, *BBC News Online*, 2 December 2005, news.bbc.co.uk

250 Foreign & Commonwealth Office, *Response of the Secretary of State for Foreign and Commonwealth Affairs, Sixth Report of the Foreign Affairs Committee, 2004–05, Foreign Policy Aspects of the War Against Terrorism*, Cm 6590, June 2005

251 Q 59

185. However, the Human Rights Minister defended the human rights dialogue. He said: “Should we engage with a country and have a human rights dialogue or should we go down the route of UN resolutions? I believe that strategic engagement is very much the right path to follow as far as China is concerned.”<sup>252</sup> In a memorandum to us, the FCO went further, saying:

We agree that China’s progress on human rights is slow relative to the impressive economic changes in the country. We do not believe that this lack of speed means the dialogue is failing...We do not believe that establishing a timetable for the dialogue would improve its effectiveness. There are some human rights issues on which the Chinese Government is interested in making progress and might work with us towards agreed improvements. But there are other areas on which the Chinese Government is not interested in co-operation or is extremely hesitant about engagement...In such instances we find ourselves pursuing a role of moral advocacy rather than working with the grain of change in China. Against this background it is our view that agreeing a timetable with the Chinese Government would mean setting the target very low or—in some cases—it might prove impossible to set a meaningful target at all.<sup>253</sup>

The Committee is carrying out an inquiry into developments in East Asia, and we intend to return to the question of human rights abuses in China as part of that inquiry.<sup>254</sup>

**186. We conclude that the UK-China human rights dialogue appears to have made glacial progress. We recommend that the Government set out in its response to this Report what measures it uses to determine whether the dialogue is a success, what it sees as the achievements of the dialogue to date, and why it wishes it to continue.**

187. The situation in Tibet is another matter of serious concern. The Free Tibet Campaign raised concerns about human rights in Tibet, including the use of torture, saying that despite “being a signatory to the Convention Against Torture, torture remains endemic in prisons and detention centres throughout China and Tibet. In January 2005 a suspended death sentence against Tibetan religious leader Tenzin Deleg Rinpoche was commuted to life imprisonment. The case against Tenzin Deleg, who was accused of ‘splittist activities’ and taking part in ‘causing explosions’, has never been made public, but was based on a confession by his co-accused, Lobsang Dhondup. Dhondup publicly withdrew this confession, alleging he had been tortured. Dhondup was executed in January 2003.”<sup>255</sup> The Free Tibet Campaign also raised the kidnap of the 11th Panchen Lama, Gedhun Choeki Nyima, in May 1995, which the Annual Report describes as a concern for the FCO.<sup>256</sup>

188. Commenting on the situation in Tibet, Kate Allen of Amnesty International told us: “We do not think it is improving. We continue to document abuse taking place in Tibet,

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252 Q 177

253 Ev 49, para 11

254 “Foreign Affairs Committee announces inquiry into East Asia”, Foreign Affairs Committee Press Notice 10, 17 November 2005

255 Ev 112

256 *Human Rights Annual Report 2005*, p 43

particularly of monks and nuns and of other religious minorities. So we have nothing to say about improvement in Tibet.”<sup>257</sup>

**189. We conclude that the situation in Tibet is of great concern, and we recommend that the Government should make public its condemnation of the human rights abuses carried out by the Chinese authorities in Tibet.**

### **Indonesia**

190. The Annual Report has a section on Indonesia as a country of concern, which describes the ongoing problems in Papua New Guinea, Aceh and East Timor. Last year the Committee outlined its fears about the Indonesian government’s seeming willingness to use the tsunami as cover to perpetrate human rights abuses, and the Government response accepted the Committee’s point. In the last year one recent worrying development, given the history of abuses committed by the Indonesian military in East Timor, Aceh and Papua New Guinea, has been the USA’s decision to reinstitute military to military ties in November 2005.<sup>258</sup>

191. Tapol have raised concerns about Indonesia in general and about the situation in West Papua in particular in their submission, saying that they “believe that the FCO has underplayed the severity of the situation in West Papua both in its analysis and weak policy responses. The FCO’s concern has not translated into the necessary diplomatic and economic pressure on Indonesia to improve the human rights situation and resolve the conflict peacefully according to the wishes of the Papuan people.”<sup>259</sup> A submission by the Rt Hon Lord Anderson of Swansea also raised concerns about the treatment of minority faiths in Central Sulawesi, particularly bombings and beheadings of Christians.<sup>260</sup>

192. However, the Government takes a more positive line. The FCO wrote to us: “The human rights situation in Indonesia has improved in the last few years and we assess that President Yudhoyono is sincere in his attempts to push through reforms, including to the security sector. The current peace process in Aceh is an indication of his willingness to address some of the long running issues in Indonesia. The Indonesian Parliament has recently voted for the ratification of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.”<sup>261</sup>

193. On the matter of West Papua the FCO wrote: “As part of our regular dialogue with the Indonesian government we raise reports of human rights abuses in Papua. We have also encouraged the Indonesian government to engage in dialogue with Papuan representatives, and to proceed with full implementation of the Special Autonomy Legislation...President Yudhoyono has committed his government to resolving the Papuan question through dialogue, “in a peaceful, just and dignified manner”.”<sup>262</sup>

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257 Q 61

258 “Indonesia hails arms détente”, *BBC News Online*, 23 November 2005, news.bbc.co.uk

259 Ev 91, para 3

260 Ev 122

261 Ev 69

262 Ev 69

194. We conclude that the improvements in human rights in Indonesia are welcome, but that the Government must engage with its Indonesian partners to move further towards reform, particularly in the light of the USA's decision to reinstate military to military ties with Indonesia. We also recommend that the Government should expand its coverage of the West Papua conflict in its Annual Report.

### Maldives

195. The Annual Report makes scant mention of human rights abuses in the Maldives, but the Commonwealth Human Rights Initiative (CHRI) says: "The Maldives is plagued by human rights violations and disregard for the principles for participatory democratic governance and the rule of law. The press faces harassment...and civil society faces restrictions."<sup>263</sup>

196. CHRI goes on to say: "A clear and strong public statement is required to send a message to the Maldivian administration and other Commonwealth nations that actions that violate the Harare Principles are unacceptable and will not be overlooked by the Commonwealth. Continued silence implies acceptance and risks damaging the Commonwealth's reputation for membership being dependent on the principles of democracy and human rights articulated in the Harare Declaration."<sup>264</sup>

197. We conclude that the Government should include more information in the next Annual Report on the human rights situation in the Maldives.

### Nepal

198. The Annual Report has a short section on human rights in Nepal which tackles the proliferating concerns since the dismissal of Nepal's government and the assumption of power by King Gyanendra in February 2005. The King pledged that municipal elections would take place in February 2006;<sup>265</sup> these took place but a very low turnout of less than 20%, a general strike and allegations of intimidation by both the Maoists and the Government, which won overwhelmingly, raised serious doubts about the elections.<sup>266</sup> Parliamentary elections are due no later than April 2007, but at present the King continues to govern without democratic constraint.<sup>267</sup> The King's takeover was in response to the growing Maoist insurgency which has strengthened over the last few years, and has added to growing concerns that both the Nepali government and the Maoist insurgents carry out frequent abuses of human rights, such as torture, disappearances, beatings, and targeted attacks on journalists, human rights defenders and political activists.<sup>268</sup>

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263 Ev 103

264 Ev 102

265 "Nepal parliamentary vote pledged", *BBC News Online*, 12 October 2005, news.bbc.co.uk

266 "King's placemen take power in Nepal election", *Financial Times*, 10 February 2006

267 "Nepal back to normal after polls", *BBC News Online*, 9 February 2006, news.bbc.co.uk; "Jailing of Nepal ex-PM questioned", *BBC News Online*, 19 September 2005, news.bbc.co.uk

268 *Human Rights Annual Report 2005*, p 70

199. The United Kingdom reacted strongly to the February 2005 coup. The UK recalled its ambassador for consultations, appointed a human rights adviser to its post in Kathmandu and decided “to withdraw its plans to donate a further package of non-military assistance to Nepal.”<sup>269</sup> Kate Allen of Amnesty International told us: “We see a situation of 200,000 people displaced. We know of 400 people, named people, who have disappeared. There is an absolute climate of fear.”<sup>270</sup>

200. The FCO wrote to us on the question of human rights in Nepal, saying: “The human rights situation has been steadily deteriorating for several years and we remain deeply concerned by the serious abuses that are still being carried out by the Maoists and the security forces. The UN Special Rapporteur on Torture, Manfred Nowak, visited Nepal in September and his preliminary report indicated widespread and systematic use of torture by Nepalese security forces.”<sup>271</sup> The letter also pointed to the United Kingdom’s role as holder of the EU presidency in an EU visit to Nepal, during which the delegation made a strong public statement calling for the reinstatement of human rights standards, and democracy, and for an end to Maoist acts of terrorism.<sup>272</sup>

201. The letter went on to deal with the question of military support “On the issue of military assistance, this has been significantly reduced since the King took power on 1 February [2005]. Our military assistance was always predicated on the maintenance of basic democratic structures and procedures Following...the imposition of the State of Emergency...we withdrew proposals for a substantial further package of military assistance...At present we provide only very modest levels of assistance to the Royal Nepalese Army (RNA)...This consists of bomb disposal equipment, human rights advice and training and a handful of general professionalism courses.”<sup>273</sup> The situation has not improved; on 19 January 2006 the Foreign Office Minister with responsibility for Nepal, Dr Howells, issued a statement condemning the arrest of political opponents.<sup>274</sup>

**202. We conclude that the Government should maintain pressure on the King of Nepal to reintroduce democracy and to work to establish human rights standards throughout Nepal. We also condemn the bloody acts of terrorism perpetrated by the Maoist insurgents in Nepal. We recommend that the Government maintain only limited military assistance to the Nepali government until accountable government is reinstated.**

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269 *Human Rights Annual Report 2005*, p 71

270 Q 65

271 Ev 69

272 Ev 69

273 Ev 70

274 “Foreign office minister condemns political arrests in Nepal”, Foreign and Commonwealth Office press release, 19 January 2006

## Formal minutes

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### Wednesday 15 February 2006

Members present:

Mike Gapes, in the Chair

Mr Fabian Hamilton	Sandra Osborne
Mr David Heathcoat-Amory	Mr Greg Pope
Mr John Horam	Mr Ken Purchase
Mr Eric Illsley	Sir John Stanley
Andrew Mackinlay	Richard Younger-Ross

The Committee deliberated.

Draft Report [*Human Rights Annual Report 2005*], proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 14 read and agreed to.

Paragraph 15 read, amended and agreed to.

Paragraphs 16 to 75 read and agreed to.

Paragraph 76 read, amended and agreed to.

Paragraphs 77 to 107 read and agreed to.

Paragraph 108 read, amended and agreed to.

Paragraphs 109 to 148 read and agreed to.

Paragraph 149 read, amended, divided and agreed to (now paragraphs 149 and 150).

Paragraphs 150 to 158 (now paragraphs 151 to 159) read and agreed to.

Paragraph 159 (now paragraph 160) read, amended and agreed to.

Paragraphs 160 to 196 (now paragraphs 161 to 197) read and agreed to.

Paragraph 197 read, (now paragraph 198) amended and agreed to.

Paragraphs 198 to 201 (now paragraphs 199 to 202) read and agreed to.

*Resolved*, That the Report, as amended, be the First Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

Several Papers were ordered to be appended to the Minutes of Evidence.

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.—(*The Chairman*).

Several Memoranda were ordered to be reported to the House.

The Committee further deliberated.

[Adjourned till Wednesday 8 March at Two o'clock

## Witnesses

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### Wednesday 16 November 2005

*Page*

**Ms Kate Allen**, Director, and **Mr Tim Hancock**, Head of Policy, Amnesty International UK, and **Mr Steve Crawshaw**, London Director, Human Rights Watch

Ev 28

### Wednesday 23 November 2005

**Ian Pearson**, a Member of the House, Minister of State for Trade, Foreign & Commonwealth Office, and **Ms Alexandra Hall Hall**, Head, Human Rights, Democracy and Governance Group, Foreign & Commonwealth Office

Ev 47

## List of written evidence

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Amnesty International	Ev 1; Ev 2
Human Rights Watch	Ev 19; Ev 42
Foreign & Commonwealth Office	
Letter to the Clerk of the Committee from the Parliamentary Relations and Devolution Team	
Letter to the Chairman of the Committee from Ian Pearson MP, Minister of State	Ev 67
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ABColumbia	Ev 83
National Spiritual Assembly of the Bahá'ís of the United Kingdom	Ev 85
Christian Solidarity Worldwide	Ev 86
TAPOL, the Indonesia Human Rights Campaign, Free West Papua Campaign and the UK Coalition for West Papua	Ev 90
Trades Union Congress and Justice for Colombia	Ev 93
Saferworld	Ev 96
Kurdish Human Rights Project	Ev 99
Commonwealth Human Rights Initiative	Ev 101
Council for Arab-British Understanding	Ev 104
Robert Amsterdam	Ev 107
Campaign Against Criminalising Communities	Ev 108

Free Tibet Campaign	Ev 111
Eritreans for Human and Democratic Rights UK	Ev 113
Jubilee Campaign	Ev 114
International Campaign for Human Rights in Tunisia	Ev 117
Society for the Protection of Unborn Children	Ev 118
World Vision	Ev 119
Rt Hon Lord Anderson of Swansea	Ev 122
FDC Envoy to the UK and European Union	Ev 123
Ogaden Community Association	Ev 127
Gareth Howell	Ev 128
Leaked FCO memorandum obtained by News Statesman	Ev 131
Dr Nazila Ghanea	Ev 133

## List of unprinted written evidence

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Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1. (Tel 020 7219 3074) hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

The Selwood Foundation

# Oral evidence

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## Taken before the Foreign Affairs Committee

on Wednesday 16 November 2005

Members present:

Mike Gapes, in the Chair

Mr Fabian Hamilton  
Mr Andrew Mackay  
Andrew Mackinlay  
Mr John Maples  
Sandra Osborne

Mr Greg Pope  
Mr Ken Purchase  
Sir John Stanley  
Richard Younger-Ross

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### Written evidence submitted by Amnesty International

AMNESTY INTERNATIONAL'S ANNUAL REPORT 2005

Many congratulations on your appointment as Chair of the Foreign Affairs Select Committee.

Our annual report, which is enclosed, documents the state of the world's human rights and covers the period from January to December 2004. As Chair of the G8 and president of the EU, the UK is in a unique position this year to challenge some of the abuses, which we highlight in this report.

Over the next Parliament we will be looking for your support to press the UK Government to:

- turn its verbal support for an international arms trade treaty into concrete action. The UK should set out its strategy for engaging with international partners on building support for a treaty. The Prime Minister has already identified Africa as one of his priorities for this year. Making progress on an international arms trade treaty will do much to alleviate suffering in that continent;
- become a signatory to the European Convention against trafficking in human beings, which opened for signatures in May. Trafficking is a violation of human rights and an offence to human dignity and integrity. The Convention requires those states which become parties to take measures, individually and collectively, to prevent trafficking, to prosecute those responsible for trafficking and to take specific measures to protect and respect the rights of trafficked persons;
- ensure that it resists all efforts to water down the absolute ban on torture and cruel, inhuman or degrading treatment. At every opportunity the UK Government should be making clear unequivocally that it will not rely on, or present "evidence" obtained through torture; and
- push for radical reform of the UN's human rights machinery. The UN Secretary General has taken the bold initiative and proposed that human rights be given greater prominence within the UN. It is crucial that the UK Government supports this reform in order to improve the UN's effectiveness in promoting and protecting all human rights.

As well as the issues highlighted above Amnesty International UK will be aiming to protect human rights in a range of countries including the Democratic Republic of the Congo (DRC), Sudan, Turkey, Iraq, Israel and the Occupied Territories, India and Colombia.

We look forward to working with the Committee in the future, particularly on its inquiry into the FCO's annual human rights report and other inquiries related to our work. We would encourage the Committee to consider looking particularly at the human rights situation in the DRC and Colombia. The conflict in the DRC has claimed an estimated four million lives since 1998 and in many ways is the forgotten conflict in Africa. Even though peace agreements have been signed, conflict still continues in the eastern part of the country claiming lives daily and contributing to a dire human rights situation. The UK Government has a key role to play in ensuring that peace and stability is instituted throughout the DRC and it would be useful for the Committee to probe further into this issue.

The armed conflict in Colombia has resulted in the deaths of over 70,000 people in the last 20 years and resulted in more than three million internally displaced people—one of the highest rates of displacement in the world. The conflict is characterised by a flagrant disregard for human rights and international humanitarian law by all sides. There are well-established links between paramilitary groups and the State, and elements within the Armed Forces continue to carry out extra judicial executions, torture and violations

of due process, and impunity is widespread. Yet, the UK provides large amounts of financial and military support to the Colombian Government, with little or no analysis of its impact. We believe that this support requires detailed scrutiny.

*Maniza Ntekim*  
Parliamentary Officer  
Amnesty International

25 July 2005

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### **Evidence submitted by Amnesty International**

#### AMNESTY INTERNATIONAL

1. Amnesty International is a worldwide membership movement. Our vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights. We promote all human rights and undertake research and action focussed on preventing grave abuses of the rights to physical and mental integrity, freedom of conscience and expression and freedom from discrimination.

#### THE FCO REPORT

2. Amnesty International welcomes the publication of the FCO Human Rights Annual Report 2005 (“the FCO report”). The 2005 report is a slimmer document than its two immediate predecessors. Nevertheless, it is still a comprehensive report providing a thorough overview, on the whole, of the work that the Government has been doing to protect and promote human rights worldwide. We would emphasis how important it is for the Government to continue to use the opportunity of the publication of the report to present its activities in depth and breadth and to explain its position in a competent and coherent manner. This can only help to contribute to a greater understanding of the government’s work in this field and to keep the UK public informed of government policy.

3. Amnesty International similarly welcomes this opportunity to contribute to the work of the FAC Committee (“the Committee”) in its scrutiny of FCO human rights policy. We consider the Committee plays an invaluable role in its examination of this work and the recommendations that it makes for its improvement. The recommendations that it makes to the Government on foreign policy concerns are clearly taken seriously by the Secretary of State and the FCO. That it continues to undertake this work is vital to the continued accountability of government policy in this field.

4. This submission cannot include all of AI’s observations and recommendations regarding the FCO report. Amnesty International welcomes therefore the opportunity that the Committee is providing to the organisation to present oral evidence to it when it meets in November. We will also be pleased to submit additional information should the committee require it.

5. The FCO report records developments up to June 2005. This year, the FCO chose not to adopt the format used in the previous two years of leading with “Challenges and progress” (an approach which put issues of terrorism front and centre). Instead the report leads with a description of what might be called the “bread and butter” work undertaken by the FCO. Amnesty International would have found this approach surprising even if events had not taken such a dramatic turn in July with the horrifying London suicide bomb attacks. However, judged in the context in which the report was written, we consider that while it covers all the bases it has become somewhat perfunctory and dry in tone. This may be because the report has had to be produced to tighter deadlines due to the need to gear up for the UK’s Presidency of the EU and chairing of the G8. Nevertheless, we consider that the 2005 report, taken as a whole, does not convey the passion for human rights of previous FCO reports.

#### SUSTAINABLE DEVELOPMENT AND HUMAN RIGHTS

6. We remain doubtful over the FCO’s rationale for subsuming work on human rights under the umbrella of sustainable development. We cannot escape the conclusion that having selected eight strategic priorities for the FCO Strategy published in December 2003, this arrangement is more likely a reflection of the reality that the FCO has many more areas of work than strategic priorities. Put simply, in the eyes of the FCO, human rights do not appear to warrant treatment as a standalone strategic priority. However, we are reassured by the former Minister’s strong affirmation in his oral evidence to the previous committee that human rights concerns are mainstreamed across all the activities and actions of the FCO. And certainly we are able to maintain a productive dialogue with many parts of the FCO on human rights issues most notably, of course, with the Human Rights, Democracy and Governance Group, but also with other groups and country desks.

## FUNDING FOR HUMAN RIGHTS PROJECTS

7. Since 2004–05, the Human Rights Project Fund has been folded into the broader Global Opportunities Fund. Last year, we reflected our concerns to the previous committee over the difficulties in establishing what funding was being made available for discrete human rights projects within the larger sums provided for “human rights, democracy and governance”. In its written response to the committee (para 13), the FCO provided figures pointing to a steady increase in expenditure on such projects and has listed many of these in Annex 2 of the 2005 report. In answer to the previous Committee’s request for its definition of a human rights project, the FCO also advised that the Government “use the definition that a human rights project is one that furthers HMG human rights priorities and objectives in the country concerned. This means that projects will vary from one country to another and from one region to another.” It is difficult not to interpret this to mean that a human rights project is what the FCO says it is.

8. From what we know of the workings of the GOF, for spending on human rights projects, it represents a move away from a worldwide and applicant led process under the HRPF to one much more focused on obtaining demonstrable results in a narrower band of countries. Under the Sustainable Development programme, spending is restricted to 18 priority countries<sup>1</sup> selected from country posts that choose to apply and can demonstrate a knowledge of sustainable development and human rights issues. In its written response to the previous committee (para 16), the FCO stated that, in total, 73 countries were eligible for funding under any of the four GOF programmes that could promote human rights compared to 90 under the HRPF. We are not able to gauge how influential human rights considerations are in allocating funds under these other programmes though we recognise that the total sum exceeds that spent under the Sustainable Development Programme.

9. The HRPF also supported projects benefiting multiple countries and addressing thematic issues (such as torture). Very limited sums (less than £100,000) are now available for thematic work under the Sustainable Development Programme. Most of this is being channelled into important work on freedom of expression. However, the FCO seems prepared to put aside excellent work done in the past on torture and we see little prospect of this being taken up in the new counter terrorism climate.

10. The FCO report states that in the 2004–05 financial year, £13.4 million was spent on human rights, democracy and governance work overall. Looking at the figures presented for such work in Annex 2 of the report and provided elsewhere by the FCO, however, we are unable to identify expenditure in the 2004–05 financial year beyond approximately £11 million. We are currently clarifying this discrepancy with the FCO.

## FCO HUMAN RIGHTS POLICY

11. As in 2003 and 2004, we feel obliged to question the extent of the Government’s commitment to human rights and the extent to which human rights play a part in shaping UK foreign policy. The manner in which the 2005 report has been produced, the less than rational inclusion of human rights under sustainable development, changes to the funding arrangements for human rights projects, and even the less central location for the Human Rights, Democracy and Good Governance Group within the FCO all point to what we consider to be the declining influence of human rights in shaping UK foreign policy. In some critical areas, however, matters appear worse. Elements of the Government’s counter terrorism strategies, at home and abroad, are seriously challenging accepted human rights standards (particularly in relation to torture and fair trials). This trend is being exacerbated through the radical change of track that the UK Government is now pursuing in response to the events of last July.

## HUMAN RIGHTS AND TERRORISM (PAGES 187–191)

12. The section on terrorism in the FCO report has been overtaken by the terrible events of July 2005.

13. Amnesty International unconditionally and unreservedly condemns attacks on civilians, including those in London, and calls for those responsible to be brought to justice. States have an obligation to take measures to prevent and protect against attacks on civilians; to investigate such crimes; to bring to justice those responsible in fair proceedings; and to ensure prompt and adequate reparation to victims. We recognise that in the aftermath of the July attacks it is incumbent upon the UK Government to review its legislative and other measures with a view to ensuring the non-repetition of such attacks. It is equally incumbent on the UK Government to ensure that all measures taken to bring people to justice, as well as all measures to protect people from a repetition of such crimes, are consistent with international human rights law and standards. Security and human rights are not alternatives; they go hand in hand. Respect for human rights is the route to security, not an obstacle to it.

14. The global impact of the UK’s approach on counter terrorism is considerable. The UK is a key member of many influential organisations—the UN Security Council, the EU (currently as President), the G8, the Council of Europe and the Organisation for Security and Co-operation in Europe. Together with

<sup>1</sup> In the guidance for bidding NGOs published by the FCO in January 2005, the priority countries listed are Argentina, Brazil, Burma, Cameroon, Caribbean region (including Cuba), China, Colombia, Ethiopia, Guatemala, India, Kazakhstan, Malaysia, Mexico, Nigeria, Russia, South Africa, Thailand and Vietnam.

the USA it has framed the debate about international security and human rights. In response to the July attacks, the UK has now used its influence to promote the criminalisation of “incitement to terrorism” throughout the world, including through tabling the recently adopted Security Council resolution on “incitement to commit a terrorist act or acts”. The UK has also been the main ally of the USA in the wars in Afghanistan and Iraq, and has stood by its partner notwithstanding criticisms of human rights abuses by US forces.

15. Amnesty International shares the view expressed by the Council of Europe’s Commissioner on Human Rights who stated in June 2005 that the UK has the tendency to “consider human rights as excessively restricting the effective administration of justice and the protection of the public interest.”<sup>2</sup> We are deeply perturbed by what has become a repeated pattern whereby the UK announces tough counter-terrorism measures that run counter to human rights standards and which other countries then say they need. The UK in turn uses such statements in support of its initial proposals. Yet again we see this process being played out in relation to the Terrorism Bill 2005 now before parliament (particularly, in relation to the permitted period of detention before charge for terrorist suspects). Amnesty International considers that this and a number of the provisions in this Bill are inconsistent with the UK’s obligations under domestic and international human rights law (rights to liberty, to the presumption of innocence and to freedom of expression and association). If enacted, these provisions may lead to serious human rights violations.<sup>3</sup> They cannot be justified by “cherry picking” from the practices of other countries.

16. Amnesty International believes that unless the UK Government’s counter-terrorism measures are firmly grounded in respect for human rights and the rule of law, the Government risks destroying those values of a free and open society that it would protect and defend. We also consider that the UK’s authority to speak out on human rights violations around the world is being seriously weakened by the nature of its counter terrorism response since July 2005.

#### GUANTÁNAMO BAY

17. In last year’s submission, we deeply regretted that the Government had been slow to condemn the lack of fair trial for those detained at Guantánamo Bay. The committee recommended that the Government “make strong representations to the US administration about the lack of due process and oppressive conditions in Guantánamo Bay and other detention facilities controlled by the US in foreign countries” (para 79 of the fourth report of Session 2004–05). The 2005 FCO report does not address these concerns—in fact, this year, for the first time, the report offers an explanation for why the US Government made the detentions and the dilemma it faces in considering releases from Guantánamo Bay (see page 190).

18. Amnesty International considers that the UK Government’s record in relation to Guantánamo Bay has been lamentable. For two years government ministers claimed no knowledge of the abuses being suffered there. Only after intense pressure was exerted by relatives of Guantánamo detainees and human rights organisations did the Government finally act to seek the release of the UK nationals. However, it has continued to fail to make adequate representations on behalf of UK residents still held there. It has also failed miserably to mount a serious protest against the litany of human rights abuses being suffered by the hundreds of men who remain in Guantánamo without any hope of justice. Moreover, UK intelligence officers have taken advantage of the legal limbo and the coercive detention conditions at Guantánamo Bay—and reportedly at other locations, including Bagram Airbase in Afghanistan, to conduct interrogations. Such interrogations have taken place without any of the normal safeguards, such as having a lawyer present, thereby circumventing both domestic and international human rights law. UK officials have also taken part in, witnessed or effectively condoned the interrogation under duress of UK detainees in the custody of the USA and other countries.

19. Amnesty International calls on the UK Government to urgently intervene to help prevent unnecessary loss of life from the ongoing hunger strike at the US detention centre at Guantánamo Bay. Of the estimated 210 camp detainees currently on hunger strike, at least six are UK residents. These individuals are protesting at their continued detention at the military prison without charge or trial. They are also protesting at their conditions of detention. Amnesty International alongside human rights organisation Reprieve has sought assurances by letter from the Prime Minister that the UK Government make an immediate assessment of the number of British residents on hunger strike, ascertain the gravity of their medical condition and obtain from the US authorities a guarantee that an independent body is given access to all the UK residents on hunger strike. In reply, Mr Jack Straw has indicated that the US authorities have given assurances to the UK Government that they are concerned to ensure the welfare of the detainees. Amnesty International considers the UK Government response to our concerns to be wholly inadequate. Amnesty International continues to receive reports of serious deterioration in the conditions of the hunger strikers, including reports that some of them are “critically ill”.

<sup>2</sup> Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the United Kingdom, 4–12 November 2004, CommDH(2005)6, 8 June 2005, p 6.

<sup>3</sup> See United Kingdom—Amnesty International briefing on the draft Terrorism Bill 2005, AI Index: EUR 45/038.2005, 14 October 2005 and Amnesty International’s briefing for the House of Commons second reading of the Terrorism Bill, AI Index: EUR45/047/2005, 25 October 2005.

20. We renew our request for proper investigation of such reports by the UK Government into the condition of the UK residents as an immediate priority and further, that all information and responses received should be reported to the families of the UK residents on hunger strike. It is noted that many of these family members are British nationals who are making a legitimate request for information on the status of their family members from their government representatives. Amnesty International fully supports these requests.

21. Amnesty International notes that the individuals on hunger strike have made a personal decision to refuse food, however, we are extremely concerned about the reports of force feeding being carried out and note that the demands of the hunger strikers for proper trial or release are precisely those required under international law. Amnesty International considers that the UK Government is failing in its obligations to the UK residents on hunger strike in Guantánamo Bay.

#### TORTURE (PAGES 190 AND 194–198)

22. We endorse wholeheartedly the view expressed in the FCO report (page 194) that: “Torture is one of the worst human rights abuses. As torture is outlawed under general international law, as well as specific human rights treaties, when governments condone it, they risk losing their legitimacy and provoking terrorism.”

23. The report also states (page 190) that the Government “will not deport or extradite any person to a country where we believe that they will be tortured or where there is a real risk that they will receive the death penalty.”

24. Both of these statements were made, however, before the Prime Minister’s declaration that the “rules of the game have changed” following the London suicide bomb attacks.

25. Amnesty International is deeply concerned that what we view as the government’s disregard for human rights law when framing anti-terrorism legislation is also now being reflected in its attempts, both in international and domestic law, to undermine the absolute prohibition on torture or other ill-treatment.

#### TORTURE EVIDENCE

26. In the course of the previous committee’s inquiry on the 2004 report, members pressed hard for information from the Government on whether or not the UK receives or acts upon information extracted under torture by a third country (paras 104–106 of the fourth report of session 2004–05 refer). In its written response to the committee (para 41), the FCO stated that “it is hard to imagine circumstances in which evidence proved to have been obtained through torture could make its way into proceedings.” Amnesty International would note, however, that in July 2003, in the course of an appeal before the Special Immigration Appeals Commission (SIAC) against certification under Part 4 of the Anti-terrorism, Crime and Security Act 2001, counsel for the internee cross-examined an MI5 security officer (witness A). “A” made statements to the following effect: that it was possible that evidence extracted under torture could be assessed as reliable by MI5, and that, therefore, it could be relied upon by the Home Secretary in the context of the SIAC proceedings.

27. On 17–19 October 2005, the House of Lords heard the case of *A and others v Secretary of State for the Home Department* on behalf of 10 of the detainees held under Part 4 of the ATCSA who had challenged their certification by the Home Secretary as suspected terrorists and risks to national security. Amnesty International and thirteen other organisations intervened in the case to seek a ruling that admission as evidence in any proceedings of statements obtained as a result of torture or other ill-treatment of any person anywhere is unlawful. Lawyers for the Government argued (as set out on page 190 of the FCO report) for the need to be able to use intelligence to avert threats without knowing exactly how it may have been obtained. The House of Lords reserved judgment.

#### DIPLOMATIC ASSURANCES

28. A principle inherent to the absolute prohibition of torture or other ill-treatment is that no one should ever be sent to a country where they would be at risk of torture or ill-treatment—the principle known as non-refoulement. However, the Government is now actively trying to find ways to circumvent this principle in order to deport people it deems are a risk to national security but against whom it maintains not to have sufficient evidence to support criminal charges.

29. In August and October 2005, the UK concluded Memoranda of Understanding (MoU) with Jordan and Libya that form the basis on which the UK authorities are taking steps to forcibly return people to those countries. The Government has also said that it is currently trying to negotiate further “diplomatic assurances” with other countries in the Middle East and North Africa such as Algeria, Egypt, Morocco, and Tunisia. Amnesty International has documented cases of torture in these countries.

30. Over 20 foreign nationals (nearly all from Algeria) who are deemed by the Home Secretary to pose a threat to national security are now detained or held on stringent bail conditions pending deportation. They include persons previously detained under Part 4 of the Anti-terrorism, Crime and Security Act 2001 and then made the subject of Control Orders under the Prevention of Terrorism Act 2005 as well as a number of persons acquitted in the “ricin plot” trial.

31. Amnesty International has stated publicly that we will not work with the Government to monitor the treatment of foreign nationals deported in this manner from Britain. We consider that such “assurances” are not worth the paper they are written on. Torture is practiced by states that deny it. They torture in secret and in violation of legally binding agreements that they have signed, as well as their own laws. The only acceptable “diplomatic assurances” come in the form of credible proof that the state concerned does not practice torture and follows international standards of fair trials. In other words—in cases where “diplomatic assurances” are not needed. If the UK authorities truly suspect people of committing serious offences they should charge and try them according to international fair trial standards instead of attempting to deport them to a country where they may be tortured.

32. To remove those persons suspected of involvement with terrorism who are now being detained, the UK Government will need to convince the domestic courts and the European Court of Human Rights (ECtHR) that “diplomatic assurances” remove the risk of being tortured in the receiving country. However, in the case of *Chahal v the UK* (1996), the ECtHR ruled that to return a Sikh separatist to India on national security grounds where he would face a “real risk” of torture or ill-treatment was a breach of Article 3 (the prohibition of torture) under the ECHR. In other words, there was no act or threat that could justify exposing someone to the real risk of torture or ill-treatment. However, the Government now argues that the ECtHR and the domestic courts should adopt a “balanced approach” weighing national security interests against the risk of torture or ill-treatment. In the hopes of overturning *Chahal*, it has announced its intention to intervene (with Italy, Lithuania, Portugal and Slovakia) in the case of *Ramzy v the Netherlands* (an Algerian national facing deportation from the Netherlands) that is due to go before the ECtHR next year. It has also intimated that it would be prepared to amend the Human Rights Act 1998 if the domestic courts reject the adequacy of “diplomatic assurances” as a means to remove the risk of torture.

33. Amnesty International is deeply disturbed at the possibility that the Government could amend its flagship Human Rights Act in this manner and by its attempts to persuade other European states to adopt its interpretation. We find it extraordinary that the UK Government which has been a strong advocate of the elimination of torture throughout the world should now undermine such work on two counts (refusing to bar the use of evidence obtained through torture and seeking to circumvent the principle of non-refoulement).

34. So far the Government seems only to have focused its efforts on the domestic and European arenas. It does not appear to have addressed the question of its obligations under the UN Convention Against Torture that, on this issue, are virtually indistinguishable from those under the ECHR. The UN Special Rapporteur on Torture (Manfred Nowak) has said, in response to the UK Government’s plans that deporting people to countries where they would be subjected to the risk of torture is absolutely prohibited under international law, and that diplomatic assurances should not be used if there is a substantial risk of torture. As the FCO report states (page 195) “the UN Special Rapporteur plays an essential role in eliminating torture.” Amnesty International urges the UK government to heed the views of the Special Rapporteur on Torture and to cease immediately its attempts to rely on diplomatic assurances to return suspected “terrorists” to countries that are known to practice torture and other ill-treatment.

#### UN REFORM (PAGES 133–135)

35. Amnesty International agrees that this year is absolutely crucial for the UN. As the FCO concludes, there needs to be a single global agenda which recognises that: “security, development and human rights are not competing priorities, but fundamentally interrelated goals.”

36. The World Summit held this September in New York, provided an opportunity for moving closer to developing and meeting the goals of that global agenda. We were disappointed that the minimum essential features for creating a new mechanism, namely a Human Rights Council, which could ensure that human rights are respected and protected, were not included in the final Outcome Document which was agreed at the Summit. We had hoped that strong supporters of UN reform, like the UK Government, would have done more to secure agreement on a robust Human Rights Council.

37. Amnesty International does not doubt the UK Government’s commitment to ensuring that the promotion and protection of human rights is strengthened within the UN system. Now is the time for the international community, and in particular leading member states such as the UK, to capitalise on the momentum of the Summit and build on its positive outcomes, such as the agreement to create a Human Rights Council and to strengthening the Office of the High Commissioner for Human Rights (OHCHR), through the doubling of its budget. Other positive outcomes which need to be built on include: the unqualified acceptance by all states of their collective international responsibility to protect people from genocide, war crimes and crimes against humanity; strong commitments to end discrimination against women and impunity for violence against women; and the decision to further mainstream human rights throughout the UN system.

38. These commitments must be turned into concrete action. The priority should be the creation of an effective Human Rights Council. This Council should be a principal organ of the UN, established at the same level as the UN Security Council, the General Assembly and the Economic and Social Council (ECOSOC). It should meet regularly, examine all countries and deal with urgent situations, retain the strengths of the Commission on Human Rights (ie the unique rules and practices for participation by NGOs and its system of independent human rights experts, the “Special Procedures”) and have electoral rules that effectively provide for genuine election of Council membership.

39. Governments must ensure that their resolve to double the OHCHR’s regular budget resources within five years is translated into specific and substantial budgetary allocations when the UN budget is adopted in the Fifth Committee later this year. An upward revision of around US\$30 million over the first two years would be an appropriate start.

40. In order to protect people from genocide, permanent members of the Security Council should agree not to exercise their veto when addressing situations of genocide, war crimes and crimes against humanity. It is unjustifiable that a document of such historic importance as the Summit document did not contain any reference to the International Criminal Court (ICC). Strong supporters of the ICC, like the UK, should stand firm in their support. A strong ICC could tackle impunity and do much to protect individuals from the most serious crimes under international law. To facilitate the work of the ICC all states that have not yet done so, like the UK, should ratify the Agreement and Privileges and Immunities of the ICC and implement these into national law.

41. The strong language on gender issues contained in the Summit document is an achievement. States should undertake an immediate review of laws that may discriminate against women and repeal them and ensure the full and effective implementation of Security Council resolution 1325 on women, peace and security.

#### ARMS CONTROL (PAGES 22–23, 150–153)

##### *Arms trade treaty*

42. The development of an international Arms Trade Treaty, to help curb the flow of arms to those using them to commit abuses of human rights and international humanitarian law, remains crucial.

43. The UK Government has taken a lead role in the promotion of an international Arms Trade Treaty (ATT) over the last year. Such a treaty would create legally binding arms controls and ensure that all governments control arms transfers to the same basic international standards. We welcomed the Foreign Secretary’s announcement that the proposed treaty will cover all conventional weapons, be legally binding<sup>4</sup> and that negotiations for such a treaty should start no later than 2006.<sup>5</sup> Nearly 40 other countries across the world have also pledged their support for the idea of an international arms trade treaty. The July 2006 UN review conference on small arms offers a significant opportunity for further progress towards an ATT next year.

44. However, the fact that the post-G8 communiqué failed to include reference to an ATT and that the final outcome document at the UN World Summit failed to make reference to arms control is indicative of the challenges that lie ahead, in persuading some states to support the ATT. Amnesty International is also concerned that during the course of difficult negotiations the treaty could become significantly watered down. However, we are insistent that to have an effect, the treaty must be legally binding and consistent with states existing responsibilities under relevant international law. It is essential therefore that the UK government remain committed to the ATT and that it actively develops strategies with both supporter and blocker states in order to achieve international agreement by next year.

#### ARMS EXPORT LICENCES

45. The UK government has made a commitment not to grant arms export licences to countries that fail to uphold fundamental human rights.<sup>6</sup> Yet, in the last annual report on arms exports, the UK Government granted licenses to 19 out of the 20 countries identified as major countries of concern in the FCO report including, Saudi Arabia, Israel and China.<sup>7</sup>

46. In addition, the UK has an insufficient system of end use monitoring in place to ensure that once arms exports have left the UK, that they are not misused to commit human rights violations or diverted to other governments or illegal armed groups.

<sup>4</sup> Speech by Foreign Secretary at the Institute of Civil Engineers, March 2005.

<sup>5</sup> Africa Commission Report.

<sup>6</sup> Criterion two of the Consolidated Criteria requires respect for human rights and fundamental freedoms in the country of final destination for defence exports.

<sup>7</sup> See Saferworld press release “Arms exports undermine human rights and anti proliferation policies of government” <http://www.saferworld.org.uk/media/pr210705.htm> NB last annual report on arms exports covers 2004 but was published in July 2005. North Korea was only country excluded from receiving exports.

47. By continuing to export to countries with major human rights concerns, the UK Government is undermining the progress it has made in developing a more transparent licensing system, and its commitment to developing stronger international export controls. The UK Government should provide an explanation in its annual report on strategic export controls as to why it is granting licenses to countries it lists as being of “major concern” in the FCO human rights report. The Government should also publish more information on the end use and end users and implement a formal system of end use monitoring of UK arms exports.

#### HUMAN RIGHTS AND EUROPE (PAGES 95–125)

##### *Common Foreign and Security Policy*

##### EU guidelines

48. The report emphasises the importance of the EU guidelines on torture, death penalty, children in armed conflict and human rights defenders, and includes their implementation as one of the priorities of the UK Presidency. Amnesty International is concerned that, on the whole, implementation of the guidelines remains inadequate and we are calling for more resources to be allocated to this area of EU work.

49. One of the problems we have encountered during our research is the lack of access to information. The UK Presidency should press for the Council’s Annual Human Rights Report to give information on the implementation of the actions provided for in the EU Guidelines. Annual reports on the human rights situation prepared by EU Heads of Missions are not currently made public, so it is not possible to check if they contain relevant information, such as the situation of human rights defenders. Mechanisms for documenting actions taken by the EU need to be established. All the guidelines refer to the use of demarches to express EU concern, but the FCO report simply refers to “over 100 demarches . . . in a wide range of countries”, and that “many of these focussed on the death penalty.” While we welcome the demarches that have been made on the death penalty, we are concerned how few appear to have been made on human rights defenders, torture or children in armed conflict.

50. The EU guidelines on children and armed conflict are being reviewed under the UK Presidency. The Coalition to Stop the Use of Child Soldiers, of which Amnesty International is a member, is calling for the establishment of an EU high level focal point on children and armed conflict, such as the appointment of a Special Representative, or at least a designated expert to be based in the office of Michael Matthiessen. We are also calling for a specific reference to children and armed conflict to be included in the mandates of the EU regional Special Representatives; so far this is only the case for the Special Representative for the Great Lakes, and we feel that this should be extended as a priority to the mandates of the Special Representatives for Afghanistan, the Middle East and Sudan.

#### HUMAN RIGHTS DIALOGUES AND CONSULTATIONS

51. While we welcome the discussions that Amnesty International has had with the FCO both before and after the EU-Russia human rights consultations, we hope that the UK will press for full NGO participation in future consultations. We were disappointed that public statements by the UK Presidency during the EU-Russia summit ignored human rights concerns.

52. We welcome the UK Presidency’s willingness to accept a briefing and submission of individual cases prior to the EU-China human rights dialogue. However, we are concerned that to date no feedback is provided following these dialogues and we call on the UK Government to break with this practice and give an update on progress made on individual cases.

#### EU AGREEMENTS WITH THIRD COUNTRIES

53. As the report states, all EU agreements with third countries now include a human rights clause. As in previous years, it is stated that these are used as a basis for dialogue. Amnesty International is calling on the UK Government to use its Presidency to put monitoring of compliance with the human rights clause on a more formal basis, with regular and impartial monitoring of the human rights situation on the ground and the setting of specific objectives that have to be met. These objectives could inter alia be taken from recommendations made by UN human rights bodies. The EU agreements should be a starting point for mutually agreed and cooperatively implemented programmes to advance human rights protection in the country concerned.

#### FUNDAMENTAL RIGHTS AGENCY

54. The report welcomes the proposal to extend the remit of the EU Monitoring Centre on Racism and Xenophobia to encompass human rights. However, the remit of the Fundamental Rights Agency that is currently being proposed by the EU Commission is limited to actions by the EU and its Member States when applying EU law—excluding the general human rights situation in Member States where they act

autonomously. Amnesty International has consistently argued against such a minimalist conception of the agency, and called for its mandate to include human rights compliance by Member States. There is a strong need for an independent and competent agency that is empowered to identify the weaknesses in the existing system of human rights protection within the EU and to develop a comprehensive and coherent strategy for addressing them.

#### *Bulgaria and Romania*

55. Amnesty International agrees with the UK Government that there have been positive developments in human rights protection and promotion in both Bulgaria and Romania in recent years. However, we still have concerns relating to the rights of people with mental disabilities, ill-treatment by law enforcement authorities and discrimination against Roma communities. We welcome the recognition of these concerns in the report and the support given by the UK Government for police training. We are calling on the EU to urge the governments of these two countries to establish effective systems to monitor psychiatric institutions, to ensure that full and impartial investigations are conducted into all cases of shootings by law enforcement officers and that discriminatory and racist actions do not go unpunished.

#### *Croatia*

56. With regard to the opening of EU membership talks with Croatia on 4 October, the EU should engage Croatia to bring its laws and practice into full compliance with recommendations by the Council of Europe and the UN. The EU should continue to press and support the Croatian authorities to reform and resource its domestic judicial system to ensure that all perpetrators of war crimes and crimes against humanity committed during the 1991–95 conflict are brought to justice, regardless of their ethnicity or that of the victims.

#### THE EU'S EUROPEAN NEIGHBOURHOOD POLICY

57. Amnesty International welcomes the human rights chapters in the European Neighbourhood Action Plans. We hope that the Action Plans and the establishment of sub-committees on human rights with Jordan and Morocco will offer platforms for a sustained engagement of Euromed partners with regard to better human rights protection. EU-Euromed cooperation on counter-terrorism and on asylum and immigration must be anchored in full respect for international human rights, humanitarian and refugee law.

#### WOMEN'S RIGHTS (PAGES 225–231)

##### *International fora*

58. Amnesty International notes the UK Government's continued promotion of women's human rights in the international fora. In particular we welcome the ratification of the Optional Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women. As legal funding is not available to make an application under the Optional Protocol, we recommend that the UK Government publicise the operation of the mechanism to ensure that the voluntary sector and civil society are able to utilise the mechanism effectively.

59. Amnesty International also welcomes the support of the UK Government in reaffirming the commitment to the Beijing Platform of Action at the 49th session on the Commission of the Status of Women in March 2005. At the 49th session a resolution was passed requesting the Secretary General to report to the Commission on the Status of Women on the implications of the creation of a Special Rapporteur on Discriminatory Laws at the 50th session. Amnesty International is greatly concerned at the failure of many states to implement the Beijing Platform for Action and requests that the UK government support the appointment to ensure that both CEDAW and the Beijing Platform for Action are effectively implemented when this matter is reviewed at the 50th session of the Commission on the Status of Women.

#### TRAFFICKING

60. Whilst Amnesty International welcomes the efforts of the UK Government in supporting supply and transit countries such as Pakistan, Nigeria, Russia and the Philippines in building their capacity to combat human trafficking and welcomes the UK Government's own criminal justice responses we remain deeply concerned about the continued lack of protection for victims of trafficking within the UK.

61. There are no reliable statistics available on the numbers of women, men and children who have been trafficked into the UK. Information from criminal justice agencies and anecdotal information from NGOs suggest that the majority of those trafficked are women and girls forced into prostitution, and the problem is UK wide with the media reporting cases of trafficked women and girls in Scotland, Lancashire, Birmingham and South West England. The FCO reports suggests that the Home Office works with a number of voluntary sector organisations to support such victims. However, there is only one Home Office funded

refuge in the whole of the UK for women trafficked into sexual exploitation, which has 25 bed spaces that are currently full. There are no designated support services for children or for men and women trafficked into forced labour.

62. The recent detention of six women in October 2005 who were suspected of being trafficked into forced prostitution in Birmingham, highlights the deficiencies in the UK Government's abilities to identify, support and protect the victims of trafficking. The Home Office only stayed removal of these women following pressure from human rights and women's organisations and still disputes that they have been trafficked despite police intelligence to the contrary and the fact that two of the women have been admitted by the Home Office funded refuge which only admits women identified as trafficked.

63. Amnesty International recognises the efforts of the UK Government to promote a coordinated EU response to trafficking within its presidency of the UK and the development of an EU action plan on trafficking, but believes these efforts fall short of the measures required to protect the human rights of trafficked victims. Whilst the support and protection of trafficked victims in the UK is outside the remit of the FCO, Amnesty International is concerned at the continued failure of the UK Government to sign or ratify European wide legal instruments that could improve the protection trafficked victims receive in the UK.

64. The FCO report refers to the drafting of the Council of Europe Convention on Action Against Trafficking in Human Beings but omits to mention that the Convention was made open for signature in May 2005. The Convention guarantees an effective system of identification of trafficked persons, and for those identified as trafficked, a one month recovery and reflection period, emergency healthcare, shelter and legal representation and renewable residence permits and/or the right to asylum for trafficked persons who are at risk on return. The UK government opposed the inclusion of the above protections during negotiations on the drafting of the Convention. To date 15 states have signed the Convention including Italy, Poland, Iceland and Norway. The UK Government has not signed the Convention although it has stated that it may sign in the future if it can ensure the protective measures will not be abused by illegal entrants.

65. Amnesty International calls upon the UK Government to support the protection of the rights of trafficked victims within the UK and internationally by signing the Convention and encouraging its fellow EU member states to sign the Convention.

66. The UK Government has also chosen not to opt into the 2004 EU Directive providing short term residence permits, employment rights, education and training for victims of trafficking who cooperate with prosecutions of traffickers. This decision is to be reviewed in April 2006.

67. Amnesty International calls upon the UK Government to make a decision to opt into the EU Directive on short-term residence permits for trafficked persons in April 2006.

#### BUSINESS AND HUMAN RIGHTS (PAGE 178)

##### *Host Government Agreements*

68. Amnesty International acknowledges the FCO's view that "companies and other stakeholders can play an important role in working with states to create frameworks to help promote good human rights observance". Yet recent research by Amnesty International indicates that companies also have the potential to have the opposite effect.

69. In its recent report "Contracting Out of Human Rights—the Chad-Cameroon Pipeline Project", Amnesty International outlines the potential dangers to human rights posed by the private investment agreements underpinning the project that have been agreed between the Exxon-Mobil-led consortium and the governments of Chad and Cameroon.

70. These investment agreements, known as "host government" agreements risk seriously undermining the ability and willingness of Chad and Cameroon to protect their citizens' human rights, and illustrate how companies are inserting themselves into the heart of governance. Whilst "stabilisation clauses" and similar provisions—designed to reduce financial and political risks posed to foreign investors by sudden changes in national laws—are common in agreements between companies and countries hosting large projects, Amnesty International is concerned that the breadth of these provisions may undermine human rights and the administration of justice. Chad and Cameroon may have to pay large financial penalties if they ever interrupt the operation of the pipeline or oil fields—even when making an intervention to protect rights and enforce laws that apply elsewhere in their countries. This is likely to deter the states from initiating legal proceedings against the consortium of oil companies for malpractice. It also compromises the ability of individuals adversely affected by the pipeline to obtain redress.

71. Amnesty International is calling for a new approach to investment that ensures respect for human rights. We urge the UK Government to require the Export Credits Guarantee Department and UK companies to ensure that their investment policies and practices are consistent with a host government's obligations to improve human rights protection over time, and make such agreements available for public scrutiny before they become effective. As a shareholder in the World Bank, it should also ensure that the World Bank does not support projects underpinned by legal agreements that could undermine the ability of the host state to meet its international human rights obligations.

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 APPOINTMENT OF THE UN SPECIAL REPRESENTATIVE ON BUSINESS AND HUMAN RIGHTS

72. Amnesty International welcomes the efforts of the UK Government to achieve consensus on the resolution it tabled and which was subsequently passed at the Commission on Human Rights in April 2005 calling for the appointment of a Special Representative on business and human rights. Regarding the mandate of the Special Representative, we share the FCO's desire to see "an outcome that will require multinationals to support, rather than inhibit, respect for human rights through their activities". However, we believe that the subsequent assertion that "only states hold obligations under human rights law" can no longer be credibly maintained.

73. There is a growing acceptance that international human rights treaties create obligations—at least indirectly—on companies. The allocation of responsibilities between government and business is evolving and developing, and there is a clear trend to extend human rights obligations beyond states, including to individuals (for international crimes), armed groups, international organisations, and companies.

74. While national law remains the most important means of ensuring legal accountability in relation to companies' impacts, systems of regulation are inadequate in many countries, either because the legal framework itself is weak or because there is an absence of effective enforcement mechanisms. Many national governments are often unwilling, constrained or simply unable to hold companies operating in their country to account for their adverse impacts. Amnesty International therefore urges the UK Government to support the development of an international human rights framework that can be applied to companies directly, acting as a catalyst for national legal reform and serving as a benchmark for national law and regulations. The starting point for the development of such a framework should be the UN Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights.

## DEATH PENALTY (PAGES 198–201)

75. Amnesty International welcomes the Government's continued abolitionist stance on the death penalty worldwide and we welcome the continued movement towards our universal abolitionist goal by a number of states. Both Mexico and Liberia have abolished the death penalty for all crimes in 2005, bringing the total number of abolitionist countries, either in law or practice, to 121.

76. Amnesty International has continued to campaign to stop the execution of child offenders. As a result we have been focusing our work on Iran, who continues to execute individuals for crimes committed when they were under the age of 18. So far in 2005 Amnesty International is aware of six juveniles executed by the Iranian authorities. This is in direct conflict with its obligations under the UN Convention on the Rights of the Child. Amnesty International recommends that the UK address the issue of child executions worldwide in line with the FCO focus on "reducing the application of the death penalty". We look forward to a continued commitment from the Government to achieving an end to this practice, including the encouragement and support for the implementation of legislation making the execution of child offenders illegal, in accordance with international human rights law.

77. A major achievement in the past year has been the ruling of the Supreme Court of the United States, on 1 March, that the execution of juveniles was unconstitutional. The decision means that the lives of over 70 child offenders currently on US death rows would be spared and no others would be sentenced to death. However, the United States continues to undertake executions and at the time of writing the USA is on the brink of carrying out its 100th execution since 1977. Amnesty International recommends that the UK Government urge the United States to abolish the death penalty in all states for all crimes, in accordance with its stated abolitionist stance.

78. Amnesty International UK continues to campaign on the case of Kenny Richey, a joint UK-US national on death row in Ohio. There have been numerous developments in Mr Richey's case in the past year and we have continued to raise his case directly with the FCO. He may now face a retrial and we encourage the FCO to file further Amicus Briefs in the case where possible and appropriate. Amnesty International recommends that the UK Government make representations to the State of Ohio regarding the case of Kenny Richey at every available opportunity. We would also recommend that the UK Government develop a transparent, consistent and codified strategy for representation and intervention on all cases of British nationals on death row worldwide.

## CHINA (PAGES 40–46)

79. The report emphasises the importance of bilateral discussions as a means for the UK to raise human rights concerns with China, but seems to express a sense of frustration at a lack of substantive progress on most issues. While we do not oppose the "human rights dialogue" between the UK and China, we are concerned that this process alone is not leading to significant, tangible human rights advances in China. The UK Government should develop specific benchmarks against which to measure progress by China within an agreed timeframe, and retain the option of reviewing the dialogue approach if this is not yielding significant results. This should also be accompanied by public criticism where necessary.

80. We encourage the UK Government to continue to press the Chinese authorities for a timetable for the ratification of the ICCPR, and for the lifting of China's reservation to Article 8.1A of the ICESCR (the right to form trade unions and join the trade union of choice).

81. China's extensive use of the death penalty, often following unfair trials, continues to be of serious concern, as indicated also by the UN High Commissioner for Human Rights during her recent visit to China.<sup>8</sup> While Amnesty International welcomes the reinstatement of Supreme Court review of death sentences, we are concerned that this may have the adverse effect of further entrenching the death penalty in the Chinese criminal justice system. As a genuine step towards abolition, this needs to be accompanied by other measures, including full transparency in the use of the death penalty and a reduction in the number of crimes carrying the death sentence, which is still applicable to numerous non-violent offences. The UK Government should also continue to press the Chinese authorities to publish full and detailed statistics on all executions, and urge them to introduce a moratorium on the death penalty, as a first step towards abolition.

82. The problem regarding the death penalty is compounded by the numerous deficiencies of the Chinese justice system, which continues to be characterised by "confessions" extracted through torture, limited access to lawyers, extensive corruption, lack of transparency and political interference in the judicial process, giving rise to gross miscarriages of justice. A first step in reforming the Chinese judicial system should be the abolition of the system of Political and Legal Commissions, which institutionalises the supremacy of the Chinese Communist Party over the law, followed by an increase in resources for training judges and lawyers and a further strengthening of legal aid, particularly in rural areas, where access to justice is limited. The practice of Re-education through Labour (RTL) should also be abolished.

83. Vague legal provisions continue to be used to criminalise the peaceful exercise of freedom of expression and association, and the lengthy prison sentences imposed have given rise to a climate of self-censorship. The rise in internet surveillance and censorship in recent years has particularly restricted freedom of expression and access to information. As a first step, the Chinese authorities should eliminate the requirement for media organisations to have a Government sponsor to obtain a licence, as well as the requirement for all internet companies to sign a pledge of self-censorship and for internet cafes to check the identities of their customers.

84. Specific groups continue to be targeted through abusive applications of laws relating to "subversion" and "state secrets", including the Falun Gong, unofficial religious groups and peaceful dissenters in Tibet and Xinjiang. In particular, China's "Strike Hard" campaign in Xinjiang, which was publicly renewed in May this year, continues to result in harassment and arbitrary detention of Uighur peaceful protesters and dissenters, often described as "religious extremists" or "terrorists".

85. Amnesty International also continues to be very concerned about China's forcible return of North Korean asylum-seekers, many of whom have a very strong claim to asylum.

86. Amnesty International urges the UK Government to continue to press for the release of numerous prisoners of conscience held by the Chinese authorities, including Zheng Enchong. We have also documented a disturbing pattern of harassment and detention of the relatives and associates of Rebiya Kadeer. Two of her former employees, Ruzi Mamat and Aysham Kerim, remain in detention without charge since May this year, and Chinese authorities have tried to threaten her son Alim Abdiriyim into signing a false statement against her. They have also reportedly set up a police unit solely to keep her family under surveillance. Since Rebiya Kadeer's release in March this year, the Chinese authorities have gone to great lengths to try to tarnish her reputation by publicly asserting that she has since engaged in 'terrorist and secessionist activities'. In a meeting requested with Amnesty International Netherlands in October this year, the Chinese Embassy in the Netherlands claimed she has links with Osama bin Laden, among other matters. The UK Government must unequivocally call on the Chinese authorities to end the harassment of Rebiya Kadeer's family, and produce hard evidence to support their claims against her or cease making these claims. Her former employees should be charged with a recognisably criminal offence or released immediately.

87. Preparations for the Beijing Olympics have also resulted in human rights abuses, particularly forced evictions without offers of compensation. While the Chinese authorities have hailed the Olympics as an important opportunity for human rights improvement, their lofty statements have not been matched by an improvement in their practices, which on the whole continue to disregard people's basic human rights.

88. Amnesty International welcomes the fact that the EU has made progress on human rights a prerequisite for lifting its arms embargo. In this respect, a key requirement must be the release of the dozens of people still held in connection with the 1989 pro-democracy protests, accompanied by a full, public enquiry into the events of Tiananmen Square, and an end to the imprisonment and harassment of relatives of victims and of those who call for an end to impunity in connection with those events.

89. Amnesty International would also request that the UK Government press the Chinese authorities to grant access to China to international human rights organisations, including Amnesty International, to carry out research and other human rights-related activities.

<sup>8</sup> Although official statistics on use of the death penalty continue to be a "state secret", it is estimated that China executes around 10,000 people per year, based on a statement by a senior member of the National People's Congress in March 2004.

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 COLOMBIA (PAGES 46–49 AND 150–151)

90. In June 2005, Colombia's congress approved the Justice and Peace Law, which aims to regulate the current demobilisation of paramilitaries by granting them significantly reduced prison sentences and possibly even de facto amnesties. Whilst Amnesty International has repeatedly called on successive Colombian Governments to disband paramilitary groups and break the links between them and security forces we believe this legislation fails to conform to international standards on the right to truth, justice and reparation<sup>9</sup>.

91. The UK Government, as President of the EU, recently agreed EU Council Conclusions, which provide political (and subsequent economic) support for this demobilisation process. This is despite an earlier commitment by the UK in the FCO report that states that the Colombian Government "must recognise the rights of victims to truth, justice and reparation in a comprehensive legal framework covering the demobilisation of illegal armed groups." (page 49) EU support for a fundamentally flawed piece of legislation is deeply worrying.

92. Amnesty International is concerned that the real aim of the law is not only to guarantee the impunity of paramilitaries and their political and financial backers implicated in human rights violations, by failing to ensure they are subject to full and impartial judicial investigations, but that it is also facilitating the "recycling" of illegal combatants into the conflict—it appears that ex-paramilitaries are recruited into Government informer networks and as armed guards. Essentially the law is facilitating the re-emergence of paramilitarism under a new legal guise.

93. UK support for Colombia's Justice and Peace Law is contrary to both its own commitments to upholding the rule of law in Colombia and to the UN Commission on Human Rights recommendations. Instead of giving legitimacy to this law, the UK Government should insist upon full implementation of Colombia's UN CHR human rights recommendations.

94. The UK Government provides a variety of military assistance to the Colombian Government despite the continuing links between the army and paramilitary groups. And despite elements within the Armed Forces continuing to carry out extra judicial executions and torture.

95. In the latest quarterly report on UK arms exports, licences were granted for equipment including heavy machine guns and components for combat helicopters. As is the case for all UK exports there is no formal end use monitoring of these licences. The UK Government also provide human rights training to the Colombian military. Whilst Amnesty International welcome efforts towards security sector reform, there is very little monitoring of the effectiveness of this training. The only informal guarantee that military authorities benefiting from this assistance are not engaged in activities that violate human rights, aid internal repression or collude with paramilitary organisations is, according to the FCO report, via "personal interviews and background checks" (page 49).

96. Amnesty International believes that the UK Government should not provide Colombia with military assistance until it fully complies with the UN Commission on Human Rights recommendations. Until then there can be no guarantee that such transfers will not result in serious human rights violations carried out by the Colombian army or the paramilitaries. In addition, the UK Government should formalise an effective monitoring process of military assistance already provided.

97. The FCO annual report states that "we attach particular importance to the swift and effective implementation of the UN recommendations" (page 47). The Chair's statement adopted by this year's UN Commission on Human Rights called on the Colombian Government to adopt a timetable for implementing the UN recommendations on Colombia in the first half of 2005 and to implement a human rights plan by December 2005. We are, however, concerned that similar calls in the past have failed to yield results.

98. Amnesty International welcomes therefore, the willingness expressed by the EU, in the latest Council Conclusions, to discuss mid-year progress made by the Colombian Government on implementation of the UN recommendations together with the UNHCHR. We urge the UK Government to ensure that this leads to their full implementation.

## THE DEMOCRATIC REPUBLIC OF THE CONGO (DRC) (PAGES 52–54)

99. Amnesty International agrees that: "overall there has been very little progress on human rights in the DRC." Over the period of the FCO report Amnesty International has documented: increased ethnic tension; a climate of impunity and fear; large-scale human rights abuses including rape and attacks on human rights defenders and; the proliferation of arms, in direct violation on the UN's embargo on the transfer of arms to the DRC. The continuation of large-scale human rights abuses in the country is driven by the Government's failure to address impunity and to ensure the accountability of its armed forces, which are now undergoing a process of integration and unification.

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<sup>9</sup> The Office in Colombia of the UN High Commissioner on Human Rights and the Inter-American Commission on Human Rights of the OAS have also reiterated their opposition to the law.

100. The international community and the Government of the DRC are currently focused on organising nationwide elections for early 2006. Amnesty International is concerned that essential reforms and safeguards aimed at ensuring that the elections are capable of being held in free, fair and safe conditions may be overlooked. Human rights violations linked to the elections are already on the increase. Without peace and stability based on a respect for human rights, the possibility of holding free and fair elections is greatly diminished.

101. The FCO is right to single out the human rights situation across eastern DRC as particularly worrying. North Kivu remains a volatile area where local, national and regional tensions, as well as rival political and economic ambitions, are fought and played out. The province contains the intersecting zones of control of different Congolese armed political groups, built largely on ethnic loyalties. The situation in the province has been aggravated by the failure so far to integrate all the military forces in the province into the national army, and to bring to justice those responsible for multiple human rights abuses, including the mass killings of civilians in Nyabiondo and Buramba in December 2004. Success of the transition to peace will depend to a large extent on ensuring a peaceful and just solution to the underlying crisis in North Kivu.

102. Amnesty International believes that the UK Government should focus its attention on ensuring that the Government of the DRC takes concrete action to address human rights abuses. The Government must prioritise the integration of the national army and the disarmament, demobilisation and reintegration processes, which are essential to introducing greater security in the east. Progress on this has been painfully slow and this carries a terrible human cost: an estimated 31,000 Congolese are dying every month from direct violence or from preventable diseases and starvation brought about by insecurity, displacement and lack of access to humanitarian and medical care.

103. Army unification and security sector reform must take place promptly and in line with human rights principles. An independent vetting mechanism to ensure that suspected perpetrators of human rights violations are excluded from the national army and other security services is essential. In addition, the national army should be supported, through training and other measures, to become a professional and impartial force capable of upholding human rights and international humanitarian law.

104. The UK Government should continue to press the DRC Government, and assist it materially, to rehabilitate the civilian justice system across the country and ensure its independence and efficacy, as an essential measure in ending impunity.

105. In its role as EU President, it should push for implementation of the EU's foreign policy human rights guidelines particularly those on the protection of human rights defenders, the death penalty, children in armed conflict, torture and prison conditions.

106. It is also crucial that the UK Government and the international community continue to apply pressure on Rwanda and Uganda, to refrain from actions which destabilise the DRC and result in even more human rights abuses occurring. In particular, both states should be pressed to end all support to armed groups in the DRC and to abide fully by the UN arms embargo on the DRC and to cooperate with the UN Group of Experts charged with monitoring compliance with the embargo. Encouraging the disarmament and repatriation of foreign armed groups in eastern DRC, themselves responsible for grave human rights abuses, is essential to engendering better relations between states in the region.

107. Amnesty International is encouraged that the UK Government is consistently calling on the UN Mission in the DRC (MONUC) to take a robust approach in dealing with the militias that cause so many of the human rights abuses. MONUC's peace-keeping response has been inadequate. Despite the clarity of its mandate MONUC has failed on several occasions to protect civilians from human rights abuses. All too often its peacekeepers have either not intervened at all to avert attacks or have arrived too late on the scene to offer meaningful protection.

#### IRAQ (PAGES 60–67)

108. Amnesty International would question the broadly positive tone of the FCO report on Iraq. The overall human rights situation in the country remains of grave concern. While we welcome the various forms of assistance which the UK is providing to Iraq on human rights matters, including police training, the report makes these the main focus of this section, as opposed to the numerous and serious human rights concerns in Iraq.

109. The security situation throughout the country, with the possible exception of the Kurdish-controlled area in the north, has seen no signs of improvement over the past year. It remains characterised by numerous instances of armed violence and widespread and serious attacks against civilians, mostly carried out by insurgent groups. We have no evidence to support the FCO's belief that "the number of attacks continues to decline" (page 61): there has been no reduction in terrorist attacks, and insurgent groups have continued to kidnap and execute civilian hostages. Amnesty International strongly condemns all attacks against civilians, including kidnappings and executions by insurgent groups.

110. Because of the seriousness of the current situation throughout the country, Amnesty International is troubled at the UK Government's plans to deport failed Iraqi asylum-seekers to parts of Iraq which we feel are neither safe nor stable. The UK Government should refrain from forcibly deporting any failed Iraqi asylum-seeker to any part of Iraq.

111. Amnesty International has expressed grave concern at reports of killings of civilians and violations of the laws of war by all parties over the past year. The report makes no mention of the intense and sustained attack that US forces launched on Fallujah in November 2004 which raised serious concerns about grave violations of human rights and the laws of war. Amnesty International has received numerous reports of killings of civilians, disproportionate use of force, extrajudicial executions and serious restrictions on access to humanitarian aid on the part of US forces. Amnesty International would ask what discussions the UK Government has had with the US authorities on observance of the laws of war in Iraq.

112. Amnesty International continues to be very concerned about reports of torture and ill-treatment in detention, and the failure of members of the Multinational Force to conduct genuinely transparent, impartial and independent investigations into all allegations of abuse of detainees by its forces. All allegations of abuse must be properly investigated and those responsible brought to trial.

113. We are particularly concerned by abuse and ill-treatment of detainees by US forces in Iraq. The report seems to wish to shield the US from responsibility, and states that “by May 2005 the US had conducted five substantial enquiries” into prisoner abuse. Amnesty International does not believe that these investigations were sufficiently thorough, transparent or independent, and disagrees with the assertion that the abuse at Abu Ghraib was the result of “a few sadistic individuals” and not “the result of US policy or procedures” (page 63): Major General Taguba’s report into allegations of abuse at Abu Ghraib found “systematic and illegal abuse of detainees”, and there is reason to believe that such abuse continues to be practiced systematically by US forces not only in Iraq but other detention facilities under US control, notably Guantanamo Bay. In addition, we have grave concerns about the continuing existence of “ghost detainees”, whom the US authorities wish to hide from the International Committee of the Red Cross and who are held incommunicado, and therefore at a high risk of torture or ill-treatment.

114. The UK Government has a clear obligation under the Geneva Conventions not only to refrain from abusing or ill-treating detainees under its control, but to ensure that its allies do so as well. Amnesty International urges the UK Government to seek a public and verifiable statement from the US Government that abusive practices against detainees under its control, including the practice of holding “ghost detainees”, have ceased and that all allegations of abuse will be duly investigated and those responsible brought to justice.

115. Amnesty International has also received various reports of torture by Iraqi police. At least 12 men have died in police custody this year, many of them showing signs of torture, including electric shocks. In April, Iraqi national television broadcasted “confessions” by alleged “terrorists”. These men appeared to have been held incommunicado and showed signs of torture or ill-treatment. The UK Government should urge the Iraqi authorities to ensure that all allegations of torture and cases of death in police custody are duly investigated and those responsible brought to justice.

116. Amnesty International continues to be deeply concerned about the large number of people held without charge in prisons controlled by US and UK forces, often for long periods of time and without access to a lawyer or their family. We are also very concerned at the continuing practice of internment: the UK should ensure that all detainees, including those held by US forces, have their case resolved in the shortest possible timeframe. All those detained in Iraq should be charged with a recognisably criminal offence, given access to a lawyer and their family, and be brought before a judge within a reasonable amount of time, or released.

117. The trial of Saddam Hussein for crimes against humanity began on 19 October this year. Amnesty International has sent observers to the trial. Before the trial commenced we expressed serious concerns about the trial proceedings, as well as the rules and statute of the Iraqi Special Tribunal, which are not fully consistent with international law: in particular, they omit essential guarantees of the right to a fair trial, and reveal irregularities in the procedures for the appointment and removal of judges and prosecutors. Saddam Hussein’s defence counsel also did not receive crucial information about the trial and charges against him until very late. It is important that justice is done and seen to be done, so that Saddam Hussein receives a visibly fair trial. In particular, his defence counsel must be given access to all relevant documentation, including the details of the prosecution’s case, well in advance of the relevant hearings.

118. Amnesty International condemns the reinstatement of the death penalty by the Iraqi interim government as a deeply retrograde step, and deplores the execution of three men on 2 September—the first judicial executions since Saddam Hussein’s rule. At least 50 people have been sentenced to death in recent months. Amnesty International is pleased to know that the UK Government has urged the Iraqi Government not to lift the suspension on the death penalty, and strongly encourages it to continue to urge the Iraqi government to abandon the death penalty, or at least impose a moratorium. The Iraqi Special Tribunal trying Saddam and others should not impose the death penalty. Is the UK Government content that its representations so far seem to have been treated so lightly?

119. The section on women’s rights lists a number of welcome developments but paints a much rosier picture overall than Amnesty International is able to confirm. As we pointed out in our submission last year, there has been a worrying increase in discrimination and violence against women in Iraq following the war. The extremely volatile security situation has meant that many women continue to live under constant fear of being beaten, abducted, raped or murdered by armed groups—or relatives, in the case of “crimes of honour”. There have been numerous threats and physical attacks against women’s rights campaigners and

female political leaders over the past year and many women have been forced to give up their work and their studies because of fears for personal safety. One prominent women's rights activist and government advisor, Amal al-Ma'malji, was killed in an attack on her car in November 2004.

120. Amnesty International is also concerned that certain parts of the new Iraqi constitution, which states that Islam is the main source of legislation, may be interpreted as allowing practices, which discriminate against women and violate and restrict women's human rights. The UK Government should urge the Iraqi government to remove discriminatory legislation in Iraqi law and take all necessary measures to ensure that gender-based violence is thoroughly investigated and punished according to law.

#### ISRAEL AND OCCUPIED TERRITORIES (PAGES 67–70)

121. Amnesty International shares many of the concerns raised in the FCO report. However, we believe that the report misses out some vital points of information that illustrate the seriousness of the situation.

122. Punitive house demolitions have not been limited to demolishing the houses of suicide bombers. The houses of those who have been accused, though not convicted of involvement in attacks, have also been targeted. In addition, most of the homes and other properties that have been demolished have been for "military/security" reasons and for lack of building permits. Although the demolition of the houses of suicide bombers has been suspended, demolitions for these other reasons continue.

123. The problem of impunity is understated in the report. To date, not a single Israeli soldier or member of other security forces has been indicted for murder. The conviction for manslaughter of the Israeli soldier for the murder of UK activist Tom Hurndall is an exception. More than 3,200 Palestinians have been killed by Israeli forces in the past five years, many unlawfully. In the same period Palestinian armed groups have killed some 1,000 Israelis and many Palestinians in Israel have been convicted on charges of involvement in these particular attacks.

124. The removal of some 8,000 settlers from the Gaza strip and from four small settlements in the north of the West Bank is a positive development. However, it is crucial to counterbalance this against the fact that the Israeli Government has, at the same time as these removals, stepped up its expansion of settlements and infrastructure, including roads for settlers, throughout the West Bank. More than 400,000 Israeli settlers continue to live in the West Bank, including East Jerusalem, in violation of international law, and that number has grown by some 10,000 in the past year. This has happened during the period covered by the FCO report, yet there is no reference to it.

125. The report highlights concern over the building of the Israeli barrier. 85% of the fence/wall is being built on occupied Palestinian land inside the West Bank.

126. The report states that "Israel cannot always justify the degree of restriction on people's freedom of movement on security grounds". This is another understatement. The overwhelming majority of restrictions imposed on Palestinians inside the West Bank, ie not between the West Bank and Israel, are imposed to prevent Palestinians from entering or being near to Israeli settlements and settlers' roads in order to protect the privileged status of settlements. This violates international law.

127. The report rightly mentions that from 31 August 2004 to 31 March 2005 27 Israelis were killed in armed Palestinian attacks, including suicide bombings (in that period 18 Israeli soldiers were also killed by Palestinian gunmen). The report does not mention that in the same period, Israeli forces killed some 420 Palestinians, many of them unarmed and including more than 80 children. That is an unfortunate omission.

128. In terms of the Palestinian Authority (PA) the report focuses more on political developments than human rights. The administration of justice remains our main concern and in particular the use of the death penalty, detentions without trial, lack of proper law-enforcement and widespread impunity within the PA. The report predicts an improvement in "Palestinian capabilities to reduce human rights abuse". Rather the opposite has happened since the report was issued. While recognising that in the West Bank the ability of the PA security forces is severely curtailed by restrictions imposed by Israel, the PA should not use this as a pretext to avoid taking even those measures it can take.

129. With regard to the Gaza Strip, the UK Government should demand that Israel ensures freedom of movement (for persons and goods) for Palestinians between the Gaza Strip and the West Bank and, so long as it continues to control the border between the Gaza Strip and Egypt, allows freedom of movement for Palestinians across that border.

130. The UK Government should also demand that Israel takes concrete measures to end impunity for members of its forces. Pressure does work, as eventually seen in the case of the soldier who killed Tom Hurndall. The UK should demand and push for justice for the hundreds of Palestinian children and other unarmed civilians killed by Israeli forces when they did not pose any threat.

131. We were dismayed by the failure of the UK authorities to arrest the Israeli army General Doron Almog, when he arrived at London's Heathrow airport in September. A warrant for the general's arrest for alleged war crimes had been issued before his arrival. The UK authorities failure to arrest him was a clear violation of its obligations under both national and international law. The UK Government should be setting an example. Its failure in this case raises questions about the Government's commitment to tackling its human rights concerns.

132. The UK Government needs to take the lead as the most influential EU member on Middle East policy to demand concrete measurable action from Israel including: an immediate end to the building and expansion of its settlements and to the construction of the fence/wall inside the West Bank, including in and around East Jerusalem; measures to evacuate settlers living there; and a dismantling of those sections of the fence/wall already built there.

133. The UK government should demand that the PA put in place concrete and effective mechanisms to: prevent abuses; investigate killings, abductions and other attacks, and; bring those responsible to justice in trials which comply with international standards for fair trial. The UK Government should be more vocal in calling on the PA not to execute any more people.

#### RUSSIA (PAGES 71–77)

134. On the whole, the FCO report addresses Amnesty International's main concerns relating to Russia.

135. Numerous human rights abuses continue to occur in the context of ongoing fighting in the North Caucasus. Amnesty International strongly condemns all attacks against civilians, including all instances of hostage-taking and executions by armed groups, such as the tragic events of Beslan.

136. Russian security forces continue to commit serious and widespread human rights abuses as part of their counter-terrorist operations in Chechnya and the North Caucasus, including "disappearances", torture and arbitrary and incommunicado detention. Impunity for these abuses remains rampant: although some investigations have been opened, they are very rare and far from independent and transparent, and there have been only two convictions of members of the Russian forces for crimes against civilians in Chechnya so far.

137. During Amnesty International's latest trip to the region, in September 2005, our delegates received numerous reports of people being arbitrarily detained and held in incommunicado detention, where they are subjected to torture and ill-treatment in order to force them to confess to crimes they did not commit. Many people have been detained in Chechnya since January 2005 in a series of raids, allegedly by security forces under the jurisdiction of the first Deputy Minister of Chechnya. All allegations of abuse by security forces must be independently investigated and those responsible brought to justice.

138. Amnesty International welcomes the current dialogue between the EU and Russia on human rights matters. We urge the UK Government and the EU to pursue these discussions in earnest and with renewed vigour over the coming year, involving human rights NGOs in both countries as much as possible.

139. Harassment of human rights NGOs in Russia, including threats and unwarranted criminal investigations, is of particular concern. Amnesty International is closely following the case of Stanislav Dmitrievskii of the Russian-Chechen Friendship Society, who is currently on trial for "incitement to enmity or hatred". The Russian authorities must cease immediately all harassment of human rights organisations and human rights defenders. The UK Government should encourage the Russian authorities to accept human rights NGOs as partners, and not look at them with suspicion and distrust.

140. Freedom of expression in Russia remains a major concern as outlined in the FCO report. Although the situation could clearly be worse, the fact that "the authorities have yet to crack down on dissent on the internet" (page 75), among other things, does not in our view qualify as a "positive aspect".

141. Increased instances of racism and xenophobia are also of concern. Although there have been some positive developments in the authorities' willingness to condemn, investigate and punish racist and xenophobic attacks, more proactive and preventive measures should be taken to create a climate where these attitudes cannot proliferate.

142. Unlike last year, the report makes no mention of violence against women as an important concern in relation to Russia. The conflict in Chechnya disproportionately affects women, and levels of domestic violence remain alarmingly high in the rest of the country. We are concerned at the absence of material on this issue and wonder why this is the case.

#### SUDAN (PAGES 79–82)

143. Amnesty International agrees that the signing of the comprehensive peace agreement (CPA) on 9 January 2005 was a major step, contributing to the end of more than 21 years of conflict. But that step has been largely overshadowed by the continuing conflict in Darfur. The tragedy of Darfur, which worsened during 2003 while international powers concentrated on the North-South peace process, shows the dangers of sacrificing concerns for human rights for the sake of a negotiated peace. Neither peace nor greater respect for human rights has been achieved.

144. On 30 June 2005, the Sudanese Government reiterated its promise to end the state of emergency, but only in parts of the country, and to release political prisoners. The Government also promised to release all those detained in connection with the conflict in Darfur, as agreed under the 9 November 2004 agreement reached between the government and the Sudan Liberation Army (SLA) and Justice and Equality Movement (JEM). Only a few have been released and over 300 remain in detention.

145. The FCO report is accurate in its conclusion that “the humanitarian situation in Darfur is dire.” The human rights situation is also dire. Notwithstanding the widespread international attention on Darfur, the displaced and those still living in rural areas of Darfur remain unprotected. Increasingly, humanitarian organisations are also coming under attack, undermining their vital activities in the region.

146. The UK Government has played a key role in responding to the crisis in Darfur. It was instrumental in securing UN Security Council resolution 1593 which referred the situation in Darfur to the International Criminal Court (ICC) also, under the auspices of the EU and the African group, the resolution at the UN Commission for Human Rights. Ministers continue to give their attention to this conflict, as exemplified by the recent visits to Darfur by the International Development Secretary Hilary Benn and the FCO Minister for Africa, Lord Triesman. It is crucial that the UK Government ensures that the situation in Darfur remains high up its agenda and that it continues to apply pressure on the government of Sudan.

147. In particular the UK Government should:

- continue to support the work of the Sudanese Organisation Against Torture (SOAT) and other human rights defenders in Sudan. The Government of Sudan targets human rights groups and activists. In early October 2005 Amnesty International learnt of the Sudanese Government’s launch of legal proceedings against SOAT in an apparent attempt to silence that organisation;
- push for the Government of Sudan to fulfil its human rights obligations under the comprehensive peace agreement. As the FCO report highlights, the CPA contains provisions to address the human rights situation in Sudan. It commits Sudan to ratify and implement, amongst other things, the right to life, the right not to be arbitrarily arrested and the right not to be tortured. Yet everyday these rights are violated. Therefore, it remains crucial that the Government in Sudan is not only reminded of its obligations but also held responsible for failing to implement them;
- call on the Government of Sudan to adhere to its promise to release political detainees;
- call on the Government of Sudan to tackle impunity. Sudan’s interim constitution grants immunity for a range of officials at the highest levels of government. This is unacceptable, particularly given the gravity of human rights crimes committed, some of which constitute crimes against humanity;
- push for and support reform of the judicial system in Sudan. The ICC is charged with investigating and prosecuting individuals with regards to the serious crimes committed in Darfur. In the short-term this is a very positive outcome. But in the long term the entire Sudanese judicial system will need to be reformed if justice is to be done.

148. Amnesty International agrees with the FCO report that in the end “only the Sudanese can bring peace to Sudan. But the international community has an important role to play . . .”. Until the Government of Sudan respects the human rights of its people, the protection of the population will rest largely with outside monitoring and peacekeeping forces. Therefore it remains crucial that the UK Government supports both the AU and UN missions in Sudan. A secure environment for refugees and internally displaced persons remains the priority.

149. We would welcome any intervention that the FCO could make to the Sudanese Government on granting Amnesty International access to Northern Sudan and Darfur. It was the Secretary of State’s timely intervention which resulted in Amnesty International gaining access to Darfur in March 2004. Since that visit, our requests for visas have been rejected. We have recently visited the Southern Sudan area, currently being administered by the SPLM but do not have access to other parts of the country.

#### TURKEY (PAGES 104–107)

150. Amnesty International has welcomed the Turkish Government’s commitment to bring Turkish laws relating to the protection of human rights into line with international standards. We feel that there has been a slowing of the reform process however, and a failure to build upon previous achievements. The opening of negotiations on Turkey’s full accession to the EU, this October, offers opportunities for further progress.

151. For Turkey to make effective progress in implementing its human rights commitments, reform of its human rights institutions is essential. At the moment there is an absence in Turkey of independent and effective institutions that will promote and protect human rights, including through effective investigation of patterns of human rights concerns and individuals’ complaints about human rights violations they have suffered, and through making recommendations accordingly. Amnesty International understands that both the widely-criticised national and regional Human Rights Boards attached to the Prime Ministry and the Human Rights Advisory Board have ceased effective operation. We therefore urge the Turkish Government to give priority to drafting national legislation on National Human Rights Institutions such as an Ombudsman and Commissions. The UK Government should apply pressure on Turkey to ensure that such institutions conform to the UN Paris Principles to ensure they have the power to investigate on their own initiative.

152. The new Turkish Penal Code (TPC) that entered into force in June contained many positive aspects—most obviously in connection to provisions that should, if implemented, improve significantly the level of protection from violence for women in Turkey. However, we believe that Turkish law—including the new TPC—still contains numerous provisions that may be used to restrict the right to freedom of expression in a way that is in breach of the European Convention on Human Rights. Article 159 of the previous TPC which criminalises “insults” against various state institutions and which has been used to prosecute and imprison those that have made peaceful criticisms has been carried over into the new TPC as Article 301. This provision has already gained notoriety as it has been used to open a trial against the writer Orhan Pamuk for “insulting Turkishness”. Many other less high-profile trials have been opened against those that have articulated peaceful, albeit controversial, views. The existence of such unnecessarily restrictive provisions offers ample pretexts to prosecutors to initiate legal proceedings that violate Turkey’s responsibilities under international law. Turkey’s legal provisions for the right to freedom of expression must therefore be strengthened further—most obviously by abolishing Article 301—and made compatible with international law. Existing provisions must be better implemented through increased training of the judiciary and especially of state prosecutors and security forces, for which the UK Government should continue to offer financial and technical support.

153. As the FCO report states, “the Government needs to do more to tackle impunity in the security forces” (page 104). Amnesty International has been greatly concerned about the issue of torture and ill-treatment perpetrated by members of the security forces in Turkey for many years and sees this area as the testing ground for the reforms undertaken by the Turkish Government. We have warmly welcomed the Turkish “zero tolerance for torture” policy but feel that the government is failing in meeting the challenge of implementation. Figures collected by independent non-governmental organisations also give a disturbing picture related to continued problems in this area. For example, the Human Rights Association (IHD) reported 843 reports of torture and ill-treatment in 2004.

154. Amnesty International considers that most investigations by prosecutors into such incidents are seriously flawed and would urge that steps be taken to ensure that investigations into serious human rights violations by security forces such as torture, extrajudicial executions, ill-treatment and deaths in custody are independent and impartial. A body such as a Police Complaints Commission—similar to the Independent Police Complaints Commission in the UK—that would investigate any allegations of torture or ill-treatment perpetrated by members of the police forces should be developed.

155. In addition, we believe that one of the most effective safeguards against torture would be to improve the monitoring of police stations by independent visiting bodies. Unannounced visits by the Turkish human rights boards to police stations are not sufficient. Amnesty International warmly welcomes the recent signature by the Government of Turkey of the Optional Protocol to the Convention against Torture which mandates the establishment of a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty in order to prevent torture and ill-treatment. The UK Government should encourage the Turkish Government to ratify the Optional Protocol as soon as possible and press ahead with the establishment of an independent visiting mechanism.

Peter Benenson

Amnesty International wishes to express its appreciation for the tribute paid in the FCO report (page 4) to the work of its founder, Peter Benenson, who died in February this year.

*Amnesty International UK*

*11 November 2005*

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### **Written evidence submitted by Human Rights Watch**

Human Rights Watch thanks the Foreign Affairs Committee for the opportunity to comment on the Foreign and Commonwealth Office’s Human Rights Report. We look forward to answering further questions from the committee at the oral session at 2.30 pm on Wednesday 16 November.

As we have noted before, this report can play an important role in highlighting concerns around the world, and we welcome its publication. We strongly endorse the view of the Foreign Secretary, in his introduction to the report, that human rights and values “are the only lasting foundation for wider security, justice and development”. We would wish for that point to be more widely applied in practice, including by close allies of the United Kingdom, and even by the UK itself.

These comments do not seek to be a line by line commentary on the report, but focus only on those areas where our differences with the government are significant.

These include areas where we believe:

- (1) important points have been omitted; and
- (2) where the analysis of this report is at odds with the Government's words, actions or failure to act in a broader context; or where one part of the analysis is contradicted by passages elsewhere in the report.

To take some of our concerns in the order in which they appear in the report:

#### AFGHANISTAN (PP 31–34)

The UK correctly identifies a number of the areas of greatest concern, including a main concern of Human Rights Watch throughout the past three years, regarding the continued power of abusive Afghan warlords, and (a subject which Human Rights Watch has repeatedly documented, and which the UK mentions in this year's report for the first time), violent abuse by US forces of detainees. (See, for example, "Enduring Freedom: Abuses by US Forces in Afghanistan" (<http://hrw.org/reports/2004/afghanistan0304/>). It is critical that the UK take a leadership role in addressing past abuses and make it clear to President Karzai that he should choose justice over continued good relations with abusive warlords.

#### CHINA (PP 40–46)

The report accurately highlights a number of important problems in China, including the absence of fundamental freedoms. The human rights situation does indeed "remain critical". The report rightly emphasises the jamming of BBC broadcasts and the BBC website—but surprisingly fails to make any other mention of the freedom of speech and of information. The restrictions on use of the internet are severe. China has invested huge sums in erecting the "Great Firewall," which blocks Chinese from access to critical sites like Human Rights Watch, Amnesty International and, from time to time, BBC and other news organisations. The terms democracy and human rights often lead a browser to a blank screen. Major Western companies such as Microsoft and Google are complicit in these restrictions. Yahoo recently handed over the name of one of its users to Chinese authorities. He was given a long jail sentence for sending a critical email to a US-based organisation.

The concerns that are rightly highlighted in this six-page section of the report stand in sharp contrast to the apparent reluctance of senior government ministers publicly to confront human rights abuses, in many important contexts. At a press conference on 7 November, a day before President Hu Jintao arrived on a state visit to the UK, the Prime Minister failed even to mention human rights when answering a Chinese journalist's question about what he would be discussing with President Hu.

The Prime Minister suggests that change is inevitable. In reality, achieving progress in human rights is a long, hard fight, one that will take longer if world leaders do not speak clearly in public on the subject.

#### COLOMBIA (PP 46–49), (PP 150–151)

The report does not satisfactorily address the question of impunity for high-ranking military officials involved in abuses. The report states (p 48) that "President Uribe has publicly stated on many occasions that he will not tolerate such collusion [between the security forces and the paramilitaries] and will act decisively against those who are proved to have such links."

In reality, there is still a serious problem of impunity for military collusion with paramilitaries. Human Rights Watch continues to receive reports of the existence of such links, not just between members of the military and paramilitaries, but also between entire units of the armed forces and paramilitaries. The UK Government does not do Colombian society any favours by papering over the extent of the problem. The report does not satisfactorily address the question of impunity for high-ranking military officials involved in abuses.

#### CUBA (PP 50–52)

The report rightly notes that the Government "has continued to violate many basic human rights." The report accurately characterises a situation where political opponents are regularly harassed and jailed. One subject not mentioned is the forced separation of families, dealt with in a recent Human Rights Watch report, "Families Torn Apart" (<http://hrw.org/reports/2005/cuba1005>). The Cuban and the US governments both make it extraordinarily difficult for separated families to see each other, an obvious breach of human rights.

#### DEMOCRATIC REPUBLIC OF CONGO (PP 52–54), (PP 140–141)

The report rightly highlights the importance of the arrests of two key Ituri militia leaders, Floribert Ndjabu and Thomas Lubanga, whose role in atrocities in the region has been well documented in a series of Human Rights Watch reports, including "Ituri: Covered in Blood" (<http://www.hrw.org/reports/2003/ituri0703/index.htm#TopOfPagelink>) As the report notes, "impunity remains a major problem", and needs to be confronted. While a handful of those responsible have been arrested and are currently in prison, other warlords have been promoted to senior positions in the Congolese

army. These promotions have largely been met with silence by the international community. Confronting impunity requires regular and consistent pressure, not selective action. The UK Government should be doing more to push for accountability for human rights crimes in the DRC, both privately and publicly.

A Human Rights Watch report published earlier this year, “The Curse of Gold”, (<http://hrw.org/reports/2005/drc0505>), documented the relationship between a murderous armed group operating in north-eastern Congo and one of the largest gold companies in the world, AngloGold Ashanti, whose majority shareholder is AngloAmerican, based in the UK. The UK Government took steps to discuss concerns highlighted by this report with the company. Human Rights Watch believes that The Curse of Gold contains important information about the wider problem of natural resource exploitation and human rights abuses taking place throughout the mineral rich areas of the Congo. Building democratic foundations and respect for the rule of law in Congo will require greater attention to this often overlooked issue.

The UK Government is playing an important role in highlighting concerns about natural resource exploitation through its development programme funded in Congo by the Department for International Development. It will be important to work through multilateral institutions in the DRC to ensure better use of Congo’s minerals for development and respect for human rights. We believe our report also contains broader lessons of how and when international companies should and should not do business in conflict areas where there are major human rights abuses. The British Government could play an important role by ensuring the application of appropriate business standards.

#### UGANDA AND SMUGGLED GOLD

On page 141, the report refers to “evidence provided by human rights groups” about natural resource exploitation in the eastern DRC, and notes that the Ugandan Government “denies allegations” that Uganda has benefited from natural resource exploitation. This may partly be a reference to the Human Rights Watch report *Curse of Gold*, referred to above. We believe that a reading of reports prepared by the UN panel of experts on illegal exploitation in the DRC, the UN group of experts on the arms embargo, UN secretary general reports, Uganda’s own judicial investigation carried out by Justice David Porter, as well as reports by Human Rights Watch and other international NGOs makes it clear that senior members of the Ugandan army and Ugandan government ministers have indeed been involved in natural resource exploitation in the DRC since 1998. These are not so much allegations as undeniable facts. As documented by Human Rights Watch, the Ugandan economy clearly benefits from the trade of illegal gold from Congo to Switzerland and elsewhere; a trade that is encouraged by the Ugandan Government. Uganda’s persistent denials must be robustly confronted.

In addition to involvement in natural resource exploitation, Uganda also continues to support armed groups operating in north-eastern Congo who carry out widespread violations of human rights including war crimes and crimes against humanity. Throughout 2005 there were clear indications that Uganda had not stopped such support. While pressure from the UK and other international actors did push Uganda to expel some of the Ituri armed group leaders from Ugandan soil, it has not yet halted support for these groups. It is important that the UK Government seeks to be much tougher in its stance on Uganda’s continued involvement in the affairs of the DRC.

#### IRAN (PP 58–60)

The report states that “The UK will make human rights a priority issue in our relations with Iran” during the EU presidency in the second half of 2005. There has been much discussion of the nuclear issue and obvious international pressures on Iran in this context. On human rights issues, however, it has sometimes seemed that the criticism has not gone beyond mere rhetoric.

#### IRAQ (PP 60–67)

Human Rights Watch appreciates the emphasis (p 65) on the importance of the Human Rights Watch report “The New Iraq: Torture and ill-treatment of detainees in Iraqi custody” (<http://hrw.org/reports/2005/iraq0105/>) The UK has played a strong and valuable role in the follow-up to that report, which continues to this day.

#### IRAQ SPECIAL TRIBUNAL

Human Rights Watch has a number of concerns with this tribunal, which are laid out in the briefing paper “The Former Iraq Government On Trial” (<http://hrw.org/backgrounder/mena/iraq1005/>) We welcome the fact that Saddam and his senior collaborators are being brought to justice for their crimes. But it is wrong to think that judicial shortcuts—including, for example, a lower threshold of guilt than the international norm—help to create a more stable Iraq.

#### US ABUSES IN IRAQ (PP 62–63, P 183)

These sections are seriously misleading. They appear to be deliberately framed in order to avoid confronting the reality. The evasion is inexcusable.

The report refers to the “shocking photographs” from Abu Ghraib—echoing the language that was used at the time by President Bush himself, after the photographs (one of which was used as a screensaver at Abu Ghraib) were published in spring 2004. The report talks of “five substantial inquiries”, which “concluded that the incidents of abuse were the result of the behaviour of a few sadistic individuals and a failure of oversight by commanders, rather than the result of US policy or procedures.”

Those conclusions were at odds with the known facts, as Human Rights Watch and others have repeatedly shown. Key Human Rights Watch reports on this issue include the report “Leadership Failure: Firsthand Accounts of Torture of Iraqi Detainees by the US Army’s 82 Airborne Division” (<http://hrw.org/reports/2005/us0905/>). A US Army captain, Ian Fishback, finally went public with his concerns, by taking his evidence of abuse in Iraq to Human Rights Watch. His superiors had previously been determined not to listen to what he had to say. The Human Rights Watch revelations made front-page headlines throughout the United States.

In the wake of that report, Republican Senator John McCain and others introduced amendments to the Defence Authorisation Bill that would tighten up military rules on prisoner detention and interrogation, and prohibit all “cruel, inhuman, or degrading treatment” of detainees. The measure passed 90–9 in the Senate. But the White House opposes the amendments, saying they unnecessarily limit the president’s authority as commander-in-chief.

We find it difficult to reconcile the facts set forth in Human Rights Watch’s reports on this subject with the conclusion in this report that “five substantial inquiries” were conducted. In reality, the inquiries were not comprehensive, and were framed in a manner which ensured that senior military commanders and politicians would not be held responsible.

The report says: “Where there has been evidence of abuse, the US has instigated investigations of the individuals responsible” (p 63) and that the US has “investigated and punished those responsible” (p 183). In reality, there has been no attempt to trace the pattern of responsibility for those violations taking place—a pattern which has clearly been documented by Human Rights Watch and others. The US administration has repeatedly rejected Human Rights Watch’s calls for an independent special prosecutor to look at the issues. Human Rights Watch, which has its international headquarters in New York, believes the UK’s silence on this issue to be deeply damaging.

The voice of the UK is loudly heard in the United States. UK silence, in this context, is thus especially eloquent. In effect, the silence makes the United Kingdom complicit in the US crimes.

This silence, combined with misleading characterisations which actively seek to exculpate the US administration in its trampling of international commitments, should finally come to an end.

#### ISRAEL (PP 67–70)

The report rightly notes that Israel “must respect international law” (p 67). But it seems reluctant to confront the extent of the Israeli failure to do so. The report talks of “welcome exceptions” to the rule of “limited accountability” of IDF personnel—but then devotes more attention to those exceptions than to the dangerous rule. In this connection, the Human Rights Watch report “Promoting Impunity: The Israeli Military’s Failure to Investigate Wrongdoing” (<http://www.hrw.org/reports/2005/iopt0605/index.htm>) may be seen as relevant.

Notably, even when an investigation is carried out, the investigations rely above all on in-unit debriefs which delay a possible criminal investigation, and also sully the evidence. There is abundant evidence to show that soldiers are inclined to lie in in-unit debriefs. The “welcome exceptions” which the report refers to apply above all to foreigners. The families of Tom Hurndall and James Miller have been tenacious and courageous in their persistent search for justice—and have been able to open many doors which would normally remain locked. Their achievements are as astonishing as they are admirable. The overwhelming majority of Palestinians could, for a variety of reasons, never begin to achieve what the Hurndall and Miller families have achieved, against all the odds. Impunity remains, in short, as strong as ever.

The section on terrorist violence is of course correct to say that terrorists have a “total disregard for human rights,” as Human Rights Watch has repeatedly emphasised.

#### RUSSIA (PP 71–77)

Human Rights Watch welcomes the statement at the beginning of the Russia section that “effective counter-terrorism measures must be taken within a framework that respects human rights and international humanitarian law.” The report accurately reflects the findings of Human Rights Watch, when it talks of disappearances and extrajudicial killings. It is also correct to state: “Government investigations and trials of the military for crimes against civilians are infrequent and convictions are few.” The report is right, too, to focus on the problems faced by NGOs and civil society, the subject of a forthcoming Human Rights Watch report.

The report says that the UK “pointed out that effective anti-terrorism policies and respect for human rights are not mutually exclusive. Proper observance of human rights can be very effective in combating terrorism.” Sadly, there is a wide gap between the sentiments expressed here and the message that is sent by senior ministers, in their meetings with Russian Government leaders and their public statements in that context. There still seems to be an eagerness not to confront the extent of the crimes being committed in Chechnya, let alone the fact that the crimes in Chechnya are now spilling over into greater instability in the entire region.

We hear little or nothing from the Prime Minister or the Foreign Secretary about the crimes that continue to go unpunished in Chechnya—crimes which can be seen as poisoning all Russian society. A Human Rights Watch briefing paper “Worse than a War” (<http://hrw.org/backgrounder/eca/chechnya0305/>), published in March 2005, determined that the level and pattern of forced disappearances justified the use of the term “crimes against humanity.”

High-level silence on this issue is shortsighted. Russia does indeed have a terrorist problem—as we have seen repeatedly in recent years. But the idea that this terror threat means that one should not criticise a Kremlin policy which tolerates or encourages civilian murder is wrong. UK failure to speak out strongly on this issue is wrongheaded and indefensible.

A parliamentary response to Menzies Campbell MP failed to answer the question as to whether the Prime Minister raised the subject of disappearances when he met with President Putin in October 2005. The implication appears to be that the Prime Minister did not even discuss these crimes.

Those who believe that it is somehow “impolite” to speak out strongly on these issues do Russian society no favours. On the contrary, Russian society can never achieve stability unless basic human rights are observed.

#### SAUDI ARABIA (PP 78–79)

Torture remains widespread. The report rightly notes that reform is widely discussed. But the pace of change is much too slow. There have been unconfirmed suggestions that the UK may be contemplating a possible Memorandum of Understanding (MOU) with the Saudis, regarding commitments not to torture those who might be deported to Saudi Arabia, along the lines of MOUs which have already been agreed with Jordan and Libya. Human Rights Watch has been sharply critical of the two existing MOUs. An agreement with Saudi Arabia would shamelessly breach the UK’s international commitments not to send people back to the risk of torture. Saudi Arabia’s torture of British citizens, even while it said that those citizens were not being tortured, has been well documented. As Human Rights Watch has shown, commitments by states with records of endemic abuse of prisoners are wholly unenforceable. These MOUs can be seen as mere moral figleaves (this subject is further discussed below).

#### SUDAN (PP 79–82, PP 143–144)

The international response to the crisis in Darfur was addressed in last year’s Human Rights Watch submission, as well as a separate submission to the international development committee ([http://www.parliament.uk/parliamentary\\_committees/international\\_development/international\\_development\\_sudan.cfm](http://www.parliament.uk/parliamentary_committees/international_development/international_development_sudan.cfm)) The UK woke up too late to the significance of what was happening, though it later played a positive role.

The report notes that both the Sudanese Government and the rebel movements committed ceasefire violations in the reporting period, which is factually correct. However, it omits an important distinction in the human rights records of the warring parties. As noted by numerous groups, including Human Rights Watch and the International Commission of Inquiry, the rebel movements have committed abuses, including attacks on civilians that may amount to war crimes. These crimes are serious and require further investigation and accountability, but do not appear to be the result of a systematic policy attacking civilians.

By contrast, the Sudanese Government has clearly pursued—and continues to implement—a policy of systematic attacks on civilians based on their ethnicity that amounts to crimes against humanity, a conclusion that is unequivocally presented in the findings of the Commission of Inquiry. This policy is directly responsible for the crimes in Darfur and the forced displacement of more than two million people in less than two years.

To date, the Sudanese Government has yet to implement any real change of policy in Darfur and continues to ignore demands to disarm the militias, end impunity or take other essential steps to improve security in the region. Until a sincere change of policy occurs in Khartoum, it is extremely unlikely that security will improve or that the “ethnic cleansing” that has occurred will be reversed.

Regarding the international and UK response to the conflict in Darfur, Human Rights Watch agrees that it is vital for the African Union force to be strengthened, both in numbers and in mandate, and recognises the important support provided to the African Union force by the UK. However, the action taken by the UN Security Council is perhaps overstated in the report. Eight crucial months passed between July 2004, when the UNSC passed resolution 1556 and March 2005, when the Security Council authorised sanctions and the ICC referral. Human Rights Watch welcomes the first step to sanctions, but notes that the

framework for sanctions remains extremely weak: as of November 2005, not a single individual has yet been sanctioned despite a serious escalation in the violence over the past two months. Considerable work will be needed at the Security Council to ensure that sanctions are in fact imposed and enforced on key individuals

Regarding the Comprehensive Peace Agreement, clearly this provides hope that the terrible war in southern Sudan is over. However, to describe the agreement as containing significant human rights provisions is perhaps overstating the case. One of the fundamental flaws in the agreement remains the lack of any accountability mechanism, despite the massive abuses that took place in the long conflict. In Human Rights Watch's view the failure to insist on any form of justice or accountability in the CPA contributed to the Sudanese Government's decision to use much the same strategy of attacks on civilians in Darfur. This is also why, among other reasons, the decision to refer Darfur to the International Criminal Court takes on even greater relevance.

#### SUDAN AND THE INTERNATIONAL CRIMINAL COURT (PP 156–157)

Human Rights Watch applauds the referral of Darfur to the ICC, which is a key first step towards ending the lethal cycle of impunity in Darfur, but regrets that the UK support for the court has not always been as strong as we would have hoped. Thus, in July 2004, the UK was ready to permit the United States to force through a resolution which would have allowed Washington to renew a special immunity from the court. Other governments resisted the proposal strongly, and the US was eventually forced to withdraw its dangerous resolution. Britain was, at that time, supporting rather than confronting Washington's dangerous actions.

Human Rights Watch is, however, pleased that the UK later played a positive role in ensuring that Washington did not block the referral to the court, especially in the final lead-up to the vote in March 2005. Partly as a result of UK diplomacy, the United States withheld its veto at the key vote at the Security Council, on resolution 1593.

The referral of Darfur to the International Criminal Court, on 31 March 2005, was an important moment. It will be important for the court to live up to the expectations made of it. A key challenge will be ensuring Sudan's co-operation with the court, and UK pressure in this regard will be essential. Human Rights Watch will shortly publish a report naming names of Sudanese officials who might expect to face prosecution at the court, on the basis of their documented involvement in serious crimes.

#### UZBEKISTAN (PP 83–88)

The massacre in Andijan, described on page 84, was a crime against humanity, where many hundreds were slaughtered in cold blood. Human Rights Watch documented the killings in detail in a report "Bullets Were Falling like Rain" (<http://hrw.org/reports/2005/uzbekistan0605/>) and a subsequent report, "Burying the Truth" (<http://hrw.org/reports/2005/uzbekistan0905/>). It will be important to ensure that there is an international inquiry into those events.

It is regrettable that there was considerable delay in the UK following up on the demand, in June 2005, for Uzbekistan to cooperate with an international enquiry—or face sanctions. Human Rights Watch welcomed the decision to impose sanctions in October 2005, after several months of apparent reluctance to confront the issue. The Partnership and Co-operation Agreement between the EU and Uzbekistan was suspended. It was the first time that such a step had been taken.

It will be essential to ensure that the pressure on Uzbekistan is maintained, including via its powerful ally Russia. Moscow's proclaimed view is that Uzbekistan faces a terrorist problem and therefore deserves support. Repression does not help create stability, but only makes things worse.

#### *Torture*

The report says that there has been "one area of progress" in combating torture, namely developing legislation. Given the fact that, as the report itself implicitly acknowledges these changes have had no practical impact, so that describing these changes as "progress" is an exaggeration.

#### *Defence Training*

We note that Adam Ingram, the armed forces minister, revealed in a parliamentary answer to the Liberal Democrat defence spokesman, Michael Moore, that British military advisers trained Uzbek troops before the massacre in May. Subjects included marksmanship and "managing defence in a democracy". It would be interesting to know if the British government still believes that such training was appropriate, and why; and also to know whether such training continues. Human Rights Watch believes that the track record of the Karimov government means that it was and is a singularly inappropriate recipient of such aid. In the view of Human Rights Watch, no hindsight is needed, to reach such a conclusion.

## RWANDA (pp 141–143)

The strong intervention by the British government in November 2004, to head off a military operation by Rwanda inside the DRC, was welcome, as further armed conflict between the two countries would have undoubtedly led to abuses against civilians. Meanwhile, however, it seems as though the government is ignoring the gravity of the situation in Rwanda itself.

It is generally accepted that the international community failed shamefully in its response to the genocide of 1994, as described at length in the 800-page Human Rights Watch report “Leave None to Tell the Story” (<http://www.hrw.org/reports/1999/rwanda/>) and elsewhere. This failure is not a reason to play down serious abuse by the Rwandan authorities today.

The report says that the improvement in the human rights situation “is not progressing as fast as we would like”. Given the developments in 2004 and 2005, we believe this to be an inadequate description; in some areas, the human rights situation has deteriorated. The report also says that the government is “cautious” about allowing opposition “believing that this [allowing opposition] would be racist in nature and would open the door to inter-ethnic strife.” However, the report does not draw the conclusion that the government’s actions constitute an infringement upon basic liberties such as freedom of expression and association.

For example, during 2004, one of the biggest human rights organizations and several other local and international non-governmental organizations were subject to a sharp attack by parliament, which accused them of fostering “genocide ideology” and called for the dissolution of the local NGOs. Government accepted the parliament’s report on the issue. While it did not dissolve the organizations, several NGO leaders were threatened and had to flee the country.

In 2005, Father Theunis, a Belgian priest known for his efforts to document human rights abuses and warn about mounting hate speech prior to the 1994 genocide, was himself accused of incitement to genocide in a gacaca court. The accusations were made without any evidence. (As this submission was being completed, the High Court in Rwanda ruled that Father Theunis can be extradited to Belgium.)

The report largely ignores these important issues, except when it briefly notes “concern that the charges of ‘divisionism’ and ‘harbouring genocidal ideology’ are being used against anyone who disagrees with government positions on any subject” and by acknowledging that “dissenting politicians and journalists have faced harassment and prosecution.”

Human Rights Watch believes it is vital that the British government acts upon these concerns and uses its influence with one of its closest allies in Africa to urge an improvement of its human rights record.

*HIV*

The scale of the problem is well known. In this connection, it is regrettable that the report praises Uganda for having “the most open attitude in Africa.” Uganda has played a positive role in past years. Now, however, Uganda, under the influence of the United States, is discouraging the use of condoms, favouring abstinence only approaches instead. The subject is addressed in the Human Rights Watch report “The Less they Know, the Better” (<http://hrw.org/reports/2005/uganda0305/>). This policy threatens to reverse progress in Uganda on HIV.

## HUMAN RIGHTS AND THE RULE OF LAW (p 183) (SEE ALSO UNDER IRAQ, ABOVE.)

We note the government’s statement that, in its counter-terror policy, “we make sure there is no negative effect on human rights” (p 21). For the purposes of this submission, we will leave aside our concerns about the domestic anti-terror legislation, which are the responsibility of the Home Office. There are a number of concerns about the negative effect of the policies introduced by the Foreign Office, in the context of its anti-terror policy, especially following the criminal bombings of 7 July.

## UK AND TORTURE (p 190, p 194)

We note the declaration on page 16 that the government regards torture as one of its three “key human rights themes”. The reality sometimes seems to call that declaration into question. It is difficult for the UK to argue that it is playing a leading role in combating torture worldwide, when it is:

- (a) softening its own opposition to torture, especially in relation to returns to torture, and reliance on material obtained under torture; and
- (b) silent on serious abuses committed by a close ally.

The Foreign and Commonwealth Office can rightly point to the effort it has made in past years to combat torture, and to ensure that the Convention against Torture is upheld. The UK government has in the past indeed “been among the leading nations advocating strong international machinery and in developing practical tools to combat torture in all its forms” (p194).

It is thus all the more depressing to find that Britain is now moving away from that position. In effect, torture has become a relative matter—to be condemned in all circumstances, except where toleration of torture may appear useful in the war on terror. There appears to be a creeping belief that human rights and security should be treated as alternatives. They are not.

Some examples of the UK's "softening" of its position on torture include:

(1) *Use of information obtained under torture*

On page 190 the report declares "We condemn the use of torture unreservedly and are working hard to eradicate the practice worldwide." The report then goes on, however, to describe how the government believes it has the right to receive intelligence from "our partners" (in the past, this has included countries like Uzbekistan, where people are regularly tortured to death). This cannot simply be portrayed, as ministers are sometimes inclined to do, as a one-off example about when a government receives a key piece of information about an imminent attack. The policy cloaks a clear long-term relationship between the torturing regimes and the recipients of the torturers' information. The September 2005 witness statement by Eliza Manningham-Buller, head of MI5, adduced in the torture evidence case before the House of Lords and made public by Channel Four News (see below), indicated that in obtaining intelligence material from third countries, the security services "will generally not press to be told the source, as to do so would be likely to damage cooperation and the future flow of intelligence." It is regrettable if the UK government fails to understand the extent to which such a relationship gives comfort and encouragement to the torturers.

Such a relationship is hard to square with the statement on page 195 that "It is vital to expose torturers and bring them to account through thorough investigation and documentation." The argument that the government sometimes "does not know" if evidence has been obtained through torture is hollow. As Eliza Manningham-Buller's statement makes clear, if the government "does not know", that is because it chooses not to know.

In addition, as the Committee is aware, the government asserts a legal right to rely on evidence that has or may have been obtained under torture in proceedings before any court in the UK, provided that UK agents were not involved. That case is under consideration by the Judicial Committee of the House of Lords. While disavowing the use of torture evidence for policy reasons, the government's assertion of its legal right to rely on it runs counter to well-established precepts of international law, including those contained in binding treaties to which the UK is party. By doing so, the government weakens Britain's moral authority in seeking to eradicate torture elsewhere in the world, and erodes the prohibition against torture.

(2) *Sending people to countries where they are at risk of torture*

The report claims that the British government "will not deport or extradite any person to a country where we believe that they will be tortured". The government's much-touted Memorandums of Understanding, which have already been agreed with Jordan and Libya, and which are understood to be discussed with a variety of other countries, including perhaps even Egypt and Saudi Arabia, claim to provide "guarantees" that deportees will not be tortured on being sent back. Such guarantees are worthless, as the UN Special Rapporteur on Torture Manfred Nowak has made clear, and as several Human Rights Watch reports have documented.

We find it surprising that the report talks cautiously of "reports" that the US sends terrorist suspects to countries with poor human rights records for interrogation, including the use of US aircraft. The UK's reluctance to acknowledge these well documented examples is perhaps illustrative of the extent of the problem with the current UK mindset.

Two of the most notorious and well documented cases involved are:

- The Canadian-Syrian Maher Arar, who was snatched and delivered up to Syria, where he was tortured. The then US attorney-general, John Ashcroft, said that "appropriate assurances" had been received from the Syrian authorities that Arar would not be tortured. The case is the subject of an ongoing Commission of Inquiry in Canada, and an internal investigation by the US Department of Homeland Security.
- Two Egyptians were forced onto a US government-leased plane that took them from Stockholm to Cairo, where there is credible evidence that they were tortured. In May 2005, the UN Committee against Torture, considering a petition brought by one of the men against his treatment, concluded that Sweden had violated article 3 of the torture convention by sending him to Egypt on the basis of promises of humane treatment, despite a clear risk he would be subject to torture.

Both these examples, and many others, are documented at length in two Human Rights Watch reports, "Empty Promises" (<http://hrw.org/reports/2004/un0404/>) and the more recent "Still at Risk" (<http://hrw.org/reports/2005/eca0405/>) as well as in numerous television documentaries and newspaper accounts. These are not mere "reports" but well documented facts, as the UK government must be well aware.

The reasons for the ineffectiveness of diplomatic assurances as a safeguard against torture are that diplomatic assurances are worthless on a number of counts, as described for example in the August 2005 article in *The Independent* by the author of this note, “Not worth the paper they’re written on” (<http://hrw.org/english/docs/2005/08/13/uk11627.htm>), a copy of which is attached to this submission. As Manfred Nowak, UN special rapporteur on torture, noted in a report published on 9 November: “Diplomatic assurances are unreliable and ineffective in the protection against torture and ill-treatment and such assurances are sought usually from States where the practice of torture is systematic.”

British attempts to undermine the Convention against Torture do not help to keep us safe. On the contrary.

### (3) *UK silence on US torture and abuses*

This has been dealt with above. We see no reason for that silence to continue, and we hope that it will not do so.

#### US/GUANTANAMO (P 190)

The British government “welcomes the fact that the US is engaging with the UN special rapporteurs on their request for access to Guantanamo”. This is a surprisingly upbeat assessment, which provides only a partial view of the reality.

The US has insisted that the rapporteurs should not be allowed to conduct private conversations with prisoners at Guantanamo. This was in obvious breach of the rapporteurs’ mandate, and made it impossible for them to accept the invitation. Without private conversations with detainees, the visits could be nothing more than show.

Human Rights Watch still hopes that some genuine transparency will be introduced into the process, instead of a mere attempted PR show. So far, there is no sign of such transparency.

It is regrettable if the UK government chooses to praise the US government even while it remains in blatant defiance of international law. As far as we are aware, the British government has not expressed its concerns about the US failure to provide the conditions in which the rapporteurs can do their work. Instead, it has publicly “welcomed” the alleged “engagement”, which has so far proved worthless. We hope that Britain will learn that making sympathetic noises about a policy of such defiance towards the rest of the world does not keep anybody safe—not America, not the UK, and not the rest of the world. Britain should find its voice, and has no excuse for not doing so.

#### IN CONCLUSION

As stated at the beginning of this submission, Britain’s policy in a number of areas around the world deserves praise. Within the 300 pages of the report, there is much to commend.

But the potential impact of the failure to observe international law—for example, the prohibition on torture—is enormous. We have already noted the words of the Foreign Secretary, that human rights and values “are the only lasting foundation for wider security, justice and development”. A weakening of human rights principles by any powerful government—including, for the purposes of this report, the UK and the United States—creates a more dangerous world for us all.

We thank the committee for their interest in these important issues.

*Steve Crawshaw*  
London Director  
Human Rights Watch

*November 2005*

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*Witnesses: Ms Kate Allen, Director, and Mr Tim Hancock, Head of Policy, Amnesty International UK, and Mr Steve Crawshaw, London Director, Human Rights Watch, examined.*

**Q1 Chairman:** Good afternoon. Can I begin by apologising to our witnesses. We had a very large amount of business that we had to conclude, and, rather than call the Committee back at five o'clock, we decided to plough on for 10 minutes. I am sorry for keeping you. Welcome to Amnesty and Human Rights Watch. Perhaps I can begin by saying that we always greatly appreciate the memoranda, the submissions and the annual report we receive from Amnesty and, similarly, the information we get from Human Rights Watch which is always of great benefit to us as a committee and we are very glad you are here today to give us evidence in person. We have a huge number of areas that we want to cover. We will try, as far as possible, to have short questions, and I would be grateful if, as much as possible, we can have short answers and then we will get through it all, but I understand that these are very big areas. Can I begin by asking you whether you would like to comment on the decision of the United Nations General Assembly to establish a Human Rights Council, and do you think getting rid of the UN Commission on Human Rights and having the Human Rights Council will make any difference to the effectiveness of international human rights, and what can be done to make it more efficient and effective?

**Ms Allen:** Thank you very much, Chairman. Can I thank you and thank the Committee, on behalf of Amnesty International, for inviting us to give evidence. Moving to the Human Rights Council, we at Amnesty International are hugely supportive of this move and we have great hopes that the Human Rights Council will become a part of the UN where human rights get greater attention, more focus and more prominence. We have very much supported this. We hope that the Human Rights Council becomes a principal organ of the UN. We hope that it is at the same level as the Economic and Social Council and that it has that kind of authority within the UN. We think that there are some key elements that need to be part of that equation. We think that it needs to meet regularly, we think it needs to examine all countries, and we think it needs to have the ability to deal with urgent situations. We hope it retains some of the very few strengths of the Commission, including NGO participation and the independent rapporteurs, and we also hope that there are some effective rules for electing the members of it, providing really effective membership of the Council. We are also concerned that the budget is fully reflective of the role that the Human Rights Council will have; we think that it should at least be double the current budget and we hope very much that Security Council members will not exercise their veto when addressing situations of genocide, war crimes and crimes against humanity. If all of that could happen, if we could have a council set up with those kinds of features, then we think we have the ability to get away from the weaknesses of the Commission and that, by examining human rights of all countries on a rotational basis and, as I say, having a mechanism to deal with large scale abuses, we should be able to see a position where the

Human Rights Council is something to which we can all look to protect and promote the situation of human rights and move us on from the inadequacies of the Commission.

**Mr Crawshaw:** Can I echo Kate Allen's words of thanks to the Committee for inviting us here today, and that is much more than just a courtesy. As we know from past experience, the Committee's interest is enormously important and clearly has considerable impact. Taking note of your words earlier—and I promise not to repeat—I can also echo pretty much everything that Kate Allen has just said. Indeed, Amnesty and Human Rights Watch work together strongly. The importance of the Human Rights Council is very great. We have seen the problems with the Commission for Human Rights repeatedly in the past. I would pick a couple of elements out from what Kate has said just to particularly emphasise perhaps if only for the reason that they are ones which we are worried about at the moment that might slip away without attention to them. One is the idea of it being a standing body, in other words of it being able to meet constantly, and there are discussions going on. Understandably, people are saying, "Well, yes, but it does involve resources", and so on and so forth. To be honest, if we end up with something that only meets say a couple of times a year, then in effect you have got some of the problems that were already there with the Commission. It needs to have the feel of constantly being there, and calling it back, especially, is perhaps also problematic because of lots of procedural stuff that that would involve. Again, as mentioned by Kate Allen in the sense of openness to NGOs again being discussed, and I suppose from their point of view they see it as slimmer or easier to work, or whatever, if it is not quite so open as the Commission was. If we were to exchange the rather problematic commission but which did at least have open access for NGOs for a body that did not allow the same access, then we would think that would be a step backwards. I would hope that will not just sound like speciality. I would hope that you on the Committee would also feel that the input of organisations like ours and others like them would be useful. It would be a pity for that to fall away. On the question of the composition of the body, it is very difficult to make up exact rules at this stage for further discussion, but we feel that some kind of a sense of a commitment to human rights in the broader sense and how that would be worked out would be for further discussion.

**Chairman:** We will watch the progress closely. Can I ask Fabian Hamilton to come in with some questions about the International Criminal Court?

**Q2 Mr Hamilton:** Thank you, Chairman. As you know, the UK has been a longstanding supporter of the International Criminal Court. We were one of the first to sign the treaty that set up the court. The annual report describes the first referral to the International Criminal Court by the UN Security Council in March 2005 on Darfur. It also points out the investigations into the abuses in the Democratic

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Republic of Congo and, of course, the Lord's Resistance Army in Uganda and mentions the total budget of £46.4 million for 2005 of which the UK pays 5.9 million, or 12.8%. The question I wanted to ask you was around the essential membership of the United States. Not only is the US not a member of the ICC but, it seems, has tried to undermine it. Do you think the United Kingdom has done enough to persuade, cajole, argue that the United States should be brought into the process, and if we have not done enough, what more can we do?

**Mr Crawshaw:** Given I think some of the themes about which we will be hearing later, you will be hearing lots of criticism. I am glad to say at least partially my response would be that the UK has played a positive role. Some Members of the Committee may remember that in past years we were very worried, we were very unhappy, frankly, that the UK seemed to be, if you like, giving the US a soft ride on various of the underminings that the US wanted to introduce for the court and different kinds of impunity and the UK was not really standing up to that. It was our impression—I would say more than an impression—that that was happening at some stage when the campaign started for an ICC referral on Darfur, but there was a happy ending in two senses, that by the end of that process—in other words in the spring of this year—the UK did actually play an important role in persuading the United States that there really was not something that could logically be resisted—it did not make sense—this was the most appropriate thing, and, therefore, we had the following happy end; and not only the UK, but the UK did play, by the end if not at the beginning, a positive role in saying there is no alternative, to use an old political phrase, and we therefore had the United States withholding its veto and allowing that referral to take place, which, although it did not get an enormous amount of newspaper coverage, is absolutely a moment of history, it seems to us, because it makes it very much more difficult for the United States to attempt to sabotage and undermine in the future. To go to your question directly of the United States signing up for it, I would love the United States to sign up for it. I hope that one day it will do. Again, living in the real world which we are forced to, there are other things, which we will no doubt come to later, of the United States' behaviour. We regret that they are not part of the Court, but there are some things that they could do right now which would make the world a safer place, and I would like to think that in due course they will understand the positive role the court can play and join, but I think what really needs to be confronted, which I hope we will discuss, is some of the behaviour of the country itself.

**Ms Allen:** Also, Amnesty very much welcomed the Security Council referral of Sudan. I think was a very key moment for the future of the International Criminal Court. We also have continued our work on countries signing up to the court, and in October this year Mexico became the one hundredth state to ratify the Rome Statute, so the US is increasingly a different voice on this issue, and we will continue our work to get countries to sign up.

**Q3 Mr Hamilton:** Mr Crawshaw mentioned Darfur. There are, of course, a number of cases pending. Do any of you think that the Court is functioning effectively so far and that it was right to choose the Democratic Republic of Congo and the Lord's Resistance Army situation in Uganda as appropriate cases for the ICC, or are there more pressing cases?

**Mr Crawshaw:** Darfur was very pressing and it was quite right that that happened. We felt those were appropriate cases, both the Congo, where, as you will remember, it was the government itself which referred, and it was true that in eastern Congo, in Ituri, the government's writ simply did not run there and it became entirely appropriate to have the force and the power of an international body to come in and do work on that. On northern Uganda we also felt it was entirely appropriate, broadly, in the sense that justice brings long-term stability, which I can say is a thread of all of our work, and that simply putting things to one side is not seen to be helpful in the longer term. If there is a concern which we have had with northern Uganda—and I hope the lessons have been learnt—it is that the presentation of that referral was done at a press conference by the Ugandan president, and it almost appeared to be a government initiative all about the Lord's Resistance Army, whose crimes are, of course, well documented, but it is also true that there have been serious abuses by the Ugandan Army as well, and I think that it was very unfortunate for the prosecutor to be standing there publicly side by side with the president—it gave the wrong signal of independence—and, beyond, that there was a reluctance to engage with civil society, which I hope, again, the lessons have been learnt. There were a lot of misunderstandings in Uganda itself about what was happening, and I would hope that the lessons that have been learnt from the Hague Tribunal, for example, on Yugoslavia where that sense of outreach to the society affected is very important. As I say, I hope that is a lesson which has been learnt for the future.

**Q4 Chairman:** You have mentioned the Hague Tribunal and the former Yugoslavia. There has been a rather strange timing of the statement by Carla del Ponte with regard to Croatia which seemed to be rather convenient in terms of the opening of the negotiations on Turkey's accession to the EU. It has been denied that there is any connection, but nevertheless the statements made on 4 October were rather helpful to getting a resolution of the impasse in the EU. Can I ask you whether you believe that that decision to reactivate Croatia's candidacy from the EU on the basis of reported progress with regard to the case of Ante Gotovina undermines the credibility of the International Criminal Tribunal for the Former Yugoslavia or do you think the two are not connected?

**Mr Crawshaw:** As you say, there has been a lot of discussion on this issue. Let me put it this way. We would regret very deeply if political deals were done which meant that justice was put to one side. I think that you do have to stand up for justice, and you are

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not doing yourself any favours if political deals are done. I would leave it at that. Clearly we want to see him brought to justice, and, as you say, there was a fairly marked turn around in the statements that we had from the prosecutor on that issue. It is certainly very regrettable if politics has entered into that matter. Justice should not be influenced by politics, clearly.

**Q5 Chairman:** Do you think that this sends unfortunate signals to other states in the region, like Serbia, who also have indictees to be dealt with at some point?

**Ms Allen:** I think that the real emphasis now must be on Croatia to ensure that General Gotovina is produced for the tribunal. I think that that is Amnesty's concern now, that we do see that action by the Croatian Government.

**Q6 Mr Pope:** Could I ask you to say a word about Guantánamo and the nature of the human rights abuses at Guantánamo, and perhaps you could also say a word about the British response, because it seemed, certainly to me, that the British response seemed to be centered on British nationals who had been held there. Now that those British nationals are back in the UK—they not have been charged incidentally—the UK Government seems to have been quite silent since the beginning of this year when the UK nationals came back. Can you say something about the nature of the abuses and the British response to it?

**Ms Allen:** I think we are now about to see the fourth anniversary of Guantánamo Bay's existence and in fact there are over 500 men still held there from many different nationalities. I think Amnesty's concern and our comment on the FCO's Human Rights Report this year would be that I think we have moved from commenting in that report on Guantánamo to an attempt to offer an explanation as to why Guantánamo might be necessary. I think we, at Amnesty, view the UK Government's record on this as lamentable and not improving. We are obviously very pleased that the UK citizens have been returned to the UK. There are UK residents in Guantánamo and they are UK residents whose families are in many cases UK citizens and can only look to the UK Government for support here; so we are very concerned that we are not getting the response that we would like to see from the United Kingdom Government about taking up those cases of residence and the wider general point of the existence of Guantánamo and the damage it does. We are seriously concerned at the moment about the fact that 210, we understand, men in Guantánamo are on hunger strike. We understand that six of those are UK residents and we have reports that people are critically ill, and we are not getting the response from the UK Government that we would like to see to taking an active interest and concern in the situation of those people. Therefore, we are incredibly concerned and disappointed by the UK Government's current role in terms of Guantánamo.

**Q7 Mr Pope:** What sort of practical things could the UK Government do? Would we be best raising this diplomatically as part of the special relationship or should we take a more public stance in being critical? What is the most effective way forward?

**Ms Allen:** I think four years into Guantánamo, if the diplomatic routes have been used and they are not working, I think there really ought to be a much more public voice by the UK Government. We increasingly hear from people who have come back from Guantánamo stories of abuse, of cruel, inhuman, degrading treatment of people, we increasingly hear stories from people of the way in which they have been dehumanised in their time at Guantánamo and I think it is time the UK Government used its influence with its major ally about the UK residents and the whole wider issue of Guantánamo.

**Q8 Mr Purchase:** Continuing on the theme of America and camps of one kind or another, there have been a number of reports, I think, by Human Rights Watch on a possible string of camps across Europe and Asia set up by the Americans through the CIA where very similar matters are being pursued such as those at Guantánamo—people being tortured and so on and so forth. Is there any real evidence to support that claim that has appeared in the press as well as from Human Rights Watch?

**Mr Crawshaw:** There is absolutely definitive evidence of the fact that people are being “disappeared”, and I use that word carefully. We remember it from Latin America, and they are perhaps not being killed, but the fact is that people are being taken out of circulation. The United States has, indeed, admitted that they are taking people out of circulation. They are being held somewhere in secret prisons. It is an extraordinary underlying fact of the whole way that the US has conducted what it calls its war on terror that it seems not to believe that the rules apply. Many of the people who they have taken out of circulation in this way may indeed have committed terrible crimes—some on that list are known to be strong al-Qaeda suspects—but the idea that that means that therefore you should not say where they are being held and how they are being held is extraordinary. As regards the latest ones which you mention, which again is partly to do with the flight logs and where people have landed and the pattern, we have said—it has sometimes got down to a kind of shorthand—that there are strong indications from what we are seeing—in other words, the pattern of the logs, direct flights from Afghanistan to Romania, to Poland and the pattern of what we are seeing, strongly suggests that there are camps being held there—and, frankly, even if they are not there, there are others elsewhere, it is our strong feeling. The available evidence points only in that direction.

**Q9 Mr Purchase:** Has anybody emerged to say, “I have been stuck in this camp” anywhere?

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**Mr Crawshaw:** No, all of those people are still there.

**Q10 Mr Purchase:** It must be very difficult for organisations such as yourselves to get real, hard information. How unhelpful are the Americans? Do they completely clam up, do they give you a clue or any information at all?

**Ms Allen:** Can I just quote for the Committee. You will remember the Taguba Report by Major General Taguba into the scandal at Abu Graib. His report was leaked and in it he referred to “ghost detainees” and he referred to these as detainees who were held in secret and moved around prisons to hide them from visits by the International Committee of the Red Cross. He described in his report, “This is deceptive, contrary to army doctrine and in violation of international law.” We do have reports from the US’s own internal inquiries, which, we would hold, are not adequate enough by any means, but even in those terms we have clear documentation that these are the practices that the US administration is using.

**Q11 Mr Purchase:** Do you think the British intelligence services are in the loop on this one?

**Ms Allen:** We have no evidence of that.

**Mr Crawshaw:** Could I say as a postscript to that, I think merely to say, “Oh we did not know”, is a most inappropriate response, which we are hearing to some extent from the British Government. If they did not know, why are they not asking the questions? You have available the pattern of behaviour which, as Kate Allen has said, as I was laying out, we have done entire reports on the subject. The evidence there is available that there is a problem that exists, and it does it seem to us that the British Government should absolutely be challenging that, including the intelligence services.

**Q12 Mr Purchase:** You say there is evidence that it exists. I am perfectly prepared to believe you. On the other hand, with such a lack of hard information and evidence, it is difficult to make all this stick, is it not? Particularly I ask you: is Britain in the loop? You think not, but may be they are.

**Mr Crawshaw:** To clarify, it is not a fact that we have a US government denying these things and therefore one is left slightly baffled, saying, “We do not say it is happening.” Other people say, “Well, we think it is.” You are then, I think you will probably accept, left slightly with a stalemate. The reality is that you have got a pattern which the US has never denied. As Kate Allen mentioned, there was one US official who gave the very clear rationale for the process of extraordinary renditions, as it called them. We do not kick the expletives out of them, we send them back to other countries so they can kick them out of them. Precisely what has been happening is, “Oh, we better not do it on US soil, but somewhere else it really does not matter.” That has been more or less public—we have not heard it quite from the mouth of the president, but it has not seriously been denied that is what is happening. Given that it has not been denied, indeed could not be denied given the extraordinary pattern of clear evidence of what has

happening, it is surprising—I would put it at its very mildest—that the British Government does not raise the issues. Just as a postscript to what Kate Allen was saying on Guantánamo, there again it is extraordinary that it is treated as British—you know, the focus on the Brits—as though somehow if we deal with our citizens, which is perfectly logical for diplomats to do in a narrower context—you focus on your own people—but not to see the message that is being sent by the trampling of international law, in the broadest sense, I think is really remarkable.

**Q13 Mr Purchase:** On the question of finding hard evidence, does Human Rights Watch or, indeed, Amnesty International have resources that you could devote to discovering at least a tiny little the gap anywhere?

**Ms Allen:** We do have hard evidence. In our report “The USA Torture and Secret Detention Testimony of the Disappeared in the War on Terror” we have documented the cases of people. We have the cases of two men, Muhammad Bashmilah and Salah Salim Ali, who were from Yemen, who were arrested, detained and tortured for seven days in Jordan, they were held incommunicado for more than a year. They were transported between detention facilities, held, and interrogated by guards that they say came from the US and they were subsequently detained without charge in Yemen where we visited them in June this year. We do have documented cases of people who have told us about being moved.

**Q14 Mr Purchase:** You have presented this to the British Government?

**Ms Allen:** This is a public report which has certainly been presented to the British Government this year.

**Q15 Mr Maples:** I just want to take you back to Guantánamo along the same lines really. I forget the exact words you used, but in your written statement you talked about evidence of torture and widespread cruel, inhuman and degrading treatment and this was in relation to Guantánamo. I am interested in a similar question, what hard evidence there is of that, because, interestingly, when the second batch of British detainees came back they did not actually seem me to make any serious allegations, and they certainly were not taken up by any sections of the British press where you might have expected them to be taken up. I wonder what hard evidence there is particularly of torture. I suppose they are all the same thing: cruel, inhuman and degrading treatment probably amount to torture.

**Ms Allen:** I think we have very strong accounts, particularly from young men from Tipton, who documented on their return to the UK what had happened to them, of being kept awake, of loud music, of threats being made to them, of being held and interrogated endlessly day after day. We had a lot of accounts from—

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**Q16 Mr Maples:** Would you call that torture?

*Ms Allen:* I think that amounts to torture.

**Q17 Mr Maples:** We are talking about people who have been responsible for killing 3,000 American citizens. Where does the distinction between a tough interrogation technique and torture begin? That sounds to me like a tough interrogation technique.

*Ms Allen:* We are talking about young men who were selling electrical goods in Tipton at the time of September 11.

**Q18 Mr Maples:** They were arrested in Afghanistan?

*Ms Allen:* They were not people that were responsible. They have never been charged. They are back in this country.

**Q19 Mr Maples:** No, but it is the torture aspect. If the Americans are torturing people at Guantánamo I think we would all be very worried about that.

*Ms Allen:* I think if you hold people incommunicado and you interrogate them endlessly day upon day, that you have extremes of temperature that are used, that you do not allow them any contact with their families, that you have loud noise playing continuously, that you threaten people in terms of their lives and their well-being, I think that adds up to torture.

**Q20 Mr Maples:** Have you got this written down anywhere you can send to us?

*Ms Allen:* We have documentation about those cases.

**Q21 Mr Maples:** Could you send it to us?

*Ms Allen:* Yes.

**Q22 Mr Maples:** Human Rights Watch: what is your view?

*Mr Crawshaw:* Echoing what Kate Allen has just said, we have one report which was just called "Techniques used at Guantánamo". I think it is important to remember that torture is not just applying electrodes to the testicles—you know, the obvious things that we know about, those kinds of brutal things—but that is part of what the US administration has used, but only when it goes to the furthest extreme, though even those ones have been used, to put it this way, a number of the techniques that have been used have led to both self-incriminating evidence which was completely false—in other words the pressures were great enough that they confessed to things which they had not done and provably had not done—you know, having been together with Osama bin Laden at a particular time when demonstrably, and as, indeed, the British authorities later confirmed, they had actually been somewhere else. Those kinds of pressures are banned for the same reasons. Some of the Committee may have seen there was a Channel Four programme called "Guantánamo Guidebook" which did a kind of reconstruction, which was interesting in the way that it was done, showing that even though what might seem not very strong, only

over a period of 48 hours people were actually backing out. People who defined themselves as hard guys who would not give in at all were backing out.

**Q23 Mr Maples:** Have you got anything in any report which you could send to us?

*Mr Crawshaw:* Absolutely, yes, on the techniques, but broadly also I would urge the Committee to consider the extent of the denial which is going on when we have entirely credible accounts of what has happened. Just to pick up a point you made a little bit earlier, not everybody has been tortured at Guantánamo. That is not the suggestion. Some people have got off relatively lightly and others have not. I think what we are seeing a pattern of is the belief somehow, which does seem to me a quite extraordinary belief to have reached in the twenty-first century, that at some points the ends justify the means. I would leave with the Committee the phrase that you may well be familiar with, but Cofer Black, who was the senior CIA official after 9/11 said, "After 9/11 the gloves came off." That was said as a colloquial phrase, but actually it is a very vivid phrase. The gloves are about the Queensbury Rules and obeying the rules, and after 9/11 it was felt the rules no longer mattered, and I deeply regret that we have heard from the Prime Minister what may appear to be a similar kind of suggestion, that rules of the game have changed. The gloves should not come off. If we want a safer world, you do not do it by saying, "Let the gloves come off and let them have what is coming to them."

**Q24 Mr Maples:** I think it would be very helpful to us if both your organisations could let us have further evidence which you have in writing.

*Mr Crawshaw:* We would be happy to do so.

**Q25 Sandra Osborne:** Could I ask you about the US practice of extraordinary rendition and the UK's role in that, because media reports recently have suggested that aircraft involved in operations have flown into the UK, at least 210 since 9/11, which is an average of one flight per week. It is suggested there is a 26 strong fleet which has used 19 British airports, the favourites being the two Glasgow airports, Glasgow Prestwick and Glasgow Airport, where flights have flown in and out more than 75 times and 74 times respectively. However, the Foreign Secretary told this Committee that the policy is not to deport or extradite any person to another state where there are substantial grounds to believe that the person would be subject to torture. The British Government is not aware of the use of its territory or airspace for the purposes of extraordinary rendition. The Government's denial of the use of UK airspace therefore appears to fly in the face of media reports and growing evidence that it is not in actual fact the case that UK airspace has been quite extensively used. What role do you think the UK are playing in the process of extraordinary rendition?

*Mr Crawshaw:* I think as regards the use of the airspace, as you say, the evidence is there and it is suggestive. I would not feel able confidently to say who was in those planes or what, but I think, if we

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are going put it bluntly, the public deserves answers. I think Britain deserves answers to explain if not that, what were these flights about, because the evidence is suggestive there. If I may I will also pick up on what you said about the Foreign Secretary saying that people would not be sent back from Britain to a place where they would be at risk of torture. It may be that the Committee wants to address this in a separate section, but certainly that is simply an untrue statement as we have it at the moment. It is simply inaccurate to suggest that the British government is not going in that direction. They have been pressing for these diplomatic assurances. The version that they have constantly asserted is that these diplomatic assurances received from governments where somebody might be deported to are so constructed to ensure that torture will not take place. In reality all the evidence that we will be seeing has shown that these things absolutely do not work, and, indeed, really that they cannot work. I am happy to explain it at great length if you would like, but I think it is a non-starter. You were asking people to talk of an illegal practice which they are already committing and should not be committing but on this particular occasion with this particular person they would not carry out that illegal practice—in other words the torture—and that it will be possible to check on those because you will go into the person's prison cell and say, "Have you been tortured recently?" and expect to get an accurate answer from that person. There will be no interest from either the receiving country's side let alone the sending country's side (in this case the UK) in getting to the bottom of the facts. If you send them to places where torture is widespread, then that is what will happen. We have already had a couple of notorious examples, one from Sweden to Egypt, another one was a Canadian Syrian being sent back, being picked up en route back home to Canada and being the deported to Syria on what John Ashcroft called the "appropriate assurances that had been received", this from the place that had already been described by the US Government as the "axis of evil", but they decided to believe Syria on this occasion on torture. So the idea of, "Oh, we are not doing that. We would not dream of sending someone back to somewhere where they might be tortured", is simply inaccurate. Put differently, I think they feel that the British public perhaps does not mind so much because they assume that those people deserve to have whatever happens to them happening to them, and that is a quite different argument which I would like to hear rather more bluntly put by the British Government. If that is what they are thinking, then they should say that and not pretend that the torture will not in fact take place.

**Ms Allen:** On the use of airspace, I have nothing to add to that except to thank the Committee for asking those questions of the Foreign Secretary and pursuing these issues. I do not know whether, Chairman, it would be appropriate to comment on diplomatic assurances at this stage.

**Q26 Chairman:** You can do that now, yes.

**Ms Allen:** I think that in any previous year that we have been in front of the Committee we would have been congratulating the UK Government on its

programme of work to eradicate torture around the world, and, unfortunately, and quite shockingly, we cannot be in that position this year because of the practice of diplomatic assurances. Those assurances have already been signed with Jordan and Libya and we understand they are to be pursued next with Algeria, Egypt, Morocco and Tunisia. As Steve Crawshaw has said, we consider these assurances not to be worth the paper that they are written on. Just to let you know in terms of our concerns about Libya, we are dealing at the moment with the case of Mahmoud Mohamed Boushima, who left this country to return to Libya. He had been here since 1981 following his opposition to the Libyan regime. On 10 July he went back to Libya with assurances from the Libyan Government that he would be safe. He has been detained by agents of the Internal Security Agency. He has been held incommunicado. His family do not know where he is and have had no contact with him. He has no access to lawyers. He has been in that situation for four months. That is the Libyan Government that our government is signing diplomatic assurances with and intending to return people to. In Jordan we have evidence of torture, ill-treatment, incommunicado detention, especially of political offenders, and I think that anybody who would be returned from this country would certainly fall into those categories. We find the approach of the UK Government to diplomatic assurances on the issue of torture to be an absolute coach and horses through any attempt to eradicate torture and in fact to give succour to those regimes that do practice torture; so we are deeply shocked by this turn of events in terms of the foreign policy of this country.

**Q27 Chairman:** It has been reported that the UN Commission on Human Rights is inquiring into the British Government's role in extraordinary rendition. Do you have any evidence that that is happening?

**Mr Hancock:** I believe it is the Special Rapporteur on Human Rights and Terrorism which was created by the Commission on Human Rights, and, yes, I do understand that they are doing a general inquiry into counter-terrorist measures and how they comply with human rights and that as part of that he is looking into extraordinary rendition and indeed the UK.

**Q28 Chairman:** Do you have any indication of when they are going to produce a report?

**Mr Hancock:** No, I would think there will need to be a report back to the Commission next year, but I do not have any more information on timing.

**Mr Crawshaw:** As the Committee will perhaps be aware, the UN Special Rapporteur on Torture, Manfred Novak, has been absolutely clear-cut. The man, if you like, with the international authority on the issue of torture has been very, very clear-cut on how unacceptable the diplomatic assurances are, and it was dismaying, and it was the first time I have seen a British government minister being so publicly contemptuous of a senior UN official. We have sadly seen in other countries that one has had that

response, but it was a determination not to hear what Manfred Novak was saying on this which was very, very clear-cut. I would be very pleased to be able to say something on the torture issue about the UK silence on US abuses, but you may be coming to it. If not, can I say my two seconds worth?

**Q29 Chairman:** Yes, say it now.

**Mr Crawshaw:** I have written it, but I think it is so important. I never expected to be so shocked by what I read in this Human Rights Report, which has so much to be welcomed within it, as the inaccurate characterisation of the US inquiries into the abuses and torture, not just at Abu Graib but also elsewhere, suggesting that these have been “substantial inquiries” which have “prosecuted and punished those responsible” is utterly inaccurate, and we have now seen recently that the US, with the latest wave of revelations, which Human Rights Watch partly helped to bring to the public arena after the person who tried privately to do so was knocked back by his superiors—the UK Government not only fails to comment, which was the problem we had with Guantánamo, but actually characterises the problem as though it has been addressed, and it simply has not. I find it extraordinary.

**Chairman:** Thank you; that is a useful introduction to Richard Younger-Ross who is going to ask some question about Iraq.

**Q30 Richard Younger-Ross:** In Iraq there are still a number of detainees held by the US and others. My understanding is that the holding of these is illegal under the Geneva Convention, which only applies if detention without charge occurs in the case of international armed conflict or occupation. Can you outline what your view on that is and, in particular, how you believe those who are still being held are being treated? Has the abuse of them occurred earlier? Has that abuse ended?

**Mr Hancock:** I would think that the US and, indeed, UK governments would point to the fact that the power to detain security detainees was part of an exchange of letters between the governments of Iraq and the Government of the US and the multinational forces there at the time of the UK resolution that authorised the handover from occupation to the interim governments. At the time Amnesty International had a range of concerns about this, including who has responsibility for treatment of these detainees, who has oversight of them? There is a range of questions there. I will look at how live those concerns still are, whether we have been reassured, and let you have further information on that. We are still concerned about the way in which detainees are being treated. We do not think, as Steve touched on just now, that all the inquiries and all of the learning about Abu Graib has been done, particularly by the US Government, and so in no way would we say we are comfortable with the US in particular continuing to hold detainees.

**Q31 Richard Younger-Ross:** You say that you are not comfortable. Do you have any evidence, or any hard evidence, that abuses are still taking place?

**Mr Hancock:** It is difficult to come by, because we are unable to get into Iraq; but certainly people who do come out talk about ill-treatment.

**Mr Crawshaw:** What we do of course have evidence of, and some of that came out yesterday, is that in Iraqi custody there are some very, very serious abuses going on. More of that came out yesterday. We had done a report on that in January, which both the British authorities and indeed the Iraqis were saying they were taking very seriously, but the problem is still absolutely endemic in Iraq itself.

**Q32 Richard Younger-Ross:** They said they were taking it seriously. Do you believe that the British Government is doing enough?

**Mr Crawshaw:** On the Iraqi custody problem?

**Q33 Richard Younger-Ross:** Yes.

**Mr Crawshaw:** On the Iraqi custody, I think that the British Government did play a positive role. There is of course a problem, not specifically now with the British but certainly again with the Americans. The American abuses that they have themselves carried out make it extraordinarily difficult for the Americans then to play a leading role, as they might have been able to do in the past, of saying, “This is not the way a modern civilized society should be behaving”, and it has become almost part of the pattern, if you like. But on the narrow point, we were—I have put it in my written submission but I am happy publicly to flag it here again—pleased that the British Government took very seriously the revelations in our report and were seeking to address them. There is no question that not enough has been done.

**Q34 Richard Younger-Ross:** Moving on to Saddam’s trial, I understand that the trial has now been suspended because of fears over safety which followed the abduction and murder of Saadan Sughaiyer al-Janabi, who was a lawyer representing one of the ousted Iraq president’s co-defendants. Do you feel that the trial should have been suspended? How do you think that trial should now progress?

**Ms Allen:** We, from Amnesty, had observers at the first day of the trial on 20 October, and were very encouraged by that first day of the trial and the reception amongst the Iraqi population about Saddam being brought to account. The trial was then adjourned so that the defence would have further time with the evidence, and we were very pleased that that had happened. I think that the murder of some of the lawyers involved is deeply to be regretted, and I think that the court needs to consider what protection it needs to be able to restart this process; because it is absolutely important that Saddam Hussein is brought to account. We would also, in terms of that particular trial, very clearly say that we would hope that the UK Government would exert its influence to the utmost to ensure that the death sentence is not delivered to Saddam Hussein.

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**Q35 Richard Younger-Ross:** A number of human rights organisations and political parties believe that there should be an extraction process for the troops out of Iraq. However, others fear that if there is an extraction process there will be less stability and greater human rights abuses during that process. Have you looked at that, and what is your view in terms of what is likely to happen to human rights in Iraq, if and when the troops start to withdraw?

**Mr Crawshaw:** From Human Rights Watch's point of view it is a political question. It is clearly a very important political question. Both the coalition forces and the Iraqis themselves need to understand that one of the bases for any kind of security has to be an observance of the rule of law. We saw an extraordinary US failure on this in the period immediately after the fall of Saddam, and somehow believing that short cuts could be taken there. We see it now with the Iraqi authorities, with the kind of torture and so on that we have seen. I think that it would not be for us to judge when is the right moment for an international force to be there or not to be there; but whoever is there and responsible needs to understand that if you have a situation of enormous insecurity, which clearly is the case in Iraq at the moment, the way past that is not to short-cut and think that you can use violent methods or a lack of due process. To pick up also on your question on Saddam—again it is a pity to flag things afterwards but, frankly, these were things that we were flagging in advance—it does emphasise how important are the issues of security, both for lawyers but also for witnesses. Thank God, we have not yet had problems of the lethal kind with witnesses; but that is something which we flag very strongly: that this matters enormously. It is not just what happens in the courtroom; outside the courtroom becomes just as important for that trial to continue. It does seem to us that beyond welcoming, as Amnesty does, the trial itself, we have had concerns about some of the standards of proof required; but broadly we welcome the fact that a trial is happening. Certainly, if people are going to be killed for giving testimony or for defending some of the defendants, that does not help anybody forward at all.

**Ms Allen:** On the FCO report and the entry in terms of Iraq, from Amnesty we would question the broadly positive tone of that entry. We consider, as Human Rights Watch does, that the security situation in the country is dire; there have been no reductions in terrorist attacks, and we have reported recently on the activities of armed groups. Like Human Rights Watch, I think that it is a judgment which it is impossible for us to be making; but what we would want to ensure is that the concerns about the human rights of Iraqi citizens are at the centre of those decisions and the way in which they are made, and that they are demonstrably at the centre of those decisions and the way in which they are made.

**Q36 Richard Younger-Ross:** Finally on Saddam's trial, do you feel that other charges should have been brought? Do you have any fears about the charges that have been brought?

**Ms Allen:** No, we see some very clear charges being brought of alleged murders, and we are very happy to see those brought before the court. If there are future charges, then those should take their place too.

**Q37 Chairman:** Switching focus, the Human Rights Annual Report of the FCO talks about the revolutions in Ukraine, Georgia and Kyrgyzstan. Do you have any concerns that, although the process of democratic change there has been very welcome, there are outstanding human rights problems? I know Human Rights Watch has commented on this. I would be interested to have a perception from you as to how you see the process going on now.

**Mr Crawshaw:** Clearly there are lots of problems but again, as a human rights organisation, one does grasp at the times when you can say that the glass is at least half-full and not pretty much on empty. Broadly, the fact that those changes have taken place is to be welcomed. In other words, Georgia has moved forward from where it was before. There were huge problems there. Ukraine ditto. Kyrgyzstan is in a much more ambiguous position. In effect, we have two governments in Kyrgyzstan at the moment, fighting with each other for the battle of the soul, as it were. Are there problems still? Yes, absolutely. Georgia would be a case in point. We had widespread torture continuing after their peaceful revolution, and so things need to be addressed. One thing that we at Human Rights Watch certainly notice—since we take our victories where we can, as it were—is that the response to our concerns is very, very different in tone from what it was before. That may be different from reacting in deeds, but there is a willingness to engage with the issues: a broad understanding that human rights matter, in a way that some of the other central Asian states, which still have their old Soviet leaders running them—and in some ways more brutal even than during the Soviet era—do not. Those have not yet had change and clearly are a source of instability themselves. The very fact of that repression is a source of instability, undoubtedly.

**Q38 Chairman:** I want to switch focus to a number of other countries. Can we ask you about your assessment of human rights in Turkey? Clearly they have improved enough, and quite significantly, for the EU to open accession talks. What would you regard as the priority areas? Do you think that if the EU goes cold on Turkey's membership, under the Austrian presidency or later, this will act as a disincentive to improvements in Turkey?

**Ms Allen:** What I would say from Amnesty International is that we have welcomed the Turkish Government's commitment to bring their laws and their practices into line with human rights. We very much welcomed the ending of the death penalty and some real progress that has been made over the last couple of years in Turkey, as that country in particular has sought to meet the Copenhagen principles. What we feel at the moment is that there has perhaps been a slowing of the reform process. What we think the priorities should be are the

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creation of effective human rights institutions. We would like to see an independent police complaints commission that could investigate torture and ill-treatment, particularly perpetrated by the police forces. We welcome the Turkish penal code but, again, we have seen the very high profile case recently of the writer Orhan Pamuk for “insulting Turkishness”. We have also welcomed the Turkish signature to the Optional Protocol to the Convention against Torture.

**Chairman:** There is a division. We hope that we have only one, but we are not certain about that. We will break for 15 minutes. If there are two divisions, it will be longer.

*The Committee suspended from 3.37 pm to 4.01 pm for a division in the House.*

**Q39 Chairman:** I think, Ms Allen, you were in the middle of answering on Turkey.

**Ms Allen:** Yes. We have very much welcomed some of the progress in Turkey. We are concerned that it might be slowing down. I outlined our particular concerns, and would just add that we are very concerned about the situation of women and ensuring that there is protection for women, particularly from violence in the family. Those are our main issues. You asked whether the accession should proceed and what would happen if it did not. What we are concerned to ensure is that Turkey continues its progress towards meeting the criteria, and certainly that those criteria are not reduced in any way. We very much hope that that progress will enable Turkey to continue its wish to join the EU.

**Q40 Andrew Mackinlay:** Human Rights Watch, in their note to us in respect of Iran, said that it does appear that sometimes the criticism—presumably that is of Her Majesty’s Government—“has not gone beyond mere rhetoric”. I would like to come back to that in a moment and invite Human Rights Watch and Amnesty to amplify upon that. Before doing so, however, can I say to Mr Crawshaw that certainly Human Rights Watch is highly regarded both in this country and internationally and, rightly, it shapes the opinion of legislators and governments. I was therefore personally very surprised and disappointed by the report published earlier this year on the MKO, or what we know as the People’s Mojahedin of Iran. I was surprised by its contents, which I do not want to debate here now but, inasmuch as it influences our opinion, can I say that I wrote to the Human Rights Watch director in New York, talking about the methodology of the document. Frankly, it did not coincide with my own personal views. A similar letter, I understand, went from Labour peers Lord Corbett, Lord Clarke of Hampstead, Lord Russell-Johnston, Lord Avebury, and David Amess and Lord of Appeal, Lord Slynn. So far as I am aware, nobody has received a reply from the director of Human Rights Watch, which I think reflects very badly on the organisation—particularly as we had challenged the methodology of this. The report itself—and this is the only reference I want to make, Chairman—says, “Human Rights Watch interviewed by telephone 12

former members of MKO”. It seems that, on telephone conversations, this report, which many of us see as tendentious, was publicised. It does have an effect on rights because, as you know, there is a battle on as to whether or not the MKO should be on the list of terrorist organisations. I think that it is legitimate for me to raise this. As I say, I respect Human Rights Watch. I hold it in high regard and value it, as other people do. But here was, on the face of it, a tendentious report, reasonably challenged by the people I have referred to and by people in other countries as well, and we do not even have the courtesy of a reply. I wonder if you could deal with that.

**Mr Crawshaw:** I am sorry about that. As you say, it would take too long to talk about the details of the report. I would only say that Human Rights Watch does absolutely stand by what it said in that report, which was—you will remember from knowing it—not to do with terrorist organisation or not. It had to do with abuses within the camps; in other words, very serious abuses within that. I am sorry if you feel that there has not been an answer and—

**Q41 Andrew Mackinlay:** Well, there has not been.

**Mr Crawshaw:** I know. I am sorry if you feel there has been a rudeness in the lack of the answer. There were threats of legal action being taken, which clearly we as Human Rights Watch feel quite inappropriate, and we stand by our stuff absolutely. I think there may have been a caution until some of that had progressed further; but that does not really—

**Q42 Andrew Mackinlay:** No, it does not. I am sorry to labour the point, but this report, having read it and read it again, was based upon telephone conversations.

**Mr Crawshaw:** In the narrow sense, that was—

**Q43 Andrew Mackinlay:** The impression some of us got, right across the political spectrum here in the United Kingdom, right across other European legislatures, was that in fact the organisation, on this matter, had been infiltrated—which is presumably something which is possible.

**Mr Crawshaw:** Which we, of course, believe absolutely not to be the case. I know that we do need to move on. Those particular interviews were done by telephone; however, there is a wider background to it. I am sorry, and I am very happy to—

**Andrew Mackinlay:** You will see that I get a reply.

**Q44 Chairman:** Can I suggest that Mr Mackinlay will get a reply, but also it might be helpful if Human Rights Watch were to write to the Committee, explaining the report, sending us a copy of it, referring to your response as well, so that we have it on the record.

**Mr Crawshaw:** I am happy to do that<sup>1</sup> and also, given the amount of internal discussion, if that is a letter which partly is waiting for a fuller letter—

**Chairman:** Thank you very much.

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<sup>1</sup> See Ev 42

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**Q45 Andrew Mackinlay:** Let us go to the substance, which I actually have some empathy for: that HMG has been a bit soft. We have seen, since the report was published, a change of government in Iran and so on. So, over to you, Mr Crawshaw and Ms Allen—because this might be an area on which we have some agreement—I would like you to amplify upon your concerns on where we are in Iran on human rights.

**Ms Allen:** Can I say from Amnesty that we think that the entry this year is a bit more critical in tone than last year's report, and we agree that the situation in Iran is difficult and worsening. Our concerns include recent curtailing of freedom of expression; the arrest of 25 internet journalists who have received prison sentences; students who have been imprisoned following demonstrations. We have heard allegations of torture and ill-treatment, and of course the deaths following demonstrations in Khuzestan, where 31 people died, and in Kordestan, where 20 demonstrators were killed. Our other major concern with the situation in Iran is the extensive and appalling use of the death penalty. We have seen at least 159 people executed in 2004, including juveniles and minors. We are also very aware that torture continues to be routine in many prisons. The use of the death penalty and the use of it on minors is deeply shocking. We have intervened in many cases, as Amnesty: some successfully, some not. Those are the major concerns that we have at the moment about the human rights in Iran.

**Q46 Andrew Mackinlay:** What about the United Kingdom Government's response to those abuses, which I concur with your assessment of? Are we banging on the door with a wet sponge, basically?

**Mr Hancock:** In response to the individual death penalty cases, it is worth putting on record our appreciation for the fact that the Government has been willing to intervene on those, and that has had an effect as well—alongside some other European countries. I would really like to be clear in stating that we appreciate that. I would just echo the point that this report does indicate some of the thinking which goes on at the Foreign Office, and it is important that they have become more critical this year. Importantly, it referred to discrimination in Iran and the people it is obviously aware of is the Baha'i community. I think it would be worthwhile mentioning that is not the only religious belief system that is discriminated against. So there is perhaps a little more detail that the Foreign Office should be seeking to add in terms of other affected groups.

**Q47 Mr Pope:** You mentioned concerns earlier about conditions in some of the former Soviet states in central Asia. I want to raise the specific issue of Uzbekistan, because earlier this year there were the terrible events in Andijan where around 500 people were shot dead by Uzbek troops; widespread arrests followed, and there were allegations that many of those people had been tortured. Since then, the EU has suspended its Partnership and Co-operation Agreement with Uzbekistan. Do you think that is

enough? Has the British response been robust enough? There are pages on Uzbekistan in the Foreign Office Annual Report, but my view is that it seemed a little weak on conclusions. It was detailed on analysis but weak on conclusions, and I wondered if you could give us your view.

**Mr Crawshaw:** I would certainly echo that, especially at the time that this report went to press—which was after the Andijan massacre which you have mentioned. It was really on the scale of Tiananmen Square, in the sense that, as you say, it was at least 500 and it may well have been much more than that. We do not know exactly. Human Rights Watch and others have produced a report called *Bullets Were Falling Like Rain*—which as, you will recall, is a quote from one of the demonstrators—and a subsequent report, *Burying the Truth*, which is the torture people were suffering in order to come up with the government's version—quite fictional version—of events which claimed that basically this was a bunch of terrorists that they were confronting. It was regrettable, especially with the UK holding the EU presidency from July of this year, that there was not really a momentum to confront what had happened. You mentioned the suspension of the Partnership and Co-operation Agreement, which sounds a little bit over-detailed, if you like, but it is actually the first time that it had ever happened—so it was quite a significant moment. This had not happened before. There were other sanctions, first in October but which now have been strengthened, both with a visa ban and with an arms embargo. So you have the sense that some pressures are there. What would be very important—and I have to say that I do still worry about it—is that there is not the sense that, "We have now taken action that was needed and now we can move on and forget about this". There is the visa ban for senior members of the regime—they have finally put some names to that and there is a list of names—but I think that it is very important for it not to stop there, because Karimov still believes that he is sitting pretty, and he does need to be under pressure.

**Q48 Mr Pope:** I got the impression certainly that Uzbekistan was a useful ally in the war on terror with its air bases and that there has been a certain amount of soft-peddling.

**Mr Crawshaw:** That was of course absolutely, 150% the case before, when Britain, let alone the United States, refused to confront what was happening there.

**Q49 Mr Pope:** There is one area about Uzbekistan that has been a real concern to me, and I think also to the Committee. That is the allegations that have been made that people have been tortured in Uzbekistan and then the information which has been garnered by the use of torture has been shared with the Americans but, much more pertinently, with our security forces. I have tabled a number of Parliamentary Questions on this very topic and answers came there back none. I wondered if either of your organisations had any evidence about this. We have had a letter from our former ambassador to

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Tashkent, Craig Murray, which has made a number of allegations along these lines. If you have any evidence, I am sure that the Committee would be very pleased if you could share it with us, either today or in writing.

**Mr Crawshaw:** The hard evidence of what was shared back—of course the former ambassador is in the best position, unless we think that he has invented it. He has documented clearly what happened, and the British Government has not denied it really. Therefore one has the philosophical question, if you like, that the Government seems to believe that, “If this might save us all from being blown up, then we shouldn’t ask too many questions”. I referred to it in our submission, I think, that Eliza Manningham-Buller in one of her submissions basically said as much as that: “We’re not going to ask, because that would make things difficult”. I really think that is a most extraordinary way to behave, in terms of keeping us safe—thinking, “We don’t actually want to know if this person was tortured”. First because of the phrase being used, “selling our souls for dross”—that was the memorable phrase; the inaccuracy of stuff gained under torture; but, beyond that, the message being sent. So it is not really “Has it happened?”; it has happened and it is partly being defended. It is “Should it be?”, and we would say absolutely not.

**Ms Allen:** We would support that and say that we of course see the case in front of the House of Lords, as to whether evidence extracted under torture elsewhere in the world should be used in British courts, along with diplomatic assurances, as the other part of our major concerns about where the British Government is going on this issue of torture, and the absolute undermining of the prohibition on torture. As with Human Rights Watch, we are shocked by these ways of introducing torture into the way in which cases were taken here in the UK, and we very much look forward to the conclusion of the House of Lords’ decisions on this.

**Mr Crawshaw:** The British Government has said, and it is quite right to say, it has played such a leading role in the past in confronting the issue of torture. It has already played a very important role. It is deeply depressing to see what we have now, which is exactly what Kate has just said—really a fourfold betrayal. On the one hand you have what you are addressing—the use of material for intelligence use; you have the House of Lords case, of being able to use it in British courts; you have diplomatic assurances if you were being sent back to the risk of torture; and then what I flagged earlier—this extraordinary, worse than a silence—you have a denial of your closest ally, the US Government, having what we have called “leadership failure” in documenting it. So on all of those things the British Government has simply backed away.

**Mr Pope:** The worst aspect of this is that if it is happening, it is happening in secret. They are not even being up-front about it.

**Q50 Mr Purchase:** Before we condemn completely, are there any circumstances, do you think, in which the long-term bilateral relationships between nations are sometimes best served by not overtly recognising abuses in either one of those nations?

**Ms Allen:** The issue of torture is such an extraordinary human rights abuse, and it is one that is internationally condemned and legislated against, that I do not think that we can turn a blind eye to any instance of torture. I think that it is incumbent upon the British Government to adhere to that. That is the concern at the moment: that by abandoning that, it is sending such an appalling message around the world, and the message that is being heard by those who use torture as a green light. So this is something that really does have ramifications well beyond this country. Those are the concerns that we have. There has never been a country that has used torture in one situation. Torture is always used again and then again, until it becomes routine. There is no line that you can draw about torture, except that it should not take place.

**Q51 Mr Purchase:** Even if it was a judgment, a reflective judgment, which says that to draw attention or to campaign, or to do whatever, may well damage long-term prospects for the end of torture in a particular country? Philosophical, I know, and hopefully hypothetical, but I ask you the question.

**Ms Allen:** I do not think that you can end torture by turning a blind eye to torture happening, or condone torture happening. I think that it is one of those issues that absolutely, categorically, we have to stand against. The impact of torture is appalling in terms of the individuals where it is used, but it also has its impact upon those that use it and the countries that authorise it. I just do not think that that is a way that we would come to any long-term ending of torture.

**Mr Crawshaw:** I would echo it absolutely as regards the turning of a blind eye, but I would emphasise that here we have more than turning a blind eye; we have an active statement that the problem has been addressed, when it clearly has not.

**Q52 Mr Hamilton:** We know that since the publication of the Annual Human Rights Report the Mugabe regime has launched what they so charmingly call “Operation Murambatsvina”, which means “Operation Clear the Filth”. We saw it on our TV screens, especially when our colleague Kate Hoey went over there secretly to film the evictions, and there have been many more pictures of the houses being burnt down and people living on the streets in fear and poverty. Conditions in Zimbabwe are deteriorating every day. They continue to do so. Human rights abuses continue to be prevalent and multiplying. I wondered what your comments would be about how we, as the United Kingdom, can help improve human rights in Zimbabwe—especially given that we are seen as the great enemy, the great colonial imperialist power. They will not allow us in; they will not allow our diplomats to do anything; they will not allow our journalists from the BBC in. What can we do?

**Ms Allen:** We very much agree with the sentiments that you are putting forward. What we are seeing at Amnesty is fewer cases of torture but a clearer and a different change of strategy, which has moved

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towards the manipulation of food, which only goes to those who support the Mugabe regime; and, as you say, the removal now of 700,000 people in Operation Restore Order. We do see a humanitarian disaster unfolding in Zimbabwe. I think that the British Government has used its pressure very extensively. What we would think is necessary is for the UK and the EU to use their pressure through dialogue with African states. As you have said, the pressure from the UK is portrayed as colonial by Mugabe; that is the way in which it is seen and talked about. I think the more that the UK Government and the EU can do to encourage African states, and in particular South Africa who have been such a disappointment on this issue, to raise their concerns, so that it is seen as something that is led from within Africa, the better. Those would be the ways that we would want to see the UK Government use its influence.

**Q53 Sandra Osborne:** Could I ask you about Colombia? The FCO report describes Colombia as a country of concern, particularly in relation to human rights, while having a fairly positive attitude towards President Uribe, saying that there is no evidence that it is government policy that the military collude with the paramilitary in Colombia—although it is widely believed by NGOs that that remains to be proven. Do you have any knowledge of how the UK Government ensures that the military aid to Colombia is not misused and abused? What mechanisms do you feel could be put into place to monitor the situation?

**Ms Allen:** We very much share those concerns. We think that the UK should cease to provide military aid until the Colombian Government has implemented the recommendations from the UN around human rights. We are very much concerned that the military support given by the UK Government could be misused by the army. It does have close links to the paramilitaries. Those links have not been cut. Those are the recommendations that the UN is pursuing. So we would like to see that. On the arms issue generally, out of 19 of the 20 countries which are of concern to the Foreign and Commonwealth Office in the Human Rights Report, there are arms exports to those countries. What we would like to see in this Human Rights Report for the future is an explanation of why that is, so that we can have a conversation about that with the Foreign and Commonwealth Office. The only country of concern that is not receiving arms exports from the UK is North Korea. We would like to see the reasoning why those exports have been agreed. Having said that, we are very pleased by the Foreign Secretary's support for an arms trade treaty. I think that the support of the UK Government is absolutely brilliant and very essential to see the potential for that treaty, and we would very much want to congratulate the Foreign Secretary and the British Government on that support.

**Q54 Chairman:** In two weeks' time, this Committee is visiting the Middle East, Israel and the Occupied Territories, and we will also go to Saudi Arabia and

the United Arab Emirates. Very briefly—because we will obviously be getting lots of other evidence on those areas—what do you think the UK can do to improve human rights in Israel and the Occupied Territories?

**Mr Crawshaw:** One thing I would flag above all others—there are obviously a number of concerns, including after the pull-out—something which is still insufficiently addressed is this question of impunity, which underlies so much else in terms of the message that is being sent. The language of the Human Rights Report, as I remember it, was quite soft. It praised the fact that there was some kind of justice in connection with the Britons who had been killed. Those are such extraordinary, exceptional examples that it is really most inappropriate to use those as though they were an indication that things are getting substantially better. They are not. Again, we would be very happy to send to members of the Committee a report which we did recently called *Promoting Impunity*. If Committee Members have not seen it, it does contain quite shocking material in the sense of that pattern—the absolute refusal to confront. I think that Britain could play an important role in saying, “This is what needs to be done”. There is of course a pattern of different abuses that are to be seen there, but I think that is one thing which needs to be heard loud and clear.

**Q55 Chairman:** What about on the Palestinian side?

**Mr Crawshaw:** On the one hand you have the continuance of suicide bombers, which are a crime against humanity obviously; taking strong action against those—which is something which needs to happen; and a number of abuses, including physical abuse. That is the important message to send. I think that one which can and should be heard is certainly that one too—the Israeli Government and impunity.

**Q56 Chairman:** What about Saudi Arabia? Do you think that we are providing sufficient support to deal with human rights abuses there? Also, the UK nationals who allege that they were ill-treated in Saudi Arabia—do you have any view on that?

**Ms Allen:** The Foreign and Commonwealth Office says in this year's report that there have been “small but significant improvements” in the reform process in Saudi Arabia. As the Committee knows, we have been very critical over the last few years of the UK Government's approach to the Saudi Government. We would recognise that there have been small steps. We are not yet sure whether those are significant or not. The human rights situation in Saudi Arabia is still absolutely dire in very many ways that we have documented, including appalling use of the death penalty and the use of torture. In terms of the British nationals, very recently I met Dr Bill Sampson and Les Walker, two of the British nationals who were tortured by the Saudis within the last couple of years. They talk about the most appalling forms of torture that they both suffered, including sexual abuse and threats to Mr Walker's wife as well. So appalling accounts of torture, and I think the UK

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Government needs to make sure that it gives full support to those men as they try to get redress from the Saudi Government.

**Q57 Sir John Stanley:** Can I turn to Afghanistan? Whatever the shortcomings—and there certainly are plenty at the moment—would you agree that, in human rights terms, the Afghanistan President Karzai is a significant improvement on the Afghanistan of the Taliban?

**Mr Crawshaw:** Yes. That is not a difficult question to answer. The follow-up to that is not to say, “Let’s not look at the seriousness of the problem”. What I thought you were going to say—which I would also be happy to send to you from Human Rights Watch’s point of view—was has the British Government played an important role, which it has done, in terms of confronting the power of the warlords? Again, the United States, with enormous short-sightedness—and I perhaps use this word repeatedly, but I do think it is extraordinary that they believed in Washington that somehow supporting people who had well-known track records for brutality, continued to be brutal in their rule, were “allies in the war on . . .”—in this case not just terror but on the Taliban—could be useful allies. That is not the way you get a stable country and it did President Karzai no favours to bolster those warlords—including arming them, which has contributed greatly to the continued climate of instability in Afghanistan at this time. We would have wished Britain in the past to take a stronger role, but broadly I think Britain has understood that much better than its close ally in Washington. Clearly the need to support the international force there is strong.

**Q58 Sir John Stanley:** Do you think that we are holding on to the gains, in particular women’s rights, in Afghanistan or is the situation now going back into reverse, as is being reported in some quarters?

**Ms Allen:** I think that when you are in a situation as in Afghanistan at the moment, where security is such an issue and it is absolutely the overwhelming issue, particularly outside of Kabul, the situation for women does become quite bad. It is very much our experience that the levels of violence, discrimination and humiliation of women remain high within the country; that for safety’s sake women are retreating back into the home; that it is very difficult for women and young girls, particularly in rural areas; and that we do need to see support to women in Afghanistan, to some very brilliant women’s organisations and some very courageous women who have stood in the recent elections. That really does need, in this situation, to be the kind of support that needs to take place over many years. That has to be there over the next decades, not just in the next year or so, to ensure that there is significant change which is seen through, to see that women’s position in Afghanistan really does improve.

**Q59 Sir John Stanley:** Can I turn to China? The overall view—and it is very difficult to escape from—is that we are making virtually no progress

at all as far as human rights in China are concerned. We have a country with an absolutely massive use of capital punishment; a country which is continuing, totally ruthlessly and systematically, to suppress all forms of what would be regarded by the regime as contentious political expression; the suppression of free trade unionism; the suppression of a lot which we would regard as perfectly normal religious expression. Would you take the view that we are making no progress whatever on human rights in China, or do you hold out any areas in which we are making progress?

**Ms Allen:** We do not see any areas where progress is being made. You talk of the death penalty. We heard a Chinese national legislator announce last year that 10,000 people are executed each year, many of those after very summary trials and after the use of torture. What we have seen is the UK-China Human Rights Dialogue in June this year, which is now in its thirteenth round. Our view at Amnesty is that we would like to hear from the British Government about what progress it thinks is being made in these dialogues. From our perspective as Amnesty, it would be extremely helpful to have some clarity about what the British Government is setting out to achieve. We have no criticism of quiet diplomacy, if it is having an effect; but, after the thirteenth round, we do question that and we would like to know what the British Government sees as the progress to be made there. It is clear that the Chinese Government is very much wanting to be involved in that dialogue. It would be ironic though if what the dialogue itself achieves is simply the UK being quiet publicly and in various international fora about the appalling record of the Chinese regime, which you have outlined so clearly.

**Q60 Sir John Stanley:** Does Amnesty have a view on this? Are you saying to us that the dialogue is a convenient receptacle for the Chinese Government, basically, to buy off the British Government in making only very modest adverse criticism of China on human rights?

**Ms Allen:** I think that it is time for the British Government to be absolutely, publicly clear about what it sees as the advantages of the dialogue, what progress it wants to see, and to pursue that in a public arena. We were quite disappointed, during the recent visit of Premier Hu, that those opportunities were not sought and that the debate—the public debate at any rate—was simply one about trade, important though that is.

**Mr Crawshaw:** Clearly the list of concerns is long and it is clear to all of us here. You are asking are there any signs of hope. One sign of potential hope is that civil society is there and wants to go in one direction. It is not that, “Oh, in China they do things differently”; it could go in one direction, of people being suppressed in many ways. In those circumstances it is particularly disappointing when a British Prime Minister, for example—as flagged in our written submission—is asked by a Chinese journalist about issues and the words “human rights” are not even mentioned. To me, given that

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list of concerns, it is a very odd sense of politeness not even to flag that up—because trade is so important. It does not seem to take us forward.

**Q61 Sir John Stanley:** I turn specifically to the situation in Tibet. Is that a situation in human rights terms which you consider to be stable, or is it one which is deteriorating? Conceivably you may think it is improving. Please tell us.

**Ms Allen:** We do not think that it is improving. We continue to document abuses taking place in Tibet, particularly of monks and nuns and of other religious minorities. So we have nothing to say about improvement in Tibet. It is one of our major concerns in terms of the Chinese regime.

**Q62 Sir John Stanley:** What do you consider to be the objectives of the Chinese regime in terms of Tibetan culture and Tibetan identity?

**Ms Allen:** There are very clearly moves by the Chinese Government in terms of trade—its economic power—that involve moving people into Tibet. Those issues do cause us great concern about Tibetan culture and its survival.

**Mr Crawshaw:** I echo of all what you have just heard. Clearly the attempt to suppress the identity is visible at every level.

**Q63 Chairman:** Can I ask you about the position in Indonesia? Do you think our government is doing enough to support human rights there? There is also the West Papua question. Would you like to comment on that?

**Mr Crawshaw:** What we at Human Rights Watch have done a lot of work on has been on Aceh, and sometimes one could have wished for a stronger voice on that from the UK Government; but broadly it has, at least to some extent, been addressed by the UK Government in the meantime. On West Papua, it is problematic that we are being blocked from going there. We hope that we will nonetheless, but there is the great reluctance on behalf of the government to allow the kind of scrutiny and the kind of openness which will allow, frankly, the abuses which we know to be going on to be fully documented and therefore to be addressed. I think that a strong voice on that from the UK Government would undoubtedly be helpful. Too often there is the belief that if a government is broadly better than it was, therefore very serious remaining problems should not be addressed. I think that the opposite is in fact the case.

**Q64 Chairman:** Can I take you on to Nepal, where clearly we have much closer historic relationships than we do with Indonesia and close military relationships. We continue to provide military support to the King's Government and army, despite the current political situation there. Do you think that that military aid should be suspended until there are elections?

**Mr Crawshaw:** Amnesty may have different information on this, but it is something which I have been discussing recently with colleagues in our Asian division looking at this. Our understanding has been

that that military aid had been suspended earlier—unless you had information to the contrary. That was our clear understanding, and of course we welcome that because it would be most inappropriate.

**Ms Allen:** Absolutely, and that is our understanding too.

**Q65 Chairman:** And you would hope that that would be maintained until such a point as there is a restoration of a democratically elected government?

**Ms Allen:** Absolutely. We see a situation of 200,000 people displaced. We know of 400 people, named people, who have disappeared. There is an absolute climate of fear. It would be intolerable to think that the UK Government would be exporting arms.

**Q66 Chairman:** Can I try to pick up a couple of other questions that I have jumped across? What is your assessment of the position in Russia? The Annual Report does talk about it, but clearly the British Government is keen to have good relations with Russia. There are a number of concerns that a number of organisations raise there. How do you feel about our position with regard to Russia?

**Mr Crawshaw:** I certainly think, and Human Rights Watch believe, that the situation is extremely serious there, and is getting worse as the years go on. It has been deeply regrettable, and again I find it, to use a polite word, puzzling that the British Government, most particularly the Prime Minister—we have seen some very accurate criticisms within the Human Rights Report—repeatedly fails to confront this. I assume that he feels that it would be impolite somehow to address it. I think I have flagged it in our submission that, when a Parliamentary Question asked whether he had raised the question of disappearances—as we all know, a synonym for murder in effect, and those people being taken from their beds in the middle of the night and never seen again—a very serious problem in Chechnya today—it was not addressed, even in those private conversations it seems. We also have very strong pressure on NGOs which is growing, including stuff which might even theoretically make it impossible for international NGOs such as Human Rights Watch, which has a Moscow office, to continue to work there. These things need to be addressed absolutely head-on. There is no politeness in the world which can believe that, somehow, because trade is now doing well, because of a range of other things, these things ought not to be addressed. These are crimes against humanity. The United Nations recently agreed a new convention on disappearances; a new treaty against disappearances has been agreed. It is already a crime against humanity. So I think that the British Government, beyond the absolutely accurate criticism in this report, needs to confront that head-on and not believe that Putin is some friend in—and again, it comes back to the same story—the war on terror. There are undoubtedly terrorist attacks in Russia. We have seen that. There have been horrific attacks in Beslan and elsewhere.

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But the way to move forward from those is not to soft-pedal on the crimes being committed by the state.

**Ms Allen:** This Committee last year was critical of the report concentrating on Chechnya, to the detriment of reporting on other areas within Russia. I think that the report has put that right this year; that it does cover human rights across the country, in particular in Chechnya and the concerns that we share there. Again, we would want to see, like Human Rights Watch, some clear statements by the British Government of what improvements it would want to see and the way in which it would raise those with the Russian Government.

**Q67 Chairman:** Finally, we have had the Africa Commission report this year, which talks amongst other things about governance and human rights in Africa, yet one of the key members of that commission is Mr Zenawi from Ethiopia. We have seen recent tensions between Eritrea and Ethiopia. Do you think the FCO Annual Report refers sufficiently to human rights abuses in both those countries? How do you feel we should take forward concerns about human rights in some African countries?

**Ms Allen:** We do have concerns on human rights in both Eritrea and in Ethiopia that are not covered fully in the FCO's report. We have concerns in Eritrea about religious minorities; over 1,000 members of one minority church in prison; again, the use of torture. In Ethiopia our concerns are around some of the recent demonstrations that have taken place in Addis Ababa and the security forces shooting and killing many civilians. We are also

deeply concerned by the tensions on the border. We saw all too appallingly in 1998 to 2000 the impact of that border dispute then. So I think that we would welcome greater attention from the UK Government on those issues.

**Q68 Chairman:** There is one other country in Africa where Britain at least, through some of our oil companies, has major interests and that is Angola. There are clearly outstanding issues from the civil war there. Do you think that the Annual Report gives sufficient coverage to Angola?

**Ms Allen:** There is very little mention in the report of Angola. We do, from Amnesty, have some very clear concerns. There are, and there continue to be, clashes between the MPLA and UNITA. We see a country where one million civilians were estimated to hold firearms illegally, with all the effect of that. We are aware of some improvement in police behaviour, but there are still very many reports of the police committing human rights abuses. We again have seen literally thousands of families evicted from informal urban settlements in Rwanda. So we have some very serious concerns about human rights and, as you say, Chairman, they are not covered in the FCO's report.

**Q69 Chairman:** We have covered an enormous area of territory—probably most member states of the UN in one way and another! I would like to thank all three of you—Mr Crawshaw, Ms Allen and Mr Hancock—for coming along. We are very grateful. No doubt you can follow up, if you feel that there is anything that you want to send us. We will be very pleased to receive it. Thank you for your time.

**Ms Allen:** Thank you for giving us the opportunity.

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#### Further written evidence submitted by Human Rights Watch

##### STATEMENT ON RESPONSES TO HUMAN RIGHTS WATCH REPORT ON ABUSES BY THE MOJAHEDIN-E KHALQ ORGANIZATION (MKO)

In May 2005, Human Rights Watch issued a report on alleged human rights abuses committed by an Iranian opposition group, the Mojahedin-e Khalq Organization (MKO/MEK),<sup>10</sup> inside its military camps in Iraq from 1991 to February 2003, prior to the fall of Saddam Hussein's government. The report, *No Exit: Human Rights Abuses Inside the MKO Camps*, detailed allegations by 12 former members of the MKO who told Human Rights Watch of a range of physical and psychological abuses they had suffered and witnessed.<sup>11</sup> In addition, the report made use of the published memoir of the MKO's former chief diplomatic representative in Europe and North America, Masoud Banisadr.<sup>12</sup>

Following publication of this Human Rights Watch report, individuals associated with the MKO and others, in communications to Human Rights Watch as well as publicly on Web sites connected with the MKO, raised objections to the findings of the report. We have investigated with care the criticisms we received concerning the substance and methodology of the report, and find those criticisms to be unwarranted.

A number of critics of the report claimed that Human Rights Watch was calling on the United States, Canada, and the European Union not to remove the MKO from their respective lists of groups identified as perpetrating or advocating acts of terrorism, in the face of a campaign by the MKO to have itself removed from such lists. Human Rights Watch in fact at no point, either in the report or in responses to media and other queries, took any position whatsoever on whether the MKO should be on such lists or removed from

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<sup>10</sup> Also known as People's Mojahedin Organization of Iran (PMOI).

<sup>11</sup> <http://HumanRightsWatch.org/backgrounder/mena/iran0505/index.htm>

<sup>12</sup> Masoud Banisadr, *Memoirs of an Iranian Rebel* (London: Saqi Books, 2004).

them. Rather, we did no more than report what we believed to be credible testimonies alleging serious abuses perpetrated by MKO officials against dissident members of the group, including prolonged deprivation of liberty and torture.

A group known as Friends of a Free Iran (FOFI), comprising four Members of the European Parliament—Alejo Vidal Quadras, Paulo Casaca, Andre Brie, and Struan Stevenson—presented the most extensive of the critiques of the *No Exit* report on September 21, 2005.<sup>13</sup> The FOFI document disputed the testimonies and challenged the credibility of the witnesses interviewed by Human Rights Watch, saying, among other things, that their allegations were “widely believed to be orchestrated by Iran’s Ministry of Intelligence.”<sup>14</sup> The MKO has similarly alleged that Human Rights Watch’s witnesses, and dissident former members generally, are in fact agents of Iranian intelligence. Neither FOFI nor any of the other critics of the Human Rights Watch report have provided any credible evidence to support this charge.

The FOFI document followed a five-day visit by a delegation of FOFI members to the MKO’s main base in Iraq, Camp Ashraf, in July 2005. The FOFI delegation reportedly interviewed 19 MKO members inside Camp Ashraf. According to the FOFI document, these present MKO members disputed testimonies given by the former MKO members to Human Rights Watch. The FOFI delegation did not interview any of the individuals who gave testimonies to Human Rights Watch.

Because Human Rights Watch places a high premium on the accuracy of our reporting and public statements, the organization took these allegations seriously. We went back to our sources to review and reevaluate the credibility of their allegations. In October 2005 Human Rights Watch researchers met in person with all 12 witnesses quoted in the *No Exit* report. The researchers conducted interviews lasting several hours with each witness, individually and privately. All interviews were conducted in Germany and the Netherlands, where the witnesses now live.

All of the witnesses recounted in extensive detail their experiences inside the MKO camps from the 1991–2003 period, and how MKO officials subjected them to various forms of physical and psychological abuses once they made known their wishes to leave the organization. Human Rights Watch researchers questioned the witnesses at great length about the circumstances under which these abuses allegedly took place. The researchers also asked the witnesses to respond to the specific issues raised in the FOFI document with regard to their testimonies. The witnesses provided detailed and credible responses to these challenges that were consistent with their earlier testimony as recounted in *No Exit* and are detailed in the appendix to this statement.

The only piece of information that emerged during these detailed face-to-face interviews that differed from the account in *No Exit* concerned the period of Mohammad Hussein Sobhani’s detention by the MKO. In *No Exit*, Human Rights Watch reported that MKO officials had held Sobhani in solitary confinement for eight-and-a-half years, from September 1992 to January 2001. The FOFI document stated that “upon his own request, he [Sobhani] lived in an apartment furnished with all living commodities of a comfortable life. Despite PMOI’s insistence that he must leave the organization, he was not willing to do so . . .”<sup>15</sup>

In his testimony in October 2005, Sobhani told Human Rights Watch that MKO officials held him continuously in solitary confinement from September 1992 until February 1998 inside Camp Ashraf, a period of five-and-a-half years. He said that in February 1998 the MKO leadership offered to transfer him to a better location and then to facilitate his transfer to Europe, where his daughter was living. Subsequently, the MKO moved Sobhani to another MKO camp near Baghdad, called Camp Parsian. He said he stayed there until June 1999, under circumstances that he described as “house arrest.” He said he was free to leave his apartment in Camp Parsian but could not leave the camp unless accompanied by MKO guards, and could not leave for Europe. In June 1999, during a visit to Baghdad, he escaped and attempted to reach the United Nations office there. He was captured by the Iraqi police and turned over to MKO officials. From June 1999 until January 2001, Sobhani said, the MKO again held him in a prison inside Camp Ashraf, once again in solitary confinement. In January 2001, the MKO transferred Sobhani to Iraqi custody. The Iraqi authorities imprisoned him in Abu Ghraib until January 21, 2002.<sup>16</sup>

As reported by the witnesses interviewed for *No Exit*, the MKO transferred scores of dissident members from MKO detention into Iraqi custody. Iraqi authorities then incarcerated the men in Abu Ghraib prison. Five of the twelve individuals interviewed by Human Rights Watch for *No Exit* said they ended up in Abu Ghraib as a result of such transfers, and they told Human Rights Watch that former MKO members were being held there when they arrived. The FOFI document fails to address the MKO’s transfer of the dissidents to Iraqi custody or their subsequent detention in Abu Ghraib.

<sup>13</sup> The report was presented on September 21 at a meeting in Brussels sponsored by the FOFI, according to a September 23 press release on the website of the National Council of Resistance of Iran, an MKO-related group. The text of the FOFI document later became available on the same website: <http://ncr-iran.org/images/stories/advertising/ep/%20report-with%20cover.pdf>. Many of the points raised in the FOFI document also were raised separately in correspondence addressed to Human Rights Watch by Lars Rise, a member of the Norwegian Parliament, and two members of the UK House of Lords, Lord Eric Aveyburn and Lord Gordon Slynn.

<sup>14</sup> FOFI document, pg 6.

<sup>15</sup> FOFI document, pg 65.

<sup>16</sup> Human Rights Watch interview with Mohammad Hussein Sobhani, Germany, October 4, 2005.

The FOFI document also raised two other objections to the Human Rights Watch report. Firstly, the FOFI document questioned Human Rights Watch's methodology of conducting interviews with witnesses by phone. Human Rights Watch, like other organizations that conduct research and report on current affairs, sometimes relies on telephone interviews to gather information. Telephone interviews are a recognized and appropriate method of information gathering. Human Rights Watch has no reason to believe that any of the witnesses misidentified or (misrepresented) themselves in any way whatsoever. They reaffirmed their credibility in face to face interviews in October 2005.

Secondly, the FOFI document challenged Human Rights Watch's report by stating that, during their visit to Camp Ashraf, the FOFI delegation did not find any indications of abuse or ill-treatment of MKO members. The Human Rights Watch report, as was made clear in that text, covered allegations of abuse inside the MKO camps prior to the overthrow of the government of Saddam Hussein in April 2003. The testimonies by witnesses who recounted allegations of detention and physical abuse cover the period from 1991 to February 2003. After the US-led invasion of Iraq in March 2003, US forces interviewed MKO members inside the MKO camps. The US military set up a separate camp for those members who indicated that they wished to leave the organization. At least 300 members (out of a total of nearly 4,000) chose to leave the organization. The Human Rights Watch report did not include any testimonies or allegations of witnesses as to whether there were ongoing abuses inside Camp Ashraf after the invasion of Iraq. Thus, the findings of FOFI with respect to current conditions in the MKO camp have no relevance to the Human Rights Watch report of testimonies about conditions in the camp from 1991 to February 2003.

#### APPENDIX

MKO members inside Camp Ashraf who the FOFI delegation interviewed disputed certain statements by the witnesses whose accounts appeared in the Human Rights Watch report. Human Rights Watch researchers questioned the witnesses at length concerning the allegations contained in the FOFI document. Their responses, in the view of Human Rights Watch, confirm the credibility and reliability of their original testimonies in *No Exit*.

The Human Rights Watch report contained allegations by witnesses that two MKO members, Ghorbanali Torabi and Parviz Ahmadi, died as a result of abuse suffered in MKO detention. The FOFI document challenged these testimonies.

- With regard to Ghorbanali Torabi's death, the FOFI delegation interviewed two MKO members in Camp Ashraf who disputed these testimonies. These two MKO members, Zahra Seraj, Torabi's wife, and Masoume Torabi, Torabi's sister, told the FOFI delegation that he had died of a heart attack, and not as a result of beatings at the hands of MKO officials. Neither of them claimed to have been present when he died. According to a communication to Human Rights Watch from Lord Avebury, who said he had interviewed Masouma Torabi by telephone on 13 June 2005, "Masouma saw Ghorbanali a week before he died."<sup>17</sup>
- Human Rights Watch again questioned Abbas Sedeghinejad, one of Human Right Watch's original sources on these events, about Torabi's death. Abbas Sadeghinejad confirmed his earlier testimony, based on his experience of sharing a prison cell with Torabi.<sup>18</sup> He again told Human Rights Watch that late one night, after Torabi had been taken out of the cell for two days, two men carried Torabi back to the cell, threw him inside, and locked the cell again. Torabi, Sadeghinejad said, was not breathing and his face showed signs of severe beating. He said that other cellmates examined Torabi more closely and believed that he had suffered broken bones. Sadeghinejad acknowledged that Torabi may have died of a heart attack, but maintained that the MKO had severely beaten Torabi, apparently during interrogation.

Alireza Mir Asgari corroborated the fact of Torabi's detention and ill-treatment at the hands of the MKO, based on his own direct experience. Mir Asgari told Human Rights Watch that the MKO also detained him at the time Torabi was detained. He said that he knew Torabi well as a child in Iran, and that Torabi had recruited him in Tehran at the age of 17 to join the MKO ranks in Iraq. Mir Asgari told Human Rights Watch that during his detention in 1995, he encountered Torabi face-to-face during an interrogation session. He said that the interrogators questioned them both about Torabi's motivation for recruiting Mir Asgari to the MKO camps in Iraq and accused them of working for the Iranian government. Mir Asgari said that when he met Torabi during this interrogation, Torabi's body showed signs of beatings and physical abuse.<sup>19</sup> Mir Asgari told Human Rights Watch that when he raised the subject of Torabi's death with MKO leader Massoud Rajavi, Rajavi alternately responded that Torabi had committed suicide and that Mir Asgari and other prisoners had themselves killed Torabi because they suspected him of being an informant. He said Rajavi at no point claimed that Torabi had died from a heart attack.

- Concerning the death of Parviz Ahmadi, the FOFI delegation reported that Hossein Roboubi, an MKO member, told them that Ahmadi died during a military operation inside Iran.<sup>20</sup> In its report, Human Rights Watch cited the MKO's claim that Ahmadi was killed by Iranian agents.<sup>21</sup> Human

<sup>17</sup> Lord Avebury email to Human Rights Watch, 15 June 2005.

<sup>18</sup> Human Rights Watch interview with Abbas Sedeghinejad, Germany, 2 October 2005.

<sup>19</sup> Human Rights Watch interview with Alireza Mir Asgari, Germany, 2 October 2005.

<sup>20</sup> FOFI document, pgs 60–62.

<sup>21</sup> [http://hrw.org/backgrounder/mena/iran0505/4.htm#\\_Toc103593132](http://hrw.org/backgrounder/mena/iran0505/4.htm#_Toc103593132): "... the MKO's publication *Mojahed* of 2 March 1998, lists Parviz Ahmadi as an MKO "martyr" killed by Iranian intelligence agents."

Rights Watch also presented the testimony of three witnesses, Abbas Sadeghinejad, Ali Ghashghavi, and Alireza Mir Asgari, who said that they had shared a prison cell with Ahmadi and saw him die inside the prison after prison guards returned him from an interrogation session. During Human Rights Watch's face-to-face interviews in October 2005, each of these witnesses gave separate, detailed, and consistent accounts of their recollection regarding Ahmadi's death. These testimonies were consistent with their earlier statements as published in the *No Exit* report.<sup>22</sup>

- The FOFI document contains an interview with Hassan Ezati in Camp Ashraf. Hassan Ezati is the father of Yasser Ezati one of the witnesses quoted in the Human Rights Watch report. Hassan Ezati reportedly told the FOFI delegation that “Yasser having left Camp Ashraf went directly to the Iranian Embassy in Baghdad.”<sup>23</sup> When asked about this statement, Yasser Ezati strongly denied it. He said that he first went to the German Embassy in Baghdad because he had lived in Germany before moving to Iraq. He told Human Rights Watch that because the German Embassy was closed at the time, his only options were either to return to Camp Ashraf or to go to Iran. He said he was desperate not to return to Camp Ashraf because he had waited for so many years to find the opportunity to leave. He decided to risk returning to Iran for lack of any alternative. He told Human Rights Watch that he went to the Iranian border on his own. Yasser Ezati said that during his stay in Iran, the Iranian local police arrested him three times for “moral offenses.” Yasser decided that because he had never lived in Iran previously he could not stay there and left for Germany.<sup>24</sup>
- The FOFI document contains an interview with Leila Ghanbari, an MKO member in Camp Ashraf who disputed the testimonies of Habib Khorrami, Tahereh Eskandari, and Mohammad Reza Eskandari in Human Rights Watch's report. Tahereh Eskandari and Habib Khorrami are sister and brother. Tahereh and Mohammad Reza Eskandari are married. Leila Ghanbari is the former wife of Habib Khorrami and had left Iran for Iraq with Khorrami and Tahereh Eskandari in 1988. The Human Rights Watch report quoted the Eskandaris as saying: “The organization had taken our passports and identification documents upon our arrival in the [MKO] camp [in Iraq]. When we expressed our intention to leave, they never returned our documents. We were held in detention centers in *Iskan* as well as other locations.” Leila Ghanbari disputed this statement, telling the FOFI delegation: “In one place they say my passport was taken from me. Let me tell you that I laughed at this claim . . . What passport? They were escapees!”<sup>25</sup> The FOFI authors state that MKO officials “said both Mohammad Reza Eskandari and Tahereh Eskandari crossed the border from Iran to Iraq and they never had passports to begin with.”<sup>26</sup>

Human Rights Watch questioned Mohammad Reza Eskandari, Tahereh Eskandari, and Habib Khorrami separately regarding these allegations by Leila Ghanbari and the unnamed MKO officials. The Eskandaris and Khorrami separately told Human Rights Watch that Tahereh Eskandari, Habib Khorrami, and Leila Ghanbari left Iran together in March 1988 to go to Iraq, crossing the Turkish border and using their passports to do so. They said the MKO confiscated their passports and never returned them. Mohammad Reza Eskandari was the only member of this family who escaped Iran without a passport across the Iraqi border. All three also noted in separate individual interviews that Leila Ghanbari was pregnant when she left Iran for Turkey, and that her and Habib Khorrami's son was born in Turkey. Habib Khorrami, Ghanbari's former husband and the boy's father, showed Human Rights Watch a copy of their son's birth certificate issued in Istanbul in April 1994 and stating the date of birth as 13 June 1988.

Leila Ghanbari also disputed the statements by these witnesses that the MKO had confined them in various MKO detention centers. Mohammad Reza Eskandari, Tahereh Eskandari, and Habib Khorrami, in separate face-to-face interviews again provided Human Rights Watch with detailed and consistent accounts of their confinement in various MKO detention centers.<sup>27</sup>

<sup>22</sup> Human Rights Watch interview with Abbas Sedeghinejad, Germany, 2 October 2005. Human Rights Watch interview with Alireza Mir Asgari, Germany, 2 October 2005. Human Rights Watch interview with Ali Ghashghavi, Germany, 3 October 2005. Their testimonies regarding Ahmadi's death appeared in *No Exit*, Pgs 16–17.

<sup>23</sup> FOFI document, p 69.

<sup>24</sup> Human Rights Watch interview with Yasser Ezati, Germany, 3 October 2005.

<sup>25</sup> FOFI document, p 78.

<sup>26</sup> FOFI document, p 78.

<sup>27</sup> Human Rights Watch interview with Tahereh Eskandari, The Netherlands, 6 October 2005. Human Rights Watch interview with Mohammad Reza eskandari, The Netherlands, 6 October 2005. Human Rights Watch interview with Habib Khorrami, The Netherlands, 6 October 2005.

## Wednesday 23 November 2005

Members present:

Mike Gapes, in the Chair

Mr John Horam  
Mr Eric Illsley  
Mr Paul Keetch  
Andrew Mackinlay  
Mr John Maples

Sandra Osborne  
Mr Greg Pope  
Mr Ken Purchase  
Sir John Stanley  
Ms Gisela Stuart

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### **Letter to the Parliamentary Relations and Devolution Team, Foreign and Commonwealth Office, from the Clerk of the Committee**

In preparing for the forthcoming Ministerial oral evidence session on the Foreign and Commonwealth's Human Rights Annual Report 2005, the Committee has asked me to request written answers to the series of questions below.

1. The FCO response to the Committee's request last year for a definition of a "human rights project" does not make clear the distinction between human rights and governance or democracy projects, and does not make clear which projects are so classified. Could the Government outline the distinction between human rights and other projects?

2. The establishment of the Council on Human Rights has transformed the UN structures dealing with human rights. What more needs doing before the Council starts its work? How is the UK contributing to the Council?

3. The Government does not feel that the EU High Representative on Human Rights in the area of Common Foreign and Security Policy should conduct an internal review of the EU's human rights work. Why not?

4. What is the Government doing to monitor and ensure that the legislative changes on human rights carried out by the Turkish Government are fully implemented?

5. Has the impetus towards human rights improvements in Turkey been maintained now talks on its accession to the EU have started?

6. Has the Government or any public body or agency, in any capacity, made use of information acquired by other governments or agencies through the use of torture? If so, when?

7. Is the use of information by the British Government or any other public body or agency acquired by other governments or agencies through use of torture compatible with the UK's international obligations on torture and other inhumane treatment in particular, and with its other human rights obligations in general?

8. What information does the Government have about the US "black sites" where terrorism suspects have been detained extra-judicially? Has the Government raised the matter with Washington, and if so what was the outcome?

9. What is the Government doing to ensure that no aircraft containing detainees being taken for interrogation to states where torture is practised, known as "extraordinary rendition", are passing through UK airspace?

10. The UK-China human rights dialogue appears to make glacial progress. What are the main achievements of the last year, and how does the UK measure them?

11. Would the implementation of a timetable for the implementation of human rights measures improve the effectiveness of the UK-China human rights dialogue? If not, why not?

12. What human rights guarantees would the Government request from its Chinese counterparts in exchange for lifting the EU arms embargo? Would ratification of the International Covenant on Civil and Political Rights satisfy the Government?

13. How is the Government placing pressure on the Burmese government to improve its human rights standards? Has the UK raised the question with ASEAN, and is it encouraging its EU partners to do the same?

It would be most helpful if the Committee might have your response not later than 22 November.

*Steve Priestley*  
Clerk of the Committee

9 November 2005

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**Letter to the Clerk of the Committee from the Parliamentary Relations and Devolution Team,  
Foreign and Commonwealth Office**

Thank you for your letter of 9 November, in which you requested written answers to a series of questions. For ease of reference I set out below the questions and our responses to each in the same order as in your letter.

1. *The FCO response to the Committee's request last year for a definition of a "human rights project" does not make clear the distinction between human rights and governance or democracy projects, and does not make clear which projects are so classified. Could the Government outline the distinction between human rights and other projects?*

The Government uses the definition that a human rights project is one that furthers HMG's human rights priorities and objectives in the country concerned. This means that projects will vary from one country to another and from one region to another, according to the human rights issues in that country. The Government also believes that human rights, democracy and good governance are interdependent and mutually reinforcing concepts, and that it is not possible to draw a neat distinction between what is a human rights project and what is a democracy, or good governance, project. For example key aspects of democracy include freedom of expression and assembly, equality and non-discrimination, which are important human rights in themselves. Important elements of good governance include the rule of law, which requires respect for key human rights such as the right to a fair trial and freedom from arbitrary arrest and detention. The Government does not therefore categorise a human rights project according to whether or not this is explicitly stated in the project title, but whether we judge it will have a positive impact on the human rights situation in the country or region concerned.

2. *The establishment of the Council on Human Rights has transformed the UN structures dealing with human rights. What more needs doing before the Council starts its work? How is the UK contributing to the Council?*

We welcome the agreement by the World Summit to create a Human Rights Council. However, precisely what the Council will look like was left to the post-Summit negotiations. The modalities of the Council, as well as what is required for the transition between the current structures and the Council, are still to be negotiated. We hope this will be achieved through the adoption of a resolution before the end of the year to establish the Council, as well as mechanisms to facilitate a smooth transition from the Commission on Human Rights (CHR) to the new body. It is unclear at this stage whether this will require the CHR itself to meet again to wrap up any unfinished business. We are currently co-ordinating the EU's position for those negotiations and working closely with the President of the General Assembly, his co-chairs and partners in New York and through our posts around the world to build support for a Council that represents a genuine improvement on the current CHR.

3. *The Government does not feel that the EU High Representative on Human Rights in the area of Common Foreign and Security Policy should conduct an internal review of the EU's human rights work. Why not?*

The EU has invested significant energy in recent years in developing human rights tools for use in CFSP, and in reviewing their effectiveness (we give some examples of on-going review processes below). In our view, the main priority now is to make active use of these tools, and to press on with implementation of existing review recommendations. We would like to see Michael Matthiessen direct his energies towards this active implementation, with a particular emphasis on improving coherence and continuity of EU activity.

We have involved Michael Matthiessen fully in the regular, on-going internal review which has taken place during our Presidency. While open to the idea of a fuller review of EU human rights work at some point in the future, we note that—as a Personal Representative of Mr Solana, with a mandate specific to CFSP—Mr Matthiessen may not be best placed to carry out any larger-scale review which encompassed EU human rights work under other pillars.

On-going/recent review of human rights work in CFSP includes:

- the Annual Review of implementation of human rights policy, as follow-up to 2001 GAC Conclusions (next review to be submitted to the December 2005 GAERC);
- regular (approximately annual) reviews of the EU's human rights dialogues. There were large-scale reviews of the EU-Iran and EU-China dialogues submitted to the GAERC in late 2004;
- formal biennial reviews of the EU's human rights guidelines (for example the review of the Children and Armed Conflict Guidelines which will be submitted to the December 2005 GAERC). Additional informal evaluations of all guidelines were carried out most recently in late 2004;
- the development of a biannual COHOM (Council Working Group) overview of the EU's third country dialogues, as they relate to human rights.

4. *What is the Government doing to monitor and ensure that the legislative changes on human rights carried out by the Turkish Government are fully implemented?*

The Government recognises that further progress is required in ensuring consistent implementation of the reforms passed, and we are monitoring the situation on the ground through our Embassy in Ankara. The Minister for Europe raised the need for Turkey to maintain the momentum of reform with the Turkish Prime Minister when he visited the UK on 27 October.

The Negotiating Framework agreed by EU Member States that will guide accession negotiations with Turkey states that “to ensure the irreversibility of progress and its full and effective implementation, notably with regard to fundamental freedoms and to full respect of human rights, progress will continue to be closely monitored by the Commission.” It also says that “advancement of negotiations will be guided by Turkey’s progress . . . against requirements including the Copenhagen criteria” and provides for the suspension of negotiations “in the case of a serious and persistent breach in Turkey of the principles of respect for human rights”. Enlargement Commissioner Rehn has said that negotiations with Turkey will be the most rigorous yet. The Government believes that all remaining concerns will be addressed during the accession process.

5. *Has the impetus towards human rights improvements in Turkey been maintained now talks on its accession to the EU have started?*

The Government has every confidence that the impetus towards human rights improvements in Turkey will be maintained following the start of EU accession negotiations. In response to the publication on 9 November of the European Commission’s 2005 Regular Report on Turkey, the Turkish Foreign Minister said “Our government is determined to implement the reforms, to deepen and strengthen democracy. We know our own deficiencies and we are determined to overcome them in the coming process.” The Commission report noted that “political transition is ongoing in Turkey” but that “the pace of change had slowed in 2005 and that implementation of the reforms remains uneven”.

In recent months there has been further evidence of the Turkish Government’s commitment to reform. For example Turkey signed the Optional Protocol to the Convention against Torture on 14 September and on 11 November launched a project, co-sponsored by the UK, to establish a probation service in Turkey.

6. *Has the Government or any public body or agency, in any capacity, made use of information acquired by other governments or agencies through the use of torture? If so, when?*

As the Government explained in the course of the recent case before the Law Lords, it is not always possible to know where all intelligence information has come from or the precise circumstances under which it was obtained.

We evaluate all the information we receive before it is passed into the assessment process. Where a report is known to derive from a source under detention, that would be taken into account.

The Government unreservedly condemns the use of torture and works hard with its international partners to eradicate this abhorrent practice.

7. *Is the use of information by the British Government or any other public body or agency acquired by other governments or agencies through use of torture compatible with the UK’s international obligations on torture and other inhumane treatment in particular, and with its other human rights obligations in general?*

The UK abides by its commitments under international law. We do not condone the use of torture in any way. United Kingdom law already contains extensive safeguards in relation to evidence obtained by torture. Those safeguards are found in the common law; they flow from the Human Rights Act; and they are contained in statute.

8. *What information does the Government have about the US “black sites” where terrorism suspects have been detained extra-judicially? Has the Government raised the matter with Washington, and if so what was the outcome?*

We are aware of press reports claiming that there are CIA detention facilities in Eastern Europe. We raise a range of issues with the United States on a regular basis.

9. *What is the Government doing to ensure that no aircraft containing detainees being taken for interrogation to states where torture is practiced, known as “extraordinary rendition”, are passing through UK airspace?*

We are not aware of the use of UK territory or airspace for the purposes of “extraordinary rendition”. Nor have we received any requests, nor granted any permissions, for the use of UK territory or airspace for such purposes.

10. *The UK-China human rights dialogue appears to make glacial progress. What are the main achievements of the last year, and how does the UK measure them?*

We agree that China's progress on human rights is slow relative to the impressive economic changes in the country. We do not believe that this lack of speed means the dialogue is failing. We have carried out periodic in-house reviews of the dialogue process and will continue to do so.

The FCO Annual Human Rights Report for 2005 illustrates a number of positive developments (eg a visit by the UN Working Group on Arbitrary Detention to China in September 2004 and the decision by China's Supreme People's Court to take back its authority to review death sentences). We are convinced that our dialogue, together with similar engagement by other countries, puts pressure on the Chinese Government and contributes towards incremental improvements.

Since the publication of the Annual Report, we have held another bilateral round of dialogue in June 2005. At this event a representative from the Chinese Propaganda Department participated in the exchanges—the first time that HMG has had the opportunity to engage directly with this influential organisation. It is most unlikely that this contact would have been achieved without the dialogue. We also led the EU China Human Rights Dialogue in October 2005. The focus of the exchanges was freedom of religion and the role of the judiciary in the criminal justice system.

11. *Would the implementation of a timetable for the implementation of human rights measures improve the effectiveness of the UK-China human rights dialogue? If not, why not?*

The dialogue has long term and ambitious goals, which are set out in the Annual Report. We assess China's progress towards these goals through the dialogue process, through our project work on the ground in China, through regular ministerial exchanges and through reporting on human rights in China to Parliament.

We do not believe that establishing a timetable for the dialogue would improve its effectiveness. There are some human rights issues on which the Chinese Government is interested in making progress and might work with us towards agreed improvements. But there are other areas on which the Chinese Government is not interested in co-operation or is extremely hesitant about engagement—issues such as freedom of association, freedom of expression and freedom of religious belief being particular examples. In such instances we find ourselves pursuing a role of moral advocacy rather than working with the grain of change in China. Against this background it is our view that agreeing a timetable with the Chinese Government for change would mean setting the target very low or—in some cases—it might prove impossible to set a meaningful target at all. While advocacy may not yet have yielded concrete results, it is important, nevertheless, to do it.

On the other hand, if we do not agree a timetable with the Chinese Government and we simply set our own targets and timetable, the question arises of what we should do if/when China has missed our time scales. Any possible response would need to have widespread international support, if it were to be effective.

12. *What human rights guarantees would the Government request from its Chinese counterparts in exchange for lifting the EU arms embargo? Would ratification of the International Covenant on Civil and Political Rights satisfy the Government?*

The EU agreed in December 2003 to launch a review of the EU's arms embargo on China, which was imposed after the demonstrations in China in 1989. The Government and indeed the EU have made no decision yet on whether to lift it. The review continues and will take all relevant factors into account. We do not wish to pre-empt the conclusion of the review and in the meantime we continue to implement the Embargo fully.

Clearly, within the context of possible embargo lift, it would be helpful if the Chinese Government were to make visible progress on human rights issues. Such progress would help the atmosphere in which other relevant discussions take place. However, human rights progress is only one part of the discussions. One cannot say that, for example, ratification of the ICCPR would automatically lead to Embargo lift. Lift is a political decision, a judgement, in which all relevant factors must be taken into account.

13. *How is the Government placing pressure on the Burmese government to improve its human rights standards? Has the UK raised the question with ASEAN, and is it encouraging its EU partners to do the same?*

We remain deeply concerned about the political and human rights situation in Burma. We have been at the forefront of efforts over many years to bring pressure to bear on the military regime to reform and to respect human rights. We regularly raise our concerns directly with the military regime. Most recently, our Ambassador in Rangoon raised our concerns with the Home Minister on 26 October and the Ministers for Labour and Foreign Affairs on 31 October.

Through the EU's Common Position on Burma we have imposed a comprehensive programme of targeted measures on the regime. We regularly review the Common Position with our EU partners and believe that the use of multilateral sanctions send the strongest and most coherent message to the regime. We renewed the Common Position in April this year.

The UK and the EU recognise the importance of working with ASEAN and other countries in the region to promote reform and democratisation in Burma. We take, therefore, every opportunity to raise our concerns with ASEAN countries. Most recently, both the Prime Minister and Foreign Secretary discussed Burma with the Thai Prime Minister and Deputy Prime Minister on 13 October. The EU also regularly discusses Burma with ASEAN partners. The EU and ASEAN discussed Burma at the ASEAN Regional Forum on 17–19 October.

*Chris Stanton*  
Parliamentary Relations and Devolution Team  
Foreign and Commonwealth Office

22 November 2005

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*Witnesses:* **Ian Pearson**, a Member of the House, Minister of State for Trade, Foreign & Commonwealth Office, and **Ms Alexandra Hall Hall**, Head, Human Rights, Democracy and Governance Group, Foreign & Commonwealth Office, examined.

**Chairman:** Good afternoon, everybody. Can I welcome the Minister, Ian Pearson, and Ms Hall Hall to our session on Human Rights. I think, if you do not mind, we would like to start with a first question from Sir John Stanley which relates to your role as Minister.

**Q70 Sir John Stanley:** Minister, you are in a unique position: in the official list of Her Majesty's Government, as published by Hansard, you have two identical entries as a Minister for Trade under the Foreign and Commonwealth Office and as the Minister for Trade for the DTI. You are also the Human Rights Minister as far as the Foreign Office is concerned. Can I ask you, are we right in thinking this is the first time ever in which there is a dual-hatted Minister responsible both for trade and human rights?

**Ian Pearson:** To the best of my knowledge that is absolutely true. We have had a Minister that has one foot in the DTI and one foot in the Foreign Office for a number of years but I think this is the first time that the role of the Human Rights Minister and Trade Minister have been combined.

**Q71 Sir John Stanley:** Is it your understanding that when you were appointed by the Prime Minister this was for the duration and was not confined to simply the length of the UK Presidency of the EU?

**Ian Pearson:** Well, we all serve and are at the disposal of the Prime Minister. I do not think anybody can predict how long we last in these matters, but I think I was appointed a Minister on the same basis as every other Minister.

**Q72 Sir John Stanley:** I appreciate it is difficult for you to agree this because you have been landed with this particular job, but is it not the case that there is an inherent contradiction in the particular dual responsibilities which you have been asked to undertake, given that there are many countries around the world where there is a real tension between prosecuting the UK commercial and trade interest and standing up for human rights? If one took a country, for example, like Burma where there

are many people and many Members of Parliament in all parts of the House who believe that there is, on human rights grounds, a very, very strong case for economic sanctions and trade reductions as far as Burma is concerned, how can you be seriously taken, if I might say so, as far as the outside is concerned, as somebody who can be both serious on human rights and serious on trade, given the contradictions in countries like Burma, China, Zimbabwe and others?

**Ian Pearson:** No, I do not agree with you that there is a contradiction. I think that it is pretty much common practice that UK Ministers have raised human rights issues but raised a lot of other issues as well with their interlocutors in other governments. That is certainly common practice as far as the Foreign Office is concerned. Certainly Jack Straw does not have any problem raising the issue of human rights and then raising a whole range of other foreign policy issues; the Prime Minister does not have any problem with raising the issue of human rights with the Chinese and then talking to them about a whole range of other issues. I certainly do not have any problems in raising the issue of human rights at appropriate opportunities and then also raising trade matters as well. Burma is not, perhaps, the best example to choose because we have a deliberate policy with regard to Burma of not encouraging trade and so I certainly would not be either visiting Burma or talking to anybody about investing in Burma.

**Q73 Sir John Stanley:** I am sure you do not have any difficulty in raising human rights issues, but the point I would like to put to you is, given the fact that you are titled Minister of Trade and that you have a clear duty and responsibility to prosecute Britain's trading interest in the world at large and, indeed, inside the House of Commons, is that really the best title to have when you are meant to be taking full responsibility for prosecuting the Government's human rights agenda within the Foreign Office?

**Ian Pearson:** We can get into issues about job titles. I think the key thing here is the UK Government's stance on human rights, which is a very strong one

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and goes right across government. So the Foreign Secretary, the Prime Minister and the Foreign Office team, raise human rights issues. You will find that Douglas Alexander, Kim Howells and David Triesman will raise human rights issues in their capacity as Foreign Office Ministers with the countries that they have direct responsibilities with. I also raise human rights issues with the countries where I have specific country responsibility in my Foreign Office remit. I do not see any difficulty in actually doing that because it is important that we raise human rights issues, but there are established ways of doing these things. So I do not see the problem that you are suggesting really exists.

**Q74 Mr Purchase:** Could I follow the same trail for a moment or two? Our experience of the human rights issues and trade is that you mix the two at your peril. There are a number of instances in recent past history which guide us in that direction. Would it not be better if the role of human rights overseer, if you like, was vested in DFID where there at least is a firewall between trade interests and humanitarian interests and development interests? That was established for that very purpose—to ensure that there was not too much of a mixture going on either in the Foreign Office or in the DTI. Would you give us a view on whether or not it would be better located in an overview type of role with DFID rather than the Foreign Office and the DTI?

**Ian Pearson:** Well, yes, I can give you a view, and my strong view is that this should be an FCO lead; it is only the Foreign Office that really has that whole breadth of reach and can cover all human rights issues. I think there would be a real risk of marginalising human rights if it was seen to be part of the remit of the Department for International Development. So I would argue it is in the right place at the moment in the Foreign and Commonwealth Office.

**Q75 Chairman:** We are now going to move to a number of other areas. Can I begin by asking you about the progress towards establishing the UN Human Rights Council? How are developments there going? Could you clarify the position of the Government at this stage? I understand, although it has been agreed, to establish such a body there are lots of difficulties, and if you could, perhaps, give us an update that would be very helpful.

**Ian Pearson:** I can certainly do that. As a Government we very much welcome the decision to create the Human Rights Council that was taken at the UN summit in September. I think this is a real success story as far as the UK is concerned. The UK, as the EU Presidency, has taken a leading role in developing the EU's position, including drafting and co-ordinating all the EU statements and position papers on the Council. We have worked very closely with regional partners, such as Canada, Switzerland, Japan and Mexico, to build up a regional consensus. The UK, on behalf of the EU as well, is co-ordinating a worldwide lobbying campaign with our EU partners to build support for a Council which represents a genuine improvement on the current

one. You have hinted that things might not be straightforward. Let me just say to you that we are working towards a Council that will be more effective, including through it becoming a standing body. We have just finished consultations and we are now just about to enter a process of negotiation in terms of the exact remit of the Human Rights Council.

**Q76 Chairman:** When you say “standing body” do you mean it would sit permanently?

**Ian Pearson:** Yes, that is very much what we want to see. We want to see it as a standing body that sits permanently so it can address urgent situations in real time. That has been one of the problems with the current system. Having to wait and get a meeting to take place is not, in our view, satisfactory. Certainly we also want it be a standing body that provides good access to non-governmental organisations because NGOs and, indeed, the information that comes from the press, are very important in human rights and will be important with the work of the new Human Rights Council.

**Q77 Chairman:** When can we expect it to be established?

**Ian Pearson:** We would like to see negotiations concluded by the end of this calendar year, but we cannot guarantee that, obviously. There are a lot of countries involved and I think it is fair to say that countries like Cuba and Venezuela have not been particularly supportive when it comes to these sorts of issues. So there is a lot of negotiation still to go on. We would certainly want to see the Human Rights Council up and running next year.

**Q78 Chairman:** Can it be established without a consensus?

**Ian Pearson:** My understanding is it can be established from a majority vote, but we would want to seek consensus.

**Q79 Chairman:** You would still seek consensus but if this drags on and you have no consensus what is going to be done to resolve it?

**Ian Pearson:** If it does drag on and we cannot get unanimity then we would want to seek a vote, as we do think there has to be an endpoint and we do want to see a new, more effective Human Rights Council brought into existence at an early opportunity.

**Q80 Chairman:** Can I turn to some questions about the International Criminal Court? We, as a country, have played a very important role in its establishment and, clearly, there is great interest in what is going to happen since the reference of the events in Darfur to the International Criminal Court, which was very important. However, the United States, as you are aware, has been very deficient on this and although they abstained on the reference of Sudan to the International Criminal Court they have not changed their fundamental opposition and they have also been trying to undermine the Court in different ways. Can you

reassure me that our Government is not going to give in to attempts to undermine the credibility of the International Criminal Court?

**Ian Pearson:** I can assure you that the UK Government remains fully committed to the International Criminal Court. You are right to point out that the United States has had reservations about the ICC. I think the particular problem it has is that it believes that the ICC could lead to politically motivated prosecutions, which it clearly does not want to see. We would not want to see that either and we are confident that the ICC Statute has sufficient safeguards to prevent this, and it is a point of disagreement between us and the Americans on this. We hope that over time the Court will be able to demonstrate to the US that its fears are ungrounded, and we continue to talk to the US about the ICC and stress very strongly our point of view. You rightly mentioned the situation about the resolution on Darfur, and I think it was encouraging that the US did not actually block the UN Security Council Resolution but allowed it to proceed. I think that is a hopeful sign which we will want to build on.

**Q81 Chairman:** What is your attitude to the US attempts to get non-surrender agreements? In fact, I understand they have got nearly 100 with countries around the world. Are we likely to sign one? Do we oppose and criticise them for doing this?

**Ian Pearson:** Our view as a Government is that we believe that non-surrender agreements are permissible under the ICC Statute providing they are consistent with states/parties' obligations under the Statute. I do not think I have got anything particularly more to add.

**Q82 Chairman:** But we are not signing one?

**Ian Pearson:** We have not signed one to date.

**Q83 Chairman:** Have you got any plans to do so?

**Ian Pearson:** Well, the US has not presented us with a draft, so the situation does not arise at the moment.

**Q84 Chairman:** Are we expecting one?

**Ian Pearson:** I am not aware whether the Americans are intending to encourage us to go down that route. They certainly know our strong views on the ICC.

**Q85 Chairman:** If they did present us with one what would we do with it?

**Ian Pearson:** We would give it careful consideration, as I am sure you would expect us to.

**Q86 Chairman:** And then reject it, I hope. Can we then move on to the actual financial support that we are giving? What support are we giving to the International Criminal Court?

**Ian Pearson:** We have a budget contribution of £5.9 million to the ICC in 2005. We have also concluded agreements on information sharing and on witness relocation with the Court and we are negotiating an agreement on sentence enforcement. So I think it shows the extent of the UK's

commitment to the International Criminal Court: the fact that we are very strongly supportive and wanting to work closely with it.

**Q87 Mr Purchase:** It has seemed to me that since we were the authors, basically, of the ICC, we pushed very hard in Labour's first term but there has been scarcely any support from the British Government in dealing with the intransigence of the USA. Can you explain why we have suddenly lost—suddenly but over the last few years—enthusiasm for the ICC?

**Ian Pearson:** I am afraid I cannot agree with you in the sense that we still very strongly believe in the ICC. We think it is a unique tool in the fight against impunity for the most serious crimes and we continue to have a dialogue with the United States about this. Let me just add to what I said about the American fears about the fact there might be politically motivated prosecutions: we need, I think, to continue to argue, and we are continuing to argue, with the US over this; we do not see the ICC, as I say, as a concern in this regard. We think there are sufficient safeguards in the Statute and we will continue to make those points to the US.

**Q88 Mr Purchase:** The very reason we have started down this route was very much connected to the behaviour of American troops in the Far East, particularly Vietnam. That was why we did it. Of course, the Americans were fearful of such an organisation getting anywhere because it is likely, given that they have a presence in so many countries where conflict is ongoing around the world, that they will be the people likely to be caught under such a protocol. We do not appear to be pressing them as we should. Can you give us some comfort that this pressure will resume at a really high level?

**Ian Pearson:** What I can say to you is that I do not believe that we have not been continuing to talk to the Americans about this because the simple matter of it is that we have. We certainly hope that the US will make a decision in the future to sign up to the International Criminal Court. I think you have to remember that it is still relatively early days in terms of the establishment of the Court.

**Q89 Andrew Mackinlay:** And fragile, as a result.

**Ian Pearson:** You say "fragile, as a result", Mr Mackinlay. Any new organisation is bound to take some time to find its feet. I am very pleased it has issued its first ever arrest warrant on 13 October this year in respect of members of the Lord's Resistance Army, as the Committee will be familiar with, in Northern Uganda. That indicates that the ICC is starting to have an impact and obviously we will give it, as a Government, all the support that we can in terms of its future development. We hope that when it has established more of a track record the concerns of the United States will be shown to be unfounded and that they will think again about their decision with regard to supporting it.

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**Q90 Chairman:** Can I take you back to your previous answer to me when I asked you about whether the US had presented a proposal for us to sign a non-surrender agreement? I think a previous Minister in your department, Mr Rammell, came before this Committee in the last Parliament and gave evidence where he said that a proposal had been made and it had been rejected. Is that correct?

**Ian Pearson:** We were approached by the US in 2002 to sign an agreement but we told them that the draft at that time, which would have exempted all US citizens from the International Criminal Court, was not compatible with our obligations under the ICC, and we have had no contact with them about a further draft since then, to the best of my knowledge.

**Q91 Chairman:** So you think it is possible they might come back with another draft at some point?

**Ian Pearson:** That would be speculation. I just do not know.

**Q92 Chairman:** We hope you will consult with us before you respond to it. Can we move on to one question quickly about the International Criminal Tribunal for the former Yugoslavia? The European Union in October decided to open the accession process for Croatia's membership, but that came after a rather sudden change of position by the prosecutor between one week and the next, and as a result of the view that Croatia's Government was complying with requests to get Mr Gotovina to the Hague the EU have said that Croatia could open the accession negotiations. What are you doing to ensure that Croatia fulfils its obligations to the International Criminal Tribunal for the former Yugoslavia?

**Ian Pearson:** Gotovina, Mladic and Karadzic are still fugitives and they must stand trial for the crimes of which they are accused, and the co-operation of the Balkan States, not just Croatia but Serbia as well, is essential in this. We have made it very plain to Croatia and to Serbia that they must co-operate with the International Criminal Tribunal to the former Yugoslavia and we have stressed to them that their Euro-Atlantic integration—ie, their membership of the European Union and of NATO—would depend on it. Certainly from the UK's view we do everything we can to encourage them to co-operate with the Tribunal.

**Q93 Chairman:** Croatia has got this opening of negotiations without handing over this man, just on a promise to do so. Do you think this might lead to certain other countries in the Balkans interpreting that as meaning they do not really need to co-operate and they will still get the accession to the EU at some point?

**Ian Pearson:** They would be absolutely wrong to interpret it in that way. Negotiations with Croatia, I am pleased to say, have begun, and I think it is right that they should do so, but Croatia and other Balkan states should be under no illusions that to secure membership of the European Union they will have

to do all they can to fulfil their human rights obligations, and that includes co-operating fully with the International Tribunal.

**Q94 Mr Pope:** Why have we not publicly criticised the human rights abuses that have taken place at Guantanamo Bay?

**Ian Pearson:** I do think that we have publicised our views when it comes to Guantanamo, and I think that if you read some of the comments in the press, particularly at the time, the UK was vociferous in its view, and we made clear to the US authorities on many occasions and at every level that we regard the circumstances under which detainees are held in Guantanamo as unacceptable, and the US Government knows our view on this.

**Q95 Mr Pope:** In part, the war on terror is a war for human rights. We are establishing elections in Afghanistan and Iraq, but how can we do this while, at the same, denying the human rights of people held at Guantanamo?

**Ian Pearson:** I agree with you very much that the war on terror is a war for human rights, for protecting the rights of our citizens and other citizens across the globe. I have to say very clearly that the Americans are very aware of our views on Guantanamo and the circumstances under which the detainees are continuing to be held there. We do not regard that as being right and we continue to discuss this with the US.

**Q96 Mr Pope:** Do you have any information about American "black sites" and have you raised this issue with the US Government or have your counterparts raised this?

**Ian Pearson:** Well, we are certainly aware of the press reports alleging that there are black sites, and this has been discussed only this week over lunch at the General Affairs and External Relations Council. As a result of this, the UK, as Presidency of the EU, has agreed to write to the United States on behalf of the EU on this issue to seek clarification.

**Q97 Mr Pope:** Are you saying we have not raised it before? They are our closest ally and we have not raised it at all?

**Ian Pearson:** What I am saying to you is that when it comes to "black sites" and, indeed, when it comes to rendition (which might be something that will crop up later on in these discussions), these are allegations, and it is right for us to ask the US for more information, and we are actively doing that.

**Q98 Sandra Osborne:** Could I ask you about the practice of the US to take suspected criminals to countries where torture is routinely used in interrogation? A number of other governments, the Spanish, the Swedish and Icelandic governments, have asked the USA for information on these flights through their airports which may be involved in extraordinary renditions. Has the British Government asked the USA for an explanation of flights through British airspace?

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**Ian Pearson:** Can I say, firstly, on this issue, and make very clear, that the UK Government does not deport or extradite any person to another state where there are substantial grounds to believe that the person will be subject to torture or where there is a real risk that the death penalty will be applied. As far as extraordinary rendition is concerned, and some of the allegations that have been made with regards to the United States, we currently have no evidence that there is any foundation to the media allegations about US use of UK territory in rendition operations. We have, however, as I indicated, discussed this issue with our EU partners and the Foreign Secretary will be, on behalf of the EU, writing about the issue of rendition as well as the issue of “black sites”.

**Q99 Sandra Osborne:** Writing to? The US Government?

**Ian Pearson:** The US Government. I would imagine it would be Condoleeza Rice.

**Q100 Sandra Osborne:** With respect, I find that quite surprising because that is the answer this Committee has had on various occasions—that the Government has no knowledge—and yet we hear that something like 210 flights have taken place since 9/11, many of them being in Scotland. I would have thought the Government would be far more interested to know urgently about that than appears to be the case if the Foreign Secretary is about to write now and ask the US. Surely there are relationships with the US Government where these things can be discussed.

**Ian Pearson:** As I say, certainly we are not aware of UK territory or airspace being used for the purposes of extraordinary rendition. We have not received any requests and we have not granted any permission for the use of UK territory or airspace for such purposes, so we can be very clear on that. The issue, however, arises because under UK and international law carriers are not obliged to provide a passenger list or to obtain permission from the Government to refuel. However, as I say, we are looking closely into this and we recognise it is a legitimate area of concern that people have and, as I say, in our capacity as Presidency of the EU we are taking this matter up with the United States.

**Q101 Sandra Osborne:** I would have thought there would have been more urgency about the situation long before now. Can you tell me if you are aware of the UNOCHR inquiry about extraordinary renditions where they are looking at the role of various countries in that regard? Has the Government been contacted about it at all?

**Ian Pearson:** I am advised that no, we have not been contacted about it yet.

**Q102 Mr Keetch:** Minister, you used the expression “UK territory”. Does that include Diego Garcia which is a UK-dependent territory in the Indian Ocean? Does that include RAF Akrotiri which is a UK sovereign base in Cyprus, and does that include RAF Gibraltar which is a base in a British colony? Do you view that as UK territory?

**Ian Pearson:** I can say that the US authorities have repeatedly assured us that assertions in the press that there are or have ever been suspected terrorists and/or Iraqi prisoners under interrogation at Diego Garcia, or on any other vessels in British territorial waters, are unfounded. The British representative on Diego Garcia has also confirmed this to be the case. I am not sighted on the particular issue of Gibraltar but I would be extremely surprised indeed if that area had been used for holding terrorists or prisoners.

**Q103 Mr Keetch:** I am not suggesting that Gibraltar or Diego Garcia or Cyprus had been used for holding prisoners; my concern is, following the questions of Mrs Osborne, are those bases used to refuel aircraft that may be carrying prisoners in the process of extraordinary rendition?

**Ian Pearson:** We have no information that they are or have been.

**Q104 Mr Keetch:** Would it be required of the US authorities to request permission to use Diego Garcia, for example, for that purpose? Would they require our permission to do that? I can understand it if they are coming into RAF Northolt, but if they are coming into Diego Garcia would they require our permission?

**Ian Pearson:** I am not quite sure how air traffic control in Diego Garcia works. Certainly, as I said just a few moments ago, under UK and international law carriers are not obliged to provide passenger lists or obtain permission from the Government to refuel. I would imagine that that would apply to Gibraltar or Diego Garcia.

**Q105 Mr Keetch:** I just want to press you on this. The Government says “UK territory”, and by reference to that most people assume we are talking about the United Kingdom of Great Britain. I want to know whether that includes Diego Garcia and whether that includes the sovereign base areas in Cyprus and any other bases or dependent territories we have around the world. If the United States is using those bases for the purpose of extraordinary rendition I would think that is just as disgraceful as if they were using RAF Northolt or a base in Scotland, England, Wales or Northern Ireland. I want to be clear about whether or not the policy of this Government is to deem Diego Garcia and these other bases as UK territory and, therefore, not be used for extraordinary rendition.

**Ian Pearson:** Let me just say on this that these areas would be regarded as British territory, to the very best of my understanding, and we are, as I have said, looking into these allegations and asking the United States about them. We will obviously want to receive satisfactory answers as soon as possible.

**Q106 Mr Keetch:** Would you be prepared to share those answers with this Committee?

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**Ian Pearson:** Well, I am sure that that will be possible.<sup>1</sup> Obviously, the reply, I would imagine, would go to the Foreign Secretary but I am sure he would want to put this in the public domain.

**Q107 Ms Stuart:** I gather that at a formal meeting on Monday of foreign ministers of the EU our fellow EU foreign ministers asked the Foreign Secretary, Jack Straw, on behalf of the EU, to write to the United States to ask them about the existence of CIA prisoners in Eastern Europe. Is that something which has concerned the United Kingdom before, or was that the first we were aware of it?

**Ian Pearson:** We were certainly aware of press reports that have alleged that the CIA has had these sites in Eastern Europe. As I indicated, this was discussed as you rightly say by foreign ministers at the General Affairs Council on Monday. The UK, reflecting those concerns—the concerns of other Member States and, indeed, of the UK itself—and acting in our capacity as EU Presidency, is writing to seek clarification of the situation from the United States.

**Q108 Ms Stuart:** We were aware of that but we were not spurred into action until other foreign ministers asked us to do so?

**Ian Pearson:** We discussed this as we discussed a range of foreign policy issues.

**Q109 Ms Stuart:** But did not do anything before then?

**Ian Pearson:** Well, we have discussions with the Americans on a regular basis on a variety of issues but, specifically on this, following this discussion the Foreign Secretary has agreed to write on this issue to Condoleeza Rice.

**Q110 Chairman:** Can I take you back to this question about the American flights? Is it fair to say that we have a policy of “Don’t ask, don’t tell”?

**Ian Pearson:** No, I do not think it is fair.

**Q111 Chairman:** We were told in a previous communication with the FCO that we have had that there is an annual, renewable agreement with the United States about the use of UK airports. Is that right?

**Ian Pearson:** My understanding is that, as I already indicated to you, carriers are not required to provide a passenger list nor to obtain permission for refuelling—

**Q112 Chairman:** That was not my question: that we have an agreement with the US which is renewed on an annual basis about US flights or flights originating in the US into UK airports. Is that true?

**Ian Pearson:** I am not aware of this but I will, following you making this point, make investigations.

**Q113 Chairman:** If it is true, could we not make sure that in any future agreement, if they are renewed on an annual basis, we tighten up the procedures so that we have more information about what comes in and what goes out of the country?

**Ian Pearson:** As I say, I am not sighted on whether any such agreement exists so it would not be right to speculate on how it might be altered.

**Q114 Chairman:** I would be grateful if you could send us a note.

**Ian Pearson:** Let me make inquiries into this and I am happy to send you a note on it.<sup>2</sup>

**Chairman:** Thank you very much.

**Q115 Sir John Stanley:** Minister, from what you have just said, can you clarify whether the Foreign Secretary has now written to the US to ask the specific question as to whether or not UK airspace has been used for extraordinary rendition flights?

**Ian Pearson:** My understanding is that the Foreign Secretary is writing following the General Affairs and External Relations Council on the issue of “black sites”, but also I believe on the issue of extraordinary rendition.

**Q116 Sir John Stanley:** That is too generalised a response. I asked you a very specific question. It is clear that the letter is going to go but is the letter going to ask the specific question whether or not UK airspace has been used for extraordinary rendition flights? Is that going to be a question put in the letter?

**Ian Pearson:** I am not responsible for drafting the letter but I am sure the Foreign Secretary will want to take the comments of the Committee on board when considering drafting the letter. As pointed out to me as well, we will have to consult with EU partners on the wording of the letter, seeing as we are writing it in our capacity as Presidency. So I am sure that it will be a detailed letter that will cover the areas that both the UK and other Member States have concerns on.

**Q117 Sir John Stanley:** Should that not be two letters? Is it not imperative that a letter is written in a UK national capacity to ask the specific question, as the British Foreign Secretary, whether UK airspace has been used for extraordinary rendition flights, and that it should not be merged with the wider general letter written in our capacity as having the Presidency of the EU?

**Ian Pearson:** I do not think that we should be too bothered on whether there are one or two letters. What I do think we all want answers on is: “What is going on?” I think that is the key thing. I am sure that that request for information will be part of the letter that the Foreign Secretary writes.

**Q118 Sir John Stanley:** You will be aware, Minister, that the detailed press reporting of this has produced tail numbers of the aircraft in question. There has been no denial that these are CIA aircraft. The tail numbers have been traced to companies which have

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<sup>1</sup> See Ev 67

<sup>2</sup> See Ev 67

been shown demonstrably by the press inquiries to be simply front companies where the so-called company's address and telephone number simply rings out or where there is a brass name plate and no company behind it. Is it not deeply disturbing that such aircraft, operated by phantom companies, should without any question be operating through UK airspace? Is that not a matter of deep concern?

**Ian Pearson:** We are certainly aware of the press reports and allegations made about CIA flights. We are also aware of the level of information that supports those press reports. However, they remain allegations at this stage and it is right that we should make inquiries and ask the United States for more information about this. That is the stage we are at, at the moment. I am sure the Committee will want to monitor developments over the coming weeks on this matter.

**Q119 Sir John Stanley:** Could you give the Committee an assurance that officials in your department or, perhaps, elsewhere in Government know perfectly well what is going on in terms of extraordinary rendition flights through UK airspace but have made the decision not to tell Ministers so that Ministers can hide behind the answer which was given to this Committee on 24 October: "We are not aware of the use of our territory or airspace for the purpose of extraordinary rendition"?

**Ian Pearson:** The remains the case, and I do not think it is right to say that officials are deliberately keeping information away from Ministers because that is the best way of protecting us from having to answer difficult questions. I think it is the simple truth that we are not aware, and that is the position at the moment, but we are certainly very aware of the allegations that have been made, we have seen the press reports and, as I say, the Foreign Secretary is asking the US for more information and will be writing in his official capacity as Presidency of the EU to do just that.

**Q120 Sir John Stanley:** So if the US Government should be replying to the Foreign Secretary's letter confirming that such flights have been taking place, when we come to ask you at what date did officials in your department or elsewhere within government know of this, the answer will be, from what you have just said, that no official knew anything at any time?

**Ian Pearson:** I am certainly not aware of any official who has knowledge of these flights and is keeping that knowledge to him or herself. We have looked into this and, as a Government, we just do not have information (when I say "as a Government" that means officials as well as Ministers) on this.

**Q121 Chairman:** Can I ask you a couple of questions about torture? Do we, as a Government, use information which comes from other countries where they have derived that information through torture?

**Ian Pearson:** Can I, firstly, say that the UK unreservedly condemns the use of torture and we work hard with our international partners to eradicate this abhorrent practice. We are in a

situation, and when replying to your question directly let me just say that the UK has extensive safeguards in regard to evidence that may be obtained by torture. The basic position is this: we, on a routine basis, will get a range of intelligence information from a wide variety of sources. Where that information comes from detainees and we have some suspicions that it might have been obtained by torture, that will be taken into account in our assessment and evaluation of the evidence.

**Q122 Chairman:** So the answer to my question is yes, you do make use of information which is derived from torture?

**Ian Pearson:** Let me answer it as directly as possible. As I say, the situation is we do get a wide range of information from a wide variety of sources. Where it comes from detainees and where we have grounds to believe that it might have been obtained through torture that would influence our assessment and evaluation of the evidence. Let me also say on this that when we get to the situation where there is evidence that might prevent a future suicide bombing and we have suspicions that that evidence might have been obtained through torture, well, I think we have to use that evidence. I do not think you can take a purist approach and completely ignore what might turn out to be vital evidence that will save the lives of UK citizens. However, let me be very clear that the UK does not condone and does not accept and has extremely strong procedures and safeguards as well with regards to evidence, and has a very strong policy indeed in terms of evidence obtained by torture. We do not condone those practices.

**Q123 Chairman:** We may not condone it but do we ask other countries where they got their information from?

**Ian Pearson:** We do not because other countries know the UK's very strong stance against torture. Frankly, I do not think there would be a lot of point saying to a particular country: "Was this information obtained by torture?" because I do not think they are likely to tell us the truth.

**Q124 Mr Purchase:** The Prime Minister, answering questions to the Liaison Committee yesterday, made a plea that most things should be weighed in the balance but he did condemn without reservation on the practices of torture. Now, you have just told us that we have to be realistic and understand that testimony gained under torture might still be useful. Should we not be condemning it without equivocation and should not our Government be practising what it preaches and not make use of this evidence? If it has come to us via torture and we believe that we should condemn torture without equivocation, how on earth can we have this—well, it is sophistry of the worst kind in a way—and say "We will still use this evidence"?

**Ian Pearson:** Let me be clear. I totally condemn evidence obtained by torture; the Government totally condemns torture; it is not acceptable, it is abhorrent—

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**Q125 Mr Purchase:** Tell us we do not use it then.

**Ian Pearson:** But in the real world, if you are seriously saying to me that if a piece of information comes to the attention of the British Government that there might be an incident and this is strong information that would save lives, are you really saying that we should put this aside and do nothing about it because it might have been obtained through the use of torture?

**Q126 Mr Purchase:** It is not for you to ask me questions, it is for me to ask you.

**Ian Pearson:** I am just saying to you these are incredibly difficult decisions. I think the Prime Minister is right to say they should be weighed in the balance and that, in these very extreme circumstances, if it is the case that we could save British lives by using some information which has been obtained by horrible means then I think we probably do have to do that.

**Q127 Mr Maples:** I wanted to ask you a question on that which my colleague did not want you to ask him, which is that it seems to me that it depends on what the information is used for, in the same way that we have laws which stop us using evidence improperly obtained against criminals but it does not stop us going and recovering the stolen goods because we have obtained the information improperly. It seems to me that if the Government were to be given information by a foreign country that, say, a terrorist plot was being hatched by these three people in this place, and you said: "It has come from Uzbekistan or Egypt or somewhere and we are not going to use it", I think this Committee would have some very tough questions to ask you afterwards if there was a terrorist outrage. I wonder if you think it is right to draw a distinction between the purposes for which the information is used. In other words, if you receive that kind of information and you then use it for our own police and security services to follow up and investigate whether it is true or not or not, that is rather different to using information that might have been obtained by torture to actually prosecute someone.

**Ian Pearson:** Torture is always wrong, it can never be defended, and we as a UK Government never use torture for any purpose including obtaining information. We certainly would not instigate others to do so. However, in the very real circumstances that you outline where information, which we have not asked for but which becomes available and we have suspicions about it being obtained under torture, could save British lives and that that is the major purpose of it, then I think it would be wrong and irresponsible for a government to ignore it. These are incredibly difficult decisions. That is why elected representatives are put in charge of weighing these things in the balance and making judgments about them. I notice that when some of the non-governmental organisations have been asked these questions it is very difficult for them to find answers to this because nobody—and I repeat nobody—feels comfortable about this at all. Certainly (let me be as absolutely plain as I can) the UK Government

absolutely condemns the use of torture but, as I say, in the very, very rare occurrence where we have information that comes into our hands from a third country where we think that it might be obtained through torture, I do not personally think that it would be right, if that information could save British lives, that we should just say: "No, put it aside. We are not interested; we do not want to receive it." I think we have a responsibility to protect our people.

**Q128 Chairman:** Can I take you on to a related area, which is that previously the Government told us that it was not policy to deport or extradite any person to another state where there are substantial grounds to believe that that person will be subjected to torture or where there is a real risk that the death penalty would be applied. Yet with regard to (I am not asking about the death penalty) torture, the countries which do torture people, we are now engaged in a process of producing memoranda of understanding and so-called diplomatic assurances and then considering removing people to a number of countries where it is known that torture has been and, as far as I am aware, still is used on occasion. How can we guarantee that people who we do send back to some of these countries in North Africa or elsewhere are not going to be subjected to torture? Do you agree that if there is, as was stated in the *Chahal* case in 1996 or in a more recent case to do with Russia, an endemic or recalcitrant problem people should not be sent back to those countries, even if you get an assurance?

**Ian Pearson:** The first thing to say is that this has not happened yet and we have not—

**Q129 Chairman:** You have not sent anyone back yet?

**Ian Pearson:** We have not sent anyone back yet who has been detained under our terrorist legislation. We are, as you rightly say, looking to negotiate Memoranda of Understanding and we have signed Memoranda of Understanding with Jordan and Libya. The wording of the MOUs makes clear that treatment is expected to be in accordance with international obligations. You rightly mentioned that we will not send people back where there is a substantial risk that they will be tortured. That is a phrase that comes from the European Convention and it is something that is expected as part of the Memoranda of Understanding. We believe that deportation with assurances, such as Memoranda of Understanding, and, also, monitoring arrangements being put in place, which are again part of the MOUs, provides sufficient safeguards to meet our obligations under the European Convention on Human Rights. These matters, however, will undoubtedly be tested in the courts, which will provide a further reassurance that what we are doing is acceptable and in conformity with our human rights obligations.

**Q130 Chairman:** How are we going to monitor that these assurances are kept?

**Ian Pearson:** Written into the Memoranda of Understanding is information about the monitoring requirements, and so the intention is that we would deport suspected terrorists and we would do so to countries who signed Memoranda of Understanding and who agreed to monitoring arrangements. This will require a significant amount of work. We are still discussing the details of monitoring arrangements at the moment, but we will go a long way to make sure that we take sufficient steps to have a level of confidence that there will not be a substantial risk to these people if they are deported.

**Q131 Chairman:** Can I have an assurance that nobody is going to be deported until you have got satisfactory monitoring arrangements in place?

**Ian Pearson:** Yes, I think I can give you that assurance.

**Chairman:** Can we move on, please, to Iraq?

**Q132 Mr Keetch:** There have been, as you know, Minister, a number of high profile issues resulting in British military personnel involved in abuse in Iraq, including court martials. There was also the case of the proceedings that were recently dropped against some British soldiers accused of murder in Iraq. I am aware and the Committee is aware of the rules of engagement of the British Armed Forces. Can you tell us a bit about, if you like, the rules of engagement of the British based private military companies that exists in Iraq, because it is certainly the case that there are thousands of British citizens in Iraq carrying weapons working for private military companies that are not covered by British Government rules of engagement for armed forces but, nevertheless, are doing work in that country? Does the British Government give advice to those companies as to what kind of human rights activities and security training and such that they should be doing out there?

**Mr Pearson:** I think that question is probably better directed at the Ministry of Defence, who are likely to have better information about this. As Minister with responsibility for human rights I would want to make sure that the human rights obligations of any individual and, indeed, any company, whether it is operating in Iraq or wherever, are closely followed, and certainly we want would want to make sure that UK companies who operate in Iraq are fully aware of their human rights obligations.

**Q133 Mr Keetch:** But you would certainly like it to be known that such British companies or British citizens working for such companies in Iraq would be expected to operate within the similar guidance that we would expect of them if they were operating in the UK, for example? You would expect them to adhere to British standards, if you like. Shall I put it that way?

**Ian Pearson:** Yes.

**Q134 Sir John Stanley:** Do we think there are any other locations in Iraq where people are being held captive in the totally unacceptable conditions that have recently been exposed in the south?

**Ian Pearson:** I do not know. I do not have any information that would lead me to believe that there are other locations, but, again, that is not necessarily the information that a human rights minister might routinely expect to receive.

**Q135 Sir John Stanley:** What response was received from the Iraqi government to the very deep expressions of concern that the local foreign secretary made to the Iraqi government about the uncovering of these prisoners being held in hell-hole conditions?

**Ian Pearson:** We have raised our very serious concerns at a very senior level with the Iraqi government, and the Foreign Secretary has lobbied Vice President Mehdi, who was visiting London at the time, and on October 17 we also released a statement, as EU Presidency, expressing our concern and welcoming the investigation that the Iraqis have launched into this incident. It is my understanding that the investigation is still going on, and clearly we will continue to show a very strong interest in the investigation and the outcome of it.

**Q136 Sir John Stanley:** Coming to a different issue, do you think there is any risk that the trial of Saddam Hussein may collapse because of the inability to provide adequate security both to the lawyers involved and also to witnesses?

**Ian Pearson:** What I can say on this is that we do want the trial to continue. We want to ensure that Saddam receives proper justice and a transparent and an open trial process. We have talked certainly to the Iraqis about this—they know very clearly our views on this—and there had to be concerns with the recent two horrible murders of the lawyers, but we think it right that the trial should continue, and we have been encouraging the Iraqi government to make sure that all the necessary steps are taken to provide protection for the legal team and, indeed, all those others who are involved in the trial process.

**Q137 Sir John Stanley:** Would you agree that it would be a pretty grim reflection of the consequences of US and British intervention in Iraq that we could not leave it if we were simply unable to provide a proper judicial process to try the former dictator?

**Ian Pearson:** It is not up to us to provide a proper judicial process. It is up to the Iraqis, and we should acknowledge the great strides that they have made. They are in a far more forward position than they were with regards to the IST and the legal process, and I think it is up to us to encourage them to make sure that they make further improvements to their legal processes, and I am confident that that is what they want to do for the future as well.

**Q138 Andrew Mackinlay:** I want to take you back to Paul Keech's point when he questioned you about private security companies and you referred Paul Keech to the Ministry of Defence. Can I gently remind you that before you were a minister of foreign office the Foreign Office produced a Green Paper on the private security companies, not the

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Ministry of Defence. It came here to this Committee, who produced a report, and the motive was regulation: because one foresaw some of the things which Paul Keech referred to. I remember at the time taunting the Foreign Office, saying, "This is going to be pigeon holed", and broadly they said, "My God, how can you suggest such a thing?" Is it not pigeon-holed? Is it dead? Is this parrot dead, this Green Paper on regulating private military companies because of human right considerations?

**Ian Pearson:** I am not cited on this, so I cannot give you an answer on that other than the general answer.

**Q139 Andrew Mackinlay:** You see my point, though, do not you? The fact is you are the human rights minister. It was not I who initiated it, it was during Denis McShane's period and Robin Cook's, and it was a Green Paper produced, we dealt with it at length and it is dead as a dodo. It is dead as a dodo, I put it to you, for the reasons which Mr Keech referred to, the fact that it is too sensitive. It raises the question of rules of engagement, recruitment, where they come from, where they are going to, companies being able to dissolve themselves at arm's length, distance, "Nothing to do with us, gov", et cetera, et cetera, et cetera. Could you come back to us on this, because I am putting it to you, the Government have ducked it because it is a hot potato and it does raise serious human rights issues and you should know about it?

**Mr Pearson:** I am certainly not prepared to pronounce the parrot dead yet.

**Q140 Andrew Mackinlay:** That is good.

**Ian Pearson:** As I say, I do not have information to hand specifically on this. If it would be helpful I would be happy to write to the Committee on this.<sup>3</sup>

**Q141 Chairman:** Perhaps you could inform the Foreign Secretary that we have raised this matter. He is before us in a couple of weeks' time, so I am sure we would like something before then, if possible.

**Ian Pearson:** I will bring it to his attention.

**Q142 Andrew Mackinlay:** On Iran, we were told that the United Kingdom would sponsor the resolution of the UN General Assembly criticising human rights in Iran. Many of us feel, and this Committee has in the past raised concern about the dialogue and we should understand, nuclear weapons development would eclipse the work of human rights in Iran. Since the new regime has come in there has been a high increase in the number of executions, which the Iranian government themselves have indicated. It seems as though there is a serious deterioration of human rights. Human Rights Watch said to us that the criticism of HMG has really not gone beyond mere rhetoric. Can you comment upon this? Also, traditionally the European Union used to sponsor the General Assembly Resolution, but that seems to have been

picked up by Canada, which rather underscores the trying to drop this, get away from it. That is the charge, sort of thing?

**Ian Pearson:** Let me say, first of all, that you are absolutely right to point to Iran's poor human rights record, and you are also right to say that the situation has deteriorated further this year. We are certainly very deeply concerned about that, and that is one of the reasons why we co-sponsored the United Nations General Assembly resolution on Iran, which I am pleased to say was adopted just a few days ago, expressing the UN's concern. I am also pleased to say, and, again, I perhaps could have mentioned this earlier, that we have also seen successful EU sponsored resolutions on Burma, on the DPRK, on Uzbekistan, and just today the General Assembly is going to be discussing resolutions on Sudan and on the DRC.

**Q143 Andrew Mackinlay:** Did you sponsor the Iran resolution?

**Ian Pearson:** We co-sponsored with Canada the Iran resolution. We also co-sponsored a successful resolution on Turkmenistan as well, and that is indicative of the UK's and also the EU's strong concerns about the human rights situation in Iran at the moment.

**Q144 Andrew Mackinlay:** My final question is a quickie. With the deteriorating human rights situation in Iran which you have acknowledged, is there a point where the United Kingdom would go to the Security Council, which I understand is competent for us to do (and I do mean to the Security Council), is there a threshold where you would say, "Thus far and no further. This is intolerable", particularly on religious grounds?

**Ian Pearson:** We will look at all options for the future. So far there have been, to my understanding, a number of demarches on Iran, certainly a number of public comments and concerns have been expressed bilaterally. We have had, as we say, the UN General Assembly resolution being passed just a few days ago, so we are keeping up the pressure on Iran to reform and to improve its human rights practices. Whether we need to go further along the lines that you are suggesting is something that we will want to keep under review, but we would certainly want to urge Iran to address the concerns that have been passed in the resolution that, as I say, succeeded in the United Nations just a few days ago, and we are hoping Iran will respond positively.

**Q145 Mr Pope:** Could I raise UK relations with Israel, and some human rights concerns there. I wanted to suggest to you, Minister, that British policy has not been a great success in relation to Israel. Just looking at the Foreign Office Human Rights Report, which lists a number of British government concerns in Israel, it raises the issue of how the Israeli Defence Force treats Palestinians, the Israeli barrier which is strangling some Palestinian settlements and towns in the occupied West Bank, the discrimination against Arab Israelis, lack of freedom of movement, what happens at

<sup>3</sup> See Ev 67

check-point crossings, targeted killings, settler violence and in the conclusion it says that Britain is working with Israeli human rights organisations to monitor the check-point. It seems to me this strong on description of a real problem and really weak on conclusions and action. I wondered if you could share with the Committee what the priorities are for the UK Government in relation to Israel and what benchmarks have we got to judge the success or, I might suggest to you otherwise, failure of our policy there?

**Ian Pearson:** Certainly the UK's ambitions with regard to Israel and the Middle East peace process extend beyond purely human rights issues, and, as you are very aware, the Foreign Secretary has been extremely active when it comes to encouraging dialogue and moving forward with the road map. Again the UK, I believe, has played a very positive and leading role in encouraging developments. We do, of course, have concerns about the barrier, and we raise those concerns regularly with the Israeli Government. We recognise Israel's right to self-defence, but the barrier's route should not be on or behind the Green Line and it should not be on occupied territory. We believe that construction of the barrier on Palestinian land is illegal and the Prime Minister, the Foreign Secretary, Kim Howells, who has ministerial responsibility for the Middle East, has made our concerns very clear to the Government of Israel. I think Israel is at a very pivotal moment in its history at this point in time. We certainly want to encourage the disengagement process, we want to see the road map succeed, and we will bend all our efforts to try and bring this about and to try and bring lasting peace and security to people in that part of the world.

**Q146 Mr Pope:** I do not want to labour this point, Chairman, and obviously this Minister is not the minister for the Middle East peace process, but it seems to me that the whole process stalled; and what I really want is some assurance that diplomatically, even if we are not moving forward as rapidly as I would like on the road map, and we can discuss for ever the reasons for that, but I would at least like the assurance that the UK Government is raising at the highest diplomatic levels all these concerns about the barrier, about the treatment of Arab Israelis, about the occupied territories, and, I would have thought, an assurance that the UK Government will robustly continue to raise these issues with the Israeli Government?

**Ian Pearson:** I can give that assurance. We have already raised these issues and will continue to raise issues of concern, including issues of concern with regard to some of the actions of the Israeli Defence Force. We need to be clear that there is no problem with us raising these issues with Israel while at the same time giving positive encouragement to Israel as part of the Middle East peace process, and, again, it is important that we continue to exert and use what influence we have to encourage peace and prosperity in the region while at the same time keep pointing

out human rights abuses and encouraging Israel to deal with those effectively. I can give you exactly the assurance that you are looking for on this.

**Q147 Sir John Stanley:** Minister, some members of the Committee had an informal briefing on the detailed progress on the construction of the barrier beyond the Green Line; in other words—what you have acknowledged in your answer to Mr Pope—the illegal section, and it is factually indisputable that the construction of the barrier illegally beyond the Green Line continues apace, it is proceeding at a very fast rate, it is going to be completed, we understand, within the course of the next 12 months, including round the whole of East Jerusalem. Is it not factually the case—it may be difficult for the Government to acknowledge this—that the Government's concerns and the Government's representations to the Israeli Government in relation to the illegal sections of the barrier, which is a great majority of it, have been thus far a 100% failure?

**Ian Pearson:** Certainly the UK Government's position on the barrier remains very clear indeed, and it is as I outlined. We continue to believe that the barrier itself is an obstacle to the peace process and we continue to say that the construction of the barrier on Palestinian land is illegal. I would just note that on 15 September this year the Israeli High Court ordered a re-routing of the barrier around Alfei Menashe, a West Bank settlement near the Green Line, because of its damaging impact on Palestinian villages in the area. That is a positive development, but we continue to be extremely concerned at the route of the barrier on occupied territory, and I am sure this Committee shares those concerns as well, and I just want to assure the Committee that we will continue to make strong representations with regard to the barrier because we believe, as I say, that it is damaging the peace development process.

**Q148 Sir John Stanley:** Would you not agree, it is not merely damaging to the peace process, it is incredibly damaging to human rights as well, and the physical facts on the ground are that the greater the length of the barrier the more impossible it becomes for Palestinian farmers to farm their land on the other side of the barrier, it becomes more impossible for Palestinian businesses of all size to operate effectively because they have got to transit their goods, some of which may be in a deteriorating condition, if they are things like fruit and vegetables, et cetera, through the various check-points and is directly undermining any real possibility of achieving the objective that everybody supposedly agrees on, which is a viable Palestinian state in economic terms. Do you acknowledge that the barrier is a fundamental human rights issue?

**Ian Pearson:** I agree that there are human rights implications as a result of the construction of the barrier, and there are, indeed, as well a number of practical economic implications. When you are talking about confiscation or destruction of land, destruction of property, when you are talking about

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access to issues, and particularly the impact on farming that you mentioned, this is destroying people's livelihoods and their ability to have a good livelihood in many circumstances. It is a matter of great concern to the UK Government, and I agree with you that there are clear human rights implications about this, and it is one of the reasons why we do take up the issue of the barrier. It is not just because of its potentially totemic effect on the peace process.

**Q149 Mr Horam:** Minister, can I take you to a very different area, namely arms exports. I think the Foreign Secretary said recently that he wants to initiate an arms trade treaty and set that in motion.

**Ian Pearson:** Yes.

**Q150 Mr Horam:** Why then are you authorising the export of arms to no less than 19 of the 20 countries which you identify in your report as countries of great concern from a human rights point of view?

**Ian Pearson:** Firstly, can I say that we have, I think, one of the strongest export control regimes to be found anywhere in the world when it comes to the export of arms.

**Q151 Mr Horam:** How is that consistent with exporting to no less than 19 of the 20 countries which you identify as being of most concern to human rights? How do you square that?

**Ian Pearson:** When you look at some of the detail of this, and I think it is important to look at the detail, in countries like Nepal, for instance, arms exports, to my understanding, are human rights training to the military and also bomb disposal equipment.

**Q152 Mr Horam:** Nepal is rather an exceptional case, I imagine?

**Ian Pearson:** I do not accept that it is an exceptional case. I think it is the case with other countries as well that a lot of our so-called arms exports will be body armour for police and the military engaged in counter-narcotics work on the border, they might be de-mining equipment in a number of countries.

**Q153 Mr Horam:** But a lot of them will be light arms and weapons of various kinds?

**Ian Pearson:** Everything is assessed on a case by case basis. I would be surprised if they were light arms, because that is not the sort of weaponry that I would expect would get through our rigorous export licensing regime. It is not actually something that the UK manufactures a great deal.

**Q154 Mr Horam:** You seem slightly uncertain.

**Ian Pearson:** I am not certain about this at all, but what I hope I am clear in saying to the Committee is that everything is assessed very rigorously on a case by case basis and we do not allow arms exports, or the export of military equipment, to be a little bit more precise, if we think that there is a clear risk that these exports would be used for internal repression purposes, and I see, on behalf of the Foreign Office, a lot of the crucial submissions when it comes to arms

exports. The DTI has final ministerial responsibility when deciding this, but there is a very firm process indeed.

**Q155 Mr Horam:** The DTI rather than the MoD?

**Ian Pearson:** The DTI has the final say.

**Q156 Mr Horam:** And therefore you, as the Minister?

**Ian Pearson:** I have FCO ministerial responsibility for looking at potentially contentious export licensing applications.

**Q157 Mr Horam:** So you put your DTI hat on when it is uncontroversial?

**Ian Pearson:** And Malcolm Wicks, as DTI Minister, has the final decision on export licensing applications, so it goes through a number of ministerial eyes as well as some detailed scrutiny by officials. As I say, the key point here is everything is assessed on a case by case basis and we do have, as I say, very rigorous controls indeed. I think, frankly, it is a bit of an old chestnut to say that we are exporting arms to 19 out of the top 20 countries we are concerned with, because, as I say, the reality of it is that in a lot of these cases it will be bomb-disposal equipment, it will be de-mining equipment, it will be body armour, it might be communications equipment to help their policing operations work more effectively in dealing with drugs problems that they have in their countries; and that is the reality of the situation.

**Mr Horam:** But not all of it falls into those categories?

**Q158 Chairman:** Perhaps you could give us a note and give us some further information.<sup>4</sup> I know the Quadripartite Committee, which some of us have served on, have looked at this issue on a regular basis, but some of the problems we have is when we get aggregate reports without breaking it down to different components and different types of export; so if we could have a note which went through the countries of concern and, where there are the kinds of things that you are talking about, if that could be made clear, I think that would go some way to answering Mr Horam's questions.

**Ian Pearson:** Can I look at that, Chairman. I just have two concerns. One is, as I say, we look at things on a case by case basis and there are potentially commercial confidentiality issues if we are naming particular sort of companies.

**Q159 Chairman:** I understand that.

**Ian Pearson:** The other thing to say is that there is, as I am sure you are aware, an annual report on export licensing applications.

**Q160 Chairman:** Yes, and that is looked at by the Quadripartite Committee.

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<sup>4</sup> See Ev 67

**Ian Pearson:** With those two points in mind, can I take your request away and if I can write something that is sensible that I can send to the Committee, I am happy to do so.

**Mr Horam:** That is helpful, because the fact is, in certain answers you give it is easy to generalise and in that way conceal all that needs to be revealed, however well-meaning you may be. Therefore, if we get a bit of detail it will assist?

**Chairman:** We will look at whatever your response is and, if necessary, come back to you in future, or may be the Quadripartite Committee will ask the Foreign Secretary about it at some point, but one way or another we way will get further answers on this.

**Q161 Ms Stuart:** Minister, I think we are asking you to wear so many hats that I am beginning to get worried about your human rights?

**Ian Pearson:** That is very kind of you.

**Q162 Ms Stuart:** I am also very conscious that your colleague, Alexandra Hall Hall, has not had a chance to say anything at any stage as we take you round this Thomas Cook tour around the various parts of the world where we still have concerns, so feel free to draw in your colleague. Can I take you to part of what used to be the Soviet Union and, in particular, if you were to look at the Ukraine, Georgia and Kurdistan. The Foreign Office's own report actually, I think, makes observations about progress which were made in terms of the spread of democracy. We had in the Ukraine the Orange Revolution, we had in Georgia the Rose Revolution, but there are one or two concerns, particularly in terms of changes in the nature of the law which happened in Georgia, there are still problems with freedom of information. The basic thrust of my question is that whilst these developments are welcome, we still have much further to go, but, given that those areas geographically are strategically extremely important to us, can you reassure us that we are not trading unduly their strategic importance, i.e. the war on terrorism, and that we would further push for human rights in those areas?

**Ian Pearson:** Yes, I can give you that assurance. Recently I attended the OSCE Human Dimension Implementation Meeting. I did not stay there for the full fortnight of it, but I was there sufficiently long to get a very strong impression of the level of detail and the scrutiny that goes on when it comes to raising human rights issues with just the countries that you are mentioning. I think the OSCE is an effective body actually in terms of its work in promoting democracy and providing the challenge to countries that have poor human rights records, and we as a UK government very strongly support it. You are right to point to the strategic significance of countries like Ukraine and Georgia, and we recognise that, but, as with other countries in the world, we always feel very strongly and make our representations when it comes to human rights abuses.

**Q163 Mr Purchase:** We have continuing and considerable concerns about Turkey. It is on the brink of Europe, it is on the brink of getting permission to apply, and all the rest of those things. Would you like to tell us what the view is of Turkey's human rights record vis-à-vis its European status?

**Ian Pearson:** Yes, I had the opportunity to do an adjournment debate on Turkey very recently, and we do have concerns that continue about the human rights situation in Turkey. The debate in question was prompted by the prospect of a well-renowned author, Orhan Pamuk, being brought to trial on part of Turkey's penal code, and we are very concerned about this situation. I will not rehearse the speech that I made then, but let me just say that Turkey has made considerable progress when it comes to human rights, and that was recognised as part of the decision which the UK strongly supported to open accession negotiations to the European Union. Turkey still has some way to go. There was a report produced very recently—in fact it is called the Regular Report, which is really an annual report—and the Commission's 2005 Regular Report on Turkey was presented on 9 November and it noted that political transition is on-going in Turkey, but it said that the pace of change has slowed in 2005 and implementation of the reforms remains uneven. I think that is a good summary of the situation. Turkey has gone quite along way, but it needs to go further, and, what is more, its government knows and accepts that it needs to go further and it is actively trying to put measures in place to do just that. As a government we have been doing a number of things to try and support Turkey and its development. We have been doing quite a lot of work in terms of training judges, for instance. Again, I think that is part of the democracy in human rights building work that is on-going there. It is going to take some time, but we are certainly very optimistic that it is on the right path.

**Q164 Mr Purchase:** Human Rights Watch have reported that the authorities continue to try to close down gay and lesbian organisations—close venues. How important do you think that is to Turkey's efforts to become, if you like, a more civilised country in terms of human rights?

**Ian Pearson:** Turkey will have to address all of these issues if it is to realise its ambitions to become a member of the EU. I believe very strongly that opening the door to Turkey, which is what we did on 3 October when an agreement was reached to open negotiations, is very much the right thing to do. It is a huge challenge for Europe as well as a huge challenge for Turkey, but to say that we are prepared to open the EU to a Muslim country that has a population that is bigger than any other EU Member State, I think is a good statement to make.

**Q165 Mr Purchase:** It is a bit incompatible with European views on gay and lesbian rights, though, is it not?

**Ian Pearson:** Turkey will have to conform to EU standards and practices when it comes to human rights and its obligations. Turkey is on a path of

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transition, and I do not think anybody is suggesting that that path is going to be absolutely smooth and there are going to be no problems in it, because that would be not true; and there are quite lot of areas where Turkey still does need to sort things out, but I think what we need to do is to encourage the Government to be active in those areas, like the areas that you have mentioned, and to provide what reasonable support we can as it makes that transition.

**Q166 Andrew Mackinlay:** You used the words “Turkey makes great progress”, but that is a formulation of words which we hear all the time. Surely human rights are indivisible. It is not like an option where you gradually go there. I find it incredible. Your own report—I think it is in this report—says that impunity continues to exist in the security forces, and in Question Time recently I asked another Foreign Office minister about the case of the man who had written about the Armenian massacres, was then prosecuted and your colleague minister said, “Oh, but the man charged, he still wants to support Turkey’s entry into the European Union”, as if that made it all right. What I find amazing is that both the United Kingdom Government and the European Union are probably not spelling it out sufficiently that this is not something you can gradually reach, a good human rights record, it is required now?

**Ian Pearson:** You are absolutely right to say human rights is indivisible, but it is not an on/off switch. I think it is important to recognise that very often it is a whole range of legislation that needs to be introduced, training that needs to be done and a mindset amongst the population as well that needs to be changed, and Turkey is under no illusions about the EU’s position when it comes to human rights. It knows, I believe, full well that the EU expects to see major developments and major improvements in the human rights situation in Turkey, but I think you have in Turkey, as in other countries as well, to recognise that there is not just a sort of magic button and a country can suddenly become human rights completely over night.

**Q167 Andrew Mackinlay:** No, but I think, Minister, there is an important point here. I want to acknowledge what you said. You have to change people’s attitudes, and so on. I think everybody acknowledges that. Even in our own jurisdictions, for instance, we have had in the past two decades to work to change people’s attitudes, but what we did is put the legislative arrangements in place saying, “That is the law”, and then you have to educate people on equal rights, equal opportunities, PACE reforms and so on. We have had to do that, but the Parliament and the Government said this is what the position is, and I think that is where you are blurring the two things. You are quite right. You have got to change attitudes throughout Turkish society in some cases, probably in some institutions like the Army the Police Force, probably expectations with regards

to education rights for women, et cetera, but what could and should be does is Turkey implementing those things in legislation now?

**Ian Pearson:** It is actually doing a number of those things. Abolition of the death penalty, new protections against torture, greater freedoms of expression, association and religion, greater cultural rights for Kurds and for others have all been part of measures that the Turkish Government has implemented, a number of them requiring legislation. That is why I say Turkey is on the right path. It has introduced a lot of the legislation. Some of the criticisms at the moment in the problem areas, like Orhan Pamuk that I referred to, but because some of the new legislation that has been introduced has been either poorly interpreted by the courts or maybe there is some suggestion that the legislation itself could be improved on, but it is not the fact that Turkey is doing nothing. It is making significant steps. As I say, the Regular Report does moot that the progress has slowed somewhat this year, and we will continue to put pressure on Turkey to make improvements to the human rights situation within the country.

**Chairman:** I am conscious of the time. We have got about 20 minutes more and lots of other areas to cover; so we are going to have to move on.

**Q168 Mr Keetch:** Minister, on this Thomas Cook tour that Miss Stuart referred to, can I ask you to join me on the aircraft and fly north from Ankara up towards Moscow. Obviously what is happening in Russia is of concern to the Government, and rightly so, and there are some very worrying aspects in terms of media freedom, NGO community, for example, which you heard about yesterday, changes there, growing racism and xenophobia. Can you say a little bit about how we are trying to persuade our Russian friends of the need for human rights because this is a very powerful country with a very proud and fine history, and our negotiations dealing with that have to be done in perhaps a slightly different way than we with other countries that we may be discussing today; so we welcome your comments on Russia.

**Ian Pearson:** The first thing I want to say is that Russia is a key partner for the UK. We want it to be stable, prosperous and an important member of the international community. I think we need to recognise that Russia has come a long way and that the progress on the back of significant reform has been remarkable. What we want to do is to continue to work with Russia to ensure that the momentum of reforming is not lost and that change moves in the right direction, but there are a number of concerns that we have. You mentioned a number of them in the question. We remain concerned about the human rights situation in Chechnya, in particular there are still reports coming from the valuable work that is done by NGOs, reports of extra-judicial killings, arbitrary detention and torture, and we are also concerned at reports that instability is growing in other regions than in North Caucasus as well. We discussed these with Russia in an open way. During President Putin’s visit to London as part of the EU/

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Russia summit both he and the Prime Minister conducted high level talks regarding human rights issues, and we do have an EU/Russia and a UK/Russia human rights dialogue as well where we raise specifically our issues of concern with them.

**Q169 Mr Keetch:** Specifically we have heard concerns in the past about the activities of the British Council in Russia being hampered to a degree. I know it is not specifically in your responsibility area, but certainly it would be the view of the British Government that all aspects of government working in Russia should be able to work in a free and open way and that we would not want to see any constraints on the activities of organisations such as the British Council or indeed other NGOs?

**Ian Pearson:** You are right to say that it is not my area, but I am happy to agree with you that certainly the British Council should be allowed to operate in an open way, as it does in other countries right across the world.

**Q170 Mr Pope:** We can now go south-east to Tashkent. I wanted to ask about Britain's relationship with Uzbekistan. It seems to me that there is a difficult trade-off between your own interest in this in human rights and the Foreign Office's more strategic interest given the important geo-political significance of Uzbekistan. Uzbekistan does appear to have one of the worst human rights records in the entire world. Could you assure us that Britain is no longer providing military assistance to the Uzbek Government? For example, the British Government did provide marksmanship training to Uzbek forces, and I just remind you that Uzbek forces did shoot dead 500 civilians in Andijan in May of this year. Can you assure us that we are no longer providing that kind of assistance?

**Ian Pearson:** I can provide the assurance that we are no longer providing that sort of assistance. As I think you might be aware, on 3 October the EU foreign ministers decided to implement an arms embargo and visa restrictions on those deemed to be responsible for the disproportionate use of force in Andijan. It was also agreed that there should be suspension of all technical meetings under the partnership co-operation agreement. We supported the reorientation of the Commission's funding programme in Uzbekistan to support an increased focus on poverty reduction and information of democracy and human rights in a civil society. I mentioned earlier that a resolution on Uzbekistan has been passed in the UN General Assembly. I have got a copy of this in front of me today. I do not think I would be helpful, given the time constraints, to read it.

**Q171 Chairman:** We can read it if you send it to us.

**Ian Pearson:** But I am happy to provide the Committee with a copy of it, but it strongly calls on the Government of Uzbekistan to implement fully and without any delay the recommendations of the report of the Mission of the Office of the High Commissioner for Human Rights, and a whole range of other things including, I think, importantly

asking for a full and independent review of what went on in Andijan; so we are at a UK level and at an EU level pressing very strongly on the issue of human rights and I think the UN resolution indicates that.

**Q172 Mr Pope:** Our last ambassador to Tashkent, Craig Murray, not a great fan of the Secretary of State, I understand, has given some evidence in writing to the Committee suggesting that the Foreign Office had subordinated human rights underneath strategic concerns, and what I would really like is some assurance that that is not the case. Could I ask you what practical steps we can further take to tackle Uzbek's human rights failings? Just as an example, I think Uzbekistan is still involved in the NATO partnership for peace, and one of the things that we might usefully do is raise whether or not it is appropriate for that to continue with our NATO partners.

**Ian Pearson:** I think that is a very helpful suggestion. When it comes to any country that has little or no respect for its human rights or an imperfect human rights record, we always judge matters on a case by case basis, and in some cases we will have an arms embargo, in some cases, such as Burma, we will have a common position that is agreed at an EU level that will implement a range of sanctions. There are a range of ways in which we can express our views and the views of the EU and the views of the world community through the UN, through general resolutions through the Security Council, as you are well aware. As I say, we have just only agreed a UN General Assembly resolution on Uzbekistan. We are now calling very strongly on Uzbekistan to abide by what the UN resolution actually says, but it is helpful to look at other ways in which we might want to bring pressure to bear on the Uzbek Government and to express our displeasure about what is going on there.

**Chairman:** We were going to ask a number of questions about a number of countries in Africa, including Angola, Equatorial Guinea, Eritrea and Ethiopia. I think we are going to have to communicate with you in writing on those, but I would like to bring in Sir John Stanley on Zimbabwe.

**Q173 Sir John Stanley:** Just a couple of questions, please. I am not suggesting that the blame here lies by any means exclusively at the door of the British Government, but is it not the case, in reality, that the pressure exerted thus far on the Mugabe regime as far as human rights is concerned by the British Government has so far yielded zero results?

**Ian Pearson:** What is happening in Zimbabwe is a disgrace. You have got a ruler of that country who seems to pay no heed to the needs of his people and is acting in a way that ignores human rights, is completely in breach of the rule of law and holds in contempt the sorts of values that we in the UK strongly believe in. We have tried, through a range of means, to bring pressure to bear on the Zimbabwean regime, and Mugabe is very clear indeed about what the UK's position is, but you are right to point out

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that all the words, all that we have said has not had the impact that we would like to see. We just want to see a democratic government that does the right thing by its people, and that is not what is happening in Zimbabwe at the moment. We are doing all we can to talk to Zimbabwe's neighbours, because potentially South Africa and other states, the members of SADC, for instance, potentially might have more influence over Zimbabwe than the UK or the EU, and certainly Mugabe sees the UK almost as beyond the pale as far as he is concerned; so it is a reflection of the strong criticisms that we have made in the UK about his regime, and we do not apologise for that, but we will use whatever avenues and opportunities there are to continue to express displeasure about the regime and to try and encourage others who might have more leverage with Mugabe to try and get him to change his ways.

**Q174 Sir John Stanley:** Minister, is it not the case that the scale of human rights violations by the Mugabe regime, the severity of them, the near genocidal impact that this is having on the lives of hundreds of thousands if not millions of Africans in that country, does this not make Mr Mugabe a prime candidate for consideration of being brought before the International Criminal Court?

**Ian Pearson:** Certainly the scale of what is going on in Zimbabwe, we believe as a UK government, is something that we have extremely serious concerns about. Whether what is going on would meet some of the specific legal criteria to justify referral to the International Criminal Court is something that I would not be legally qualified to give you a view on, but certainly we want to look at every opportunity we can to continue to put pressure on the Zimbabwean regime to see change in that country which is so desperately needed.

**Q175 Sir John Stanley:** As I have had letters from members of your ministerial team in the Foreign Office on this particular issue of Mr Mugabe and the possible basis of a reference to the ICC, I wonder whether you could let us have a note setting out the Government's present position on that point?

**Ian Pearson:** Yes, I would be happy to.<sup>5</sup>

**Chairman:** Thank you. We have got five minutes left. Two quick areas, and they will have to be very brief.

**Q176 Sandra Osborne:** In relation to Colombia, despite the demobilisation process, there are still strong links between the military and the paramilitary groups. Some of the NGOs believe that the UK Government should assist UK military assistance to Colombia. What is your view of that and what monitoring mechanisms does the Government have on its military assistance to Colombia?

**Ian Pearson:** I am advised that UK military assistance to Colombia focuses on mine-disposal training and human rights training, and this is the point that I made before when we were talking about countries of concern. UK military training

introduces security personnel to British defence concepts, including the importance of accountable and democratic action, and we use the best information available to assure ourselves that Colombian military personnel benefiting from UK assistance are not engaged in activities that violate human rights or that aid internal repression and that they are not in collusion with paramilitary organisations. This goes as far as including personal interviews and background checks, and really the focus on what we are doing is on providing assistance, focusing, as I say, on mine-disposal training and training in human rights, which we think is a good thing to do. I know that sometimes these things get classified as something else that might appear to be a bad thing to do, but I happen to think human rights training and how to dispose of mines safely is something that we ought to be supporting as a government.

**Q177 Mr Pope:** Could I just raise China and the UK/China Human Rights Dialogue. I have been very critical but the Committee has been quite critical of this dialogue in the past, because we believe that the existence of the dialogue provides a cloak of respectability for the Chinese Government to give the impression that it is taking human rights concerns seriously, but simultaneously not much is happening. This is a country making rapid economic progress but there has been no progress on human rights. Personally would scrap it, because I think it is not worth it, but I realise that is not the Government's position. Could I ask that the Government consider setting some goals for the dialogue, a timetable for those goals to be met and to then assess the usefulness of the dialogue against some kind of benchmark? At the moment, it seems to me, we are just engaged an endless dialogue without really a point. I think we should set some targets for what we want to achieve, a timetable to achieve those targets and an assessment that, if we do not reach those targets, we reassess the viability of the dialogue?

**Ian Pearson:** First of all, can I say something about China's economic development, because over the last 20 years China has taken one-third of a billion people out of extreme poverty, and I think that is a huge achievement, and it is providing better living standards for people in China, which I think is a basic human right; so it is an important development and we need to recognise that. I think China itself recognises that it needs to do more in the issue of human rights, and we have seen slow progress. There is often, when we look at countries, a choice to be made. Should we engage with a country and have a human rights dialogue or should we go down the route of UN resolutions and expressing our concerns in that way? I believe that strategic engagement is very much the right path to follow as far as China is concerned. I understand the points you are making about giving it a specific timetable, but what I would want to say in response is that we actually assess these things on pretty much an ongoing basis. We evaluate the response that we have to each part of our human rights dialogue, and the

<sup>5</sup> See Ev 67

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same happens with the EU/China human rights dialogue as well. I also think it is useful to note as a sign of progress that the UN special rapporteur on torture is actually in China at the moment, and, again, I think that is a positive development that China is opening up, and I think that, as China develops economically, we will also see improvements in the human rights situation there.

**Q178 Mr Pope:** Can I ask the Minister, would he at least consider this concept of a timetable setting goals and not rule it out completely?

**Ian Pearson:** I am happy to consider it, but, as I say, we tend to evaluate these things on an on-going basis. I think what is important is that we continue the process of strategic engagement. Yes, we would obviously like to see progress being made, but trying to hold people to targets is perhaps not the best way to do it, but I will certainly reflect on what you say on this.

**Q179 Chairman:** We are going to come back to China in the quite near future as a committee when we will be doing an inquiry next year. I am sure we will be raising a lot of these issues in detail with you, both in writing and hopefully on other occasions. Can I also say, you have had two hours and your human rights do need to now be preserved. There are a number of countries we did not mention—Saudi Arabia, Afghanistan, Nepal, Indonesia—and, I

think, there are some other areas that we may well be writing to you about. Clearly your remit is huge, as we questioned you at the start, and you also have your trade responsibilities. I think the fact that we have not been able to get through all of these areas is an indication of the vast scope of your job. I am sure we will have other opportunities to question you. We are grateful for you coming along today. Thank you and Miss Hall Hall for being with us.

**Ian Pearson:** Can I just thank the Committee for inviting me today. I think it is absolutely right that you should hold us to account on what the UK Government is doing with regards to human rights. I am sure the Committee will be pleased and, indeed, relieved to know that it is not just my responsibility. Although I have lead policy responsibility for human rights, as I hope I made clear, Foreign Office ministers will regularly raise human rights for the countries for which they have ministerial responsibilities; so to that extent human rights responsibilities are shared right across the Foreign and Commonwealth Office ministerial team. I certainly look forward to having the opportunity to talk to you about your work on China. I was looking at the terms of reference that you set for the inquiry, and I think we can have a very interesting discussion on what is a very important and topical foreign policy area. Thank you very much indeed.

**Chairman:** Thank you

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# Written evidence

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## **Letter to the Chairman of the Committee from Ian Pearson MP, Minister of State, Foreign and Commonwealth Office**

During my oral evidence session on the FCO's Annual Human Rights Report 2005, I undertook to write to the Committee with more detailed answers to a number of questions. I am pleased to be able now to provide those responses. I am also replying to your letter of 28 November to the Head of the Parliamentary Relations and Devolution Team at the FCO, where you raised a number of additional questions about the annual report.

### USE OF UK AIRPORTS BY US FLIGHTS (Q112)

You asked for clarification of whether we have an annual bilateral agreement with the USA, renewed on an annual basis, regarding US flights or flights originating in the US, into UK airports.

Following further investigation of this issue I can confirm that, apart from the UK/US Air Services Agreement covering commercial flights between the UK and the US, the UK does not have a separate bilateral agreement with the US, renewed annually, about the use of its airports by US aircraft or aircraft originating in the US.

### THE FCO'S GREEN PAPER ON PRIVATE MILITARY SECURITY COMPANIES (Q138–Q141)

I undertook to write to you about the current status of the FCO's Green Paper.

As announced to parliament in September 2004, the Foreign Secretary commissioned a detailed review of policy options for the regulation of Private Military and Security Companies. This was aimed at following up on the FCO's Green Paper of 2002. The review focused on the complex issues of definition, regulation, and enforcement and was completed in June 2005. The Foreign Secretary is now discussing its recommendations with Ministerial colleagues. Parliament will be informed of any decision. I have also written to the Foreign Secretary, as requested, about the concerns you raised.

### ARMS SALES TO COUNTRIES LISTED IN CHAPTER TWO OF THE HUMAN RIGHTS ANNUAL REPORT 2005 (Q158–Q160)

You asked about arms exports to the 20 major countries of concern, and more specifically about whether these could be broken down into different components and different types of export. In response I expressed concern about potential commercial confidentiality and pointed to the annual report on export licensing applications, but agreed to look at whether there was further information I could provide.

I know that the Committee will appreciate the amount of work involved in answering such detailed questions. As the Committee themselves have pointed out, the Quadripartite Committee is already engaged in scrutinising the UK's strategic exports, and a major exercise is currently underway to respond in detail to the many questions posed by that Committee in preparation for the Foreign Secretary's appearance before them early in the New Year. I hope, therefore, that the Committee can agree that their question is incorporated into this wider exercise and forms part of the Foreign Secretary's evidence session. In the meantime, members might find it useful to consult our detailed quarterly reports on strategic exports, which are available on both the FCO and DTI websites ([www.fco.gov.uk](http://www.fco.gov.uk) and [www.dti.gov.uk](http://www.dti.gov.uk)) include detailed product summaries not included the text of our consolidated 2004 Annual Report on Strategic Exports.

I can once again assure the Committee that all applications for export licenses are rigorously assessed on a case-by-case basis against the consolidated EU and National Export Licensing Criteria. Assessment under the Criteria includes strict examination of the risk that goods might be used for internal repression or diverted to undesirable end-users or end-use. All the countries of concern would, in particular, be specifically assessed against criterion 1 (Embargoes and other international obligations) and criterion 2 (Human Rights). A licence will not be issued where to do so would be inconsistent with the Criteria or other relevant commitments.

### REFERRAL OF PRESIDENT MUGABE TO THE INTERNATIONAL CRIMINAL COURT (ICC) (Q175)

You requested a note setting out the Government's present position on this issue.

The ICC normally needs to be invited to intercede in a situation by the State involved, who will be a party to the ICC treaty. Zimbabwe is not a State Party to the ICC treaty. We consider it unlikely that Zimbabwe would refer itself. The ICC did become involved in Darfur, where it was not invited to do so by a State Party. However, in this case the situation was referred to the ICC by the Security Council, on the basis that it was perceived to constitute a threat to international peace and security. While we keep the ICC option in the

case of Zimbabwe under review, we do not judge that enough members of the Security Council would at his stage be prepared to accept that Zimbabwe constitutes a threat to international peace and security, and thereby agree to refer it to the ICC Prosecutor.

#### UNGA RESOLUTION ON UZBEKISTAN (170-1)

I enclose a copy of the UNGA resolution as requested.<sup>1</sup>

You wrote to Chris Stanton of the Parliamentary Relations and Devolution Team at the FCO on 28 November with further questions on the Annual Human Rights Report, 2005. I am responding to these in point form:

1. *Angola. What is the Government doing to promote human rights?*

The UK follows human rights developments with other Western Missions and the UN Human Rights Office in Luanda. We support Angola in its transition to democracy after three decades of civil war. Angola is currently in the process of creating the structures and environment for the holding of democratic elections, which are expected in 2006. We are supporting projects related to human rights and conflict prevention. The UK is particularly concerned about the problem of illegally held small arms and light weapons in Angola and is working closely with the Angolan Government to reduce this. We have recently agreed a contribution of £281,622 towards the cost of the first phase of the HALO Trust's support to the Angolan Government's civil disarmament effort.

2. *Equatorial Guinea. What is the Government doing to promote human rights?*

I understand that you wrote to the Foreign Secretary on 18 November about the elections and human rights in Equatorial Guinea and that he has/is written/writing to you separately on this issue.

3. *Ethiopia and Eritrea. What is the government doing about the rising tensions and falling human rights standard?*

We continue to underline to the Governments of both Eritrea and Ethiopia that there must be no return to war; that the decision of the Boundary Commission is final and binding, and must be implemented; and that they should engage in dialogue on all the issues that divide them. We are working closely with the UN and Security Council partners to achieve a political resolution to this problem.

We support UN Security Council Resolution 1640 of 23 November (2005) that gave Ethiopia and Eritrea 30 days to respond to the demands made of them in the resolution to withdraw troops from the border area, and for Eritrea to lift the ban on UN helicopter flights.

On the issue of human rights, we have repeatedly urged the Eritrean Government to respect religious and media freedom and the principles of international human rights. We have also asked for detainees who are held without charge to be released quickly. Lord Triesman had frank discussions with the Eritrean Ambassador on 27 July and 18 October. On 6 October he wrote to the Eritrean President, Isaias Afwerki, about human rights.

Bilaterally and as EU Presidency we have repeatedly expressed concern about human rights violations to the Government of Ethiopia, and in particular regarding the events that took place on 8 June and 1 and 2 November. Hilary Benn and Lord Triesman spoke directly to Prime Minister Meles about this.

We have expressed particular concern over the killing of demonstrators and the arrests of opposition leaders and supporters and urged the Government to allow the opposition political parties to function without intimidation and that there should be an independent enquiry into these events. The Ethiopian Parliament has now approved this.

Many of those detained after 8 June have been released, but the disturbances that started on 1 and 2 November resulted in further mass arrests, including the arrest of leaders of the opposition. We remain concerned by the continuing detentions and harassment of opposition supporters and members. We have asked the Government of Ethiopia to release all those who are not going to be charged and to ensure the authorities abide by rule of law (due process) and their international human rights commitments. We have urged that those who are accused of criminal activity should be brought to trial and in accordance with the law.

The £30 million planned direct budget support for this year from DFID has not yet been disbursed. It would normally be disbursed before the end of the UK financial year. We are reviewing our position in the light of recent events.

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<sup>1</sup> Not printed.

4. *Afghanistan. The Afghan Government has incorporated people who have a documented history of human rights abuses. Are the UK and its partners turning a blind eye to impunity?*

As with other post-conflict countries in the world, the Government of Afghanistan contains people who have been accused (though not convicted) of human rights violations in the past. Post-conflict situations require a balance to be struck between reconciliation and holding individuals to account for what they may have done in the period of the conflict itself.

But this does not mean that the UK, our partners, and the Afghan authorities themselves, are turning a blind eye to impunity in Afghanistan. The Government of Afghanistan and the international community, including the UK, are discussing a "Transitional Justice Action Plan" for Afghanistan. A great deal of the momentum for this plan followed the publication of the Afghanistan Independent Human Rights Commission's report "A Call For Justice", published in January 2005. On 5–6 June 2005 a conference on "Transitional Justice in Afghanistan" was held in The Hague, which enjoyed high level attendance from the international community and Afghan Government. The conference agreed a draft Action Plan, which the Afghan Government are now finalising. The UK and our partners in the international community will continue to work to maintain this momentum.

Other relevant measures are already in place in Afghanistan. For example, Article 85 of the Constitution of Afghanistan states that Wolesi Jirga and Meshrano Jirga candidates "shall not have been convicted of crimes against humanity, as well as a crime or deprivation from civil rights by a court".

5. *Indonesia. What is the UK doing to support human rights?*

We welcome the signature on 15 August of the peace deal between the Indonesian Government and the Free Aceh Movement (GAM). So far implementation is proceeding well. The UK as Presidency of the EU is supporting the peace process through participation in the Aceh Monitoring Mission (AMM).

The human rights situation in Indonesia has improved in the last few years and we assess that President Yudhoyono is sincere in his attempts to push through reforms, including to the security sector. The current peace process in Aceh is an indication of his willingness to address some of the long-running issues in Indonesia. The Indonesian Parliament has recently voted for ratification of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

We continue to urge the Government of Indonesia to support religious freedom, maintain law and order and promote reconciliation. We also remain concerned about the death penalty. The UK, with other EU Member States, regularly raises the issue of the death penalty with the Government of Indonesia, most recently in July 2005.

As part of our regular dialogue with the Indonesian Government we raise reports of human rights abuses in Papua. We have also encouraged the Indonesian Government to engage in dialogue with Papuan representatives, and to proceed with full implementation of the Special Autonomy legislation. Embassy staff visit Papua regularly (most recently in May and September this year), and meet local officials and NGOs. President Yudhoyono has committed his government to resolving the Papuan question through dialogue, "in a peaceful, just and dignified manner".

The UN Secretary-General this year received the report of a three-man Commission of Experts he had appointed to review the judicial processes in East Timor and Indonesia and to make practically feasible recommendations, so that those responsible for human rights abuses in East Timor in 1999 are held accountable, justice served, and reconciliation promoted. The FCO contributed US\$40,000 towards the cost of producing this report. The report was discussed by the UN Security Council in August 2005. The UK referred to the importance when considering next steps of taking into account the views of the parties, in particular those of East Timor, and of seeing a credible mechanism for dealing with impunity for serious crimes and human rights violations. The UNSC has now requested the views of the UN Secretary-General on next steps before holding any further discussion of the report.

6. *Nepal. What is the Government doing to promote human rights and what is the status of the UK's military assistance programme?*

The human rights situation in Nepal has been steadily deteriorating for several years and we remain deeply concerned by the serious abuses that are still being carried out by both the Maoists and the security forces. The UN Special Rapporteur on Torture, Manfred Nowak, visited Nepal in September and his preliminary report indicated widespread and systematic use of torture by Nepalese security forces.

Improving the human rights record of the Nepalese security forces remains a central concern of UK policy. In October, the UK as Presidency led a high profile EU visit to Nepal, during which a strong public statement was made urging the Government of Nepal to respect human rights and urging the Maoists to put a definitive end to violence and acts of terrorism. In the same statement we called on the King, the Maoists and the political parties to take action to de-escalate the conflict and move towards a negotiated political settlement.

As part of the UK's commitment to tackling the human rights problem in Nepal, we have funded a number of human rights organisations and projects from the Global Conflict Prevention Pool (GCPP). The largest of these projects has been a contribution to the new UN OHCHR human rights monitoring operation, which the UK was instrumental in setting up through its diplomatic efforts at the Commission for Human Rights in Geneva earlier this year. The new office is a major step forward for human rights in Nepal and there is anecdotal evidence that it has already been delivering results in exposing (and thereby restraining) abuses by both the Maoists and the Royal Nepalese Army (RNA).

We are also funding human rights training for the RNA as part of our ongoing efforts to improve performance and paying for an independent human rights consultant to advise on policy at our Embassy in Kathmandu.

We will continue to work to secure a peaceful, durable and democratic resolution to the conflict in the country.

On the issue of UK military assistance, this has been significantly reduced since the King took power on 1 February. Our military assistance was always predicated on the maintenance of basic democratic structures and procedures. Following the King's action and the imposition of the State of Emergency, under which many fundamental rights were removed, we withdrew proposals for a substantial further package of military assistance. This comprised of £1.34 million worth of equipment including Land Rovers, enhancements for the surveillance aircraft we previously supplied in the form of a night vision capability and communications equipment and also bomb disposal equipment.

At present we provide only very modest levels of assistance to the Royal Nepalese Army (RNA) using funding from the Global Conflict Prevention Pool. This consists of bomb disposal equipment, human rights advice and training and a handful of general professionalism courses. UK policy on military assistance remains under review, in line with Indian and US policy. We continue to monitor events on the ground closely and we stand ready to alter it in response to new developments.

We are careful to check the end-use control of items of non-lethal military assistance to Nepal. We periodically remind the Nepalese of their obligations as set out in the Memorandum of Understanding governing the use of this equipment supplied. The equipment was given on the basis of a written understanding that aircraft would not be adapted for offensive purposes. The defence section at our Embassy in Kathmandu regularly inspects the aircraft we have donated to ensure they have not been modified or adapted for use with weapons.

*Ian Pearson MP*  
Minister of State  
Foreign and Commonwealth Office

8 December 2005

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#### Exchange of emails between Craig Murray and the Clerk of the Committee

(A)

I am slightly concerned that the Sixth Report of the FAC picked up on some media exaggeration of how much I can confirm the existence of the CIA's extraordinary rendition programme. I attach a short statement I have prepared to clarify the situation.

While they may not wish to pursue it, I should nonetheless be grateful if you could draw it to the attention of the new committee members as it does give a slightly different gloss to the position as stated in the Sixth Report.

*Craig Murray*

11 July 2005

#### Annex 1

I have seen a number of references, in the media and on the internet, citing me as confirming the existence of the CIA's extraordinary rendition programme, and that Uzbekistan was a destination for extraordinary rendition.

It seems to me some clarification is required.

As British Ambassador in Uzbekistan from August 2002 to October 2004 I saw intelligence material passed to the CIA by the Uzbek security services, and shared with MI6 by the CIA. Much of this I knew to be factually incorrect. The intention was invariably to exaggerate the Islamist threat in Uzbekistan and to link Uzbek opposition to Al Qaida.

I had learnt a great deal about the *modus operandi* of the Uzbek security services and their widespread use of torture. I sent my deputy, Karen Moran, to see her opposite number in the US Embassy in Tashkent to check if my fears about the origin of the intelligence material might be justified. She returned and reported

that her opposite number had not been available but she had seen another senior official instead (I cannot precisely recall who, but I believe it was either the head of the CIA station or Larry Memmott, Political Counsellor) who confirmed to her that the material probably was obtained under torture, but added that the CIA had not seen this as a problem.

In November 2002, late January or early February 2003 and finally June 2004 I sent official telegrams to the FCO stating that I believed we were receiving material from torture, that the material was painting a false picture and that it was both illegal and immoral for us to receive it.

In March 2003 I was summoned back to the FCO and told by Sir Michael Wood, chief Legal Adviser, that it was not illegal under the UN Convention Against Torture for us to obtain or to use intelligence gained under torture, provided we did not torture ourselves or request that a named individual be tortured. I was told in terms by Linda Duffield, Director for Wider Europe, FCO, that Jack Straw had personally considered the question and decided we should continue to receive useful intelligence even if got under torture. This meeting was minuted and a copy of the minute was held as a Top Secret document in Whitehall Liaison Department FCO.

I was aware from Autumn 2002 that the CIA were bringing in detainees to Tashkent from Baghram airport Afghanistan, who were handed over to the Uzbek security services (SNB). I presumed at the time that these were all Uzbek nationals—that may have been a false presumption. I knew that the CIA were obtaining intelligence from their subsequent interrogation by the SNB.

In two cases I was contacted by families trying to discover the whereabouts of individuals brought back in this way. I also had some brief connection with a third case.

I knew that a company, Premier Executive, were operating flights of executive jets including Gulfstreams bringing back these detainees, and that this was happening fairly regularly. Premier Executive had permanent ground staff in Tashkent three of whom I met socially. I understood they were civilian contractors who operated flights which supported the US military and intelligence presence in Uzbekistan in a number of ways. I believed them to be linked to Halliburton, whose subsidiary Brown and Root were involved in construction of ground facilities also to support the US military and intelligence presence. I also met socially serving US marines who were detailed to provide protection to Halliburton personnel and operations.

I did not know that Premier Executive or the CIA were bringing non-Uzbek detainees into Uzbekistan. I did not know of detainees being brought to the US base at Karshi Khanabad or any other US facility, rather than to the Uzbek authorities in Tashkent. I never heard of any interrogation with US personnel present. I had not heard the phrase “Extraordinary Rendition”.

What I have learnt since leaving Uzbekistan has come from journalistic work by *inter alia* Stephen Gray, Frederic Laurin, Andrew Gilligan, Jane Mayer, Scott Pellew and Don van Natta. I have spoken at length with all of these as well as reading what they have published. I have been told by more than one of the above of highly placed US official sources confirming that extraordinary rendition to Uzbekistan of non-Uzbeks does take place, but I have not met such sources myself, nor have I first hand experience of it.

So I find the evidence for extraordinary rendition credible, but am not the first hand authority on it that I am made out to be in some quarters. What I can confirm is the positive policy decision by the US and UK to use Uzbek torture material.

*Craig Murray*

*10 July 2005*

(B)

Thank you. I have seen the draft transcript of Mr Straw’s evidence in his recent appearance before the Committee, and his references to me.

I would strongly urge that the Committee obtain a number of FCO documents which provide essential support my assertions on the use of intelligence got under torture, which were questioned by Mr Straw. I believe this documentary evidence is much more compelling than Mr Straw’s perfectly accurate assertion to the committee that I am a bad electoral campaigner. It seems to me in poor taste for Mr Straw to rejoice to the committee that the BNP should beat anybody, and of dubious relevance to the case.

Chief among the essential documents are Tashkent telegram number 63 of 22 July 2004, and the FCO’s reply to it, plus the further response from Tashkent. The FCO reply contains reference to “a series of meetings”. The Committee might wish to see the minutes of that series of meetings.

I believe that for the Committee to reach the truth of the question of British use of torture material, it is essential to see the minute of the meeting held on the specific subject of torture intelligence in the office of Linda Duffield, Director Wider Europe. I was summoned back to London for this meeting. I believe the date was 7 March 2003, but I might be a little out. It was the only meeting ever held between these four people. Present were Linda Duffield, Director Wider Europe, Matthew Kydd, Head of Whitehall Liaison Department, Sir Michael Wood, Legal Adviser and I, Ambassador to Tashkent. That meeting was minuted, and I have seen the minute which is held by Whitehall Liaison Department.

On 13 March 2003 Sir Michael Wood wrote a minute to Linda Duffield, copied to me, about part of the discussion at the meeting. I believe that this minute would also much interest the Committee.

I quite understand that the Committee cannot simply take my word when it is called into question by the Secretary of State. That is why I believe it is essential that the documentary evidence is made available to the committee.

I should be very grateful if you could pass copies of this email to all members of the Committee. If you are precluded from doing this, I should be most grateful if you could tell me, so I may send copies directly. If a more formal means of communication is required, I should also be happy to oblige.

*Craig Murray*

*31 October 2005*

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**Letter to the Parliamentary Relations and Devolution Team, Foreign and Commonwealth Office  
from the Clerk of the Committee**

The Committee has asked me to request access to the following documents, the existence of which has been drawn to its attention by Craig Murray:

- Tashkent telegram 63, dated 22 July 2004;
- FCO reply to Tashkent telegram 63;
- Tashkent response to FCO reply to Tashkent telegram 63;
- Minutes of the series of meetings referred to in the FCO reply to Tashkent telegram 63;
- Minutes of the meeting attended by Linda Duffield, Matthew Kydd, Sir Michael Wood and Craig Murray on or about 7 March 2003, at which the use of intelligence obtained under torture was discussed;
- Minute referring to the above meeting from Sir Michael Wood to Linda Duffield, copied to Craig Murray, dated 13 March 2003.

I look forward to your early response.

*Steve Priestley*

Clerk of the Committee

*17 November 2005*

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**Letter to the Clerk of the Committee from the Parliamentary Relations and Devolution Team,  
Foreign and Commonwealth Office**

Thank you for your letter of 17 November about access to a number of documents drawn to your attention by Craig Murray. I apologise for the delay in responding.

As the Committee has requested, we will be happy to make arrangements for access to those documents mentioned in your letter which exist.

The documents are as follows:

- (a) Tashkent telegram 63, dated 22 July 2004;
- (b) FCO telegram 16 of 22 July 2004, in reply to Tashkent telegram 63;
- (c) Tashkent telegram 64 of 26 July 2004, in response to FCO telegram 16;
- (d) FCO telegram 17 of 26 July 2004, replying to Tashkent telegram 64;
- (e) Minutes of the meeting on 7 March 2003 attended by Linda Duffield, Matthew Kidd, Sir Michael Wood and Craig Murray;
- (f) Minute referring to the above meeting from Sit Michael Wood to Linda Duffield, copied to Craig Murray, dated 13 March 2003.

You also asked for minutes of a series of meetings referred to in FCO telegram 16. We have searched our records for these and consulted those involved and it appears that no formal record was kept. These meetings were informal discussions on the wider question of receipt of intelligence. As FCO telegram 16 noted, they did not lead to specific policy or other decisions that were formally recorded.

*Chris Stanton*

Parliamentary Relations and Devolution Team  
Foreign and Commonwealth Office

*15 December 2005*

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**Letter to the Parliamentary Relations and Devolution Team, Foreign and Commonwealth Office  
from the Clerk of the Committee**

Thank you for your letter of 15 December, which the Committee discussed at its meeting yesterday.

The Committee has asked me to request that it be supplied with copies of the documents listed in your letter. Although the Committee has noticed that at least one of the documents has been published on a number of websites, the Committee will, of course, respect the classification of any document supplied to it.

I would be grateful to receive your reply not later than 27 January.

*Steve Priestley*  
Clerk of the Committee

*12 January 2006*

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**Letter to the Clerk of the Committee from the Parliamentary Relations and Devolution Team, Foreign and  
Commonwealth Office**

Thank you for your letter of 12 January (which we received here on 23 January), informing us of the Committee's request for copies of the documents originally listed in your letter of 17 November to me. My reply to you of 15 December offered the Committee access by visiting our offices to view the documents.

The Foreign Secretary has carefully considered this new request. While he accepts fully that the Committee would, as it has always done with the classified documents we send it, respect the sensitivities involved and does not question their commitment to this principle now, in this instance it is a point of parliamentary privilege that is the issue. If we submit these documents, we understand that they become evidence to the Committee and parliamentary privilege would attach to them. This would impair our freedom of action.

Therefore, the Foreign Secretary's decision that access to the documents should be through viewing in our offices stands.

*Chris Stanton*  
Parliamentary Relations and Devolution Team  
Foreign and Commonwealth Office

*2 February 2006*

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**Letter to the Parliamentary Relations and Devolution Team, Foreign and Commonwealth Office,  
from the Clerk of the Committee**

Thank you for your letter of 2 February, in response to mine of 12 January, about the Committee's request for certain documents, which were listed in your letter to me of 15 December 2005.

The Committee considered this matter at its meeting yesterday and resolved to waive its privilege over any papers you send pursuant to the above-mentioned correspondence.

I hope this now clears the way for you to send these documents to us. If, however, you require any further clarification, I will be pleased to provide it.

*Steve Priestley*  
Clerk of the Committee

*9 February 2006*

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**Letter to the Secretary of State for Foreign and Commonwealth Affairs from the Chairman  
of the Committee**

Together with some colleagues, I recently met two opposition parliamentarians from Equatorial Guinea to discuss electoral monitoring and human rights abuses. Following that meeting, the Committee asked me to put the following questions to you:

- What exchanges have been made between the British Government and the Equatorial Guinean Government in regards to the monitoring of the local elections in 2008 and national elections in 2009?
- What representations have been made by the British Government to the United Nations and the European Union on sending a delegation of observers to Equatorial Guinea in the run up to the elections?

I would also be grateful if, in light of the Committee's current inquiry on the Foreign and Commonwealth Office's Human Rights Annual Report 2005, you could also inform us of the United Kingdom's current position on human rights abuses in Equatorial Guinea and what action the Government is taking.

*Mike Gapes MP*  
Chairman of the Committee

18 November 2005

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**Letter to the Chairman of the Committee from the Secretary of State  
for Foreign and Commonwealth Affairs**

Thank you for your letter of 18 November about election monitoring and human rights abuses in Equatorial Guinea.

I welcome the fact you were able to meet the two opposition parliamentarians when they visited the UK. Two members of our Africa Directorate also met the CPDS delegation on their visit to the UK.

The human rights situation in Equatorial Guinea gives cause for considerable concern, particularly the poor prison conditions, torture, and the lack of freedom of expression and good governance. Both press reports and the Amnesty International report on the treatment of those arrested in connection with the attempted coups in 2004 made unwelcome reading. It is important that we underline our concerns about human rights to the Government of Equatorial Guinea whenever possible.

As EU Presidency we issued instructions to lobby in November 2005 in support of human rights defenders suffering for exercising their right to freedom of expression, including the Equato-Guinean lawyer, Fabian Nguema. This will be carried out by the French, acting on behalf of the Presidency.

We have not yet discussed the 2008–09 elections with the Equato-Guineans. But we will urge the Government bilaterally and through the EU to make the considerable improvements needed to ensure the elections are free, fair and without violence. At the last elections in 2004, the UK provided transparent ballot boxes.

The British Ambassador (non-resident) to Equatorial Guinea will be paying a visit to the country next week. He will raise both human rights and election issues with the Ministers he meets, including the Prime Minister if he is available. Nearer to the time of the elections we will also encourage the Government, bilaterally and through the EU, to accept monitoring missions. We have not yet put in a request to the UN or the EU on sending an election monitoring mission, but we would fully support the EU if they decide to send one at the appropriate time.

*Rt Hon Jack Straw MP*  
Secretary of State for Foreign and Commonwealth Affairs

6 December 2005

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**Letter to the Secretary of State for Foreign and Commonwealth Affairs from the  
Chairman of the Committee**

At its meeting yesterday, the Committee considered your evidence on 13 December, when you told us that:

Some of the reports which are given credibility, including one this morning on the Today programme, are in the realms of the fantastic. There was a report this morning on the Today programme suggesting that intelligence staff from the United Kingdom have been involved in interrogation and maltreatment of detainees in Greece. Normally when you get allegations, however fantastical, we choose to neither confirm nor deny them because that is the only way you can protect intelligence, but let me just say in respect of those allegations that they are complete nonsense and no United Kingdom officials have taken part in any alleged mistreatment in Greece of any suspects whatsoever and we were not involved in the arrest or detention of those particular suspects.

A report in the *Observer* of 1 January ("British admit being at terror grilling") has led members of the Committee to doubt the accuracy and completeness of that statement. The Committee has asked me to write to you to express its view that—not for the first time—it has been told, at best, only a part of the truth. My colleagues feel particularly strongly that their questions on extraordinary rendition over the last year have not been taken seriously.

The Committee will be considering whether to invite you to appear before it to answer further questions on rendition and related matters. Meanwhile, we would welcome a clear and full statement from you on what did or did not happen in the presence of British officials in Greece when 28 Pakistani nationals were detained there last year.

I look forward to your reply.

*Mike Gapes MP*  
Chairman of the Committee

12 January 2006

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**Letter to the Chairman of the Committee from the Secretary of State for Foreign and Commonwealth Affairs**

I refer to your letter of 12 January, which we discussed by telephone earlier this week.

You have made a number of inaccurate assertions about “what did or did not happen in the presence of British officials in Greece” last year. I am not going to give details of operations nor of contacts with liaison services, all of which take place within authority provided by Parliament. But British officials were not present at the alleged questioning and maltreatment of Pakistani nationals in Greece last year. This is what I explained to your Committee on 13 December 2005 and remains correct. It is the Observer’s account of events in Athens that is inaccurate.

You make a serious unqualified further allegation that, “not for the first time,” your Committee “has been told, at best, only part of the truth.” Since you have been categorical in this claim, please let me know the details of the occasions when I have told your Committee “at best only part of the truth.”

You also say that the Committee’s questions on extraordinary rendition over the last year “have not been taken seriously.” What justification do you have for saying this? It is completely untrue. I have, as I always do with your Committee’s and any other Parliamentary colleagues’ questions, gone to great lengths to deal with the matter very seriously. I have kept Parliament fully informed as and when additional information has become available as a result of research into records going back to May 1997. I draw your attention to my written Answer to Menzies Campbell on 12 December, my session with your Committee on 13 December, my Written Ministerial Statement on 10 January and the one of 12 January.

As you know, the Intelligence and Security Committee takes the lead on intelligence-related issues. The ISC is currently looking into a number of questions relating to rendition and we are co-operating fully with the Committee.

*Rt Hon Jack Straw MP*  
Secretary of State for Foreign and Commonwealth Affairs

23 January 2006<sup>1</sup>

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**Letter to the Secretary of State for Foreign and Commonwealth Affairs from the Chairman of the Committee**

Thank you for your letter of 23 January, which the Committee discussed at its meeting yesterday.

My letter of 12 January did not make any “assertions”, inaccurate or otherwise, about the detention of Pakistanis in Greece last year. I merely asked for a clear and full statement, in the light of a newspaper report. You have replied that “British officials were not present at the alleged questioning and maltreatment” of the men. I note that this leaves open the possibility that officials were present at the men’s detention and I would be grateful if you would clarify your answer accordingly.

You ask for details of the occasions when, in the Committee’s view, you have provided incomplete answers to its questions. I append a list of those occasions.

You also ask me to justify the Committee’s view that its questions on rendition have not been taken seriously. There is nothing new in this. You will recall that in a Report at the end of the last Parliament, the Committee concluded that “the Government has failed to deal with questions about extraordinary rendition with the transparency and accountability required on so serious an issue” and called on it to “end its policy of obfuscation.” The comment was justified at the time and in the Committee’s view it remains justified. This view has been reinforced by the recent development which has seen the FCO providing quite full answers to opposition party spokesmen—fuller, certainly, than those it has provided to the Committee. Welcome though these fuller statements are, we fail to see why they could not have been made in response to the

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<sup>1</sup> See reply at Ev 121

Committee's questions. A particular case in point is the admission to William Hague in your letter of 6 February that an approach was made by the US authorities in connection with the rendition of a detainee in 2004.

Finally, you draw the Committee's attention once again to the work of the Intelligence and Security Committee. You know very well the FAC's views on the ISC. I and my colleagues do not accept that legitimate lines of inquiry for the FAC can be closed off simply because the ISC has taken an interest in them. There can be no question of overlap between a select committee of the House and a statutory body appointed by and reporting to the executive. I would therefore be grateful if you would reconsider your reply of 31 January to the Committee's question about Mr Benyam Mohammed al Habashi.

*Mike Gapes MP*

Chairman of the Committee

9 February 2006

## Annex 1

<i>Date and publication</i>	<i>Committee question</i>	<i>FCO response</i>	<i>Notes</i>
25 February 2005—letter to FCO; 11 March 2005—FCO reply; both published 5 April 2005: Sixth Report: Foreign Policy Aspects of the War against Terrorism (HC 36-II)	Has the United Kingdom used “extraordinary rendition” or any other practice of sending suspects to third countries for interrogation? If so, what use has it made, where, when and in relation to whom? Does the Government regard the use of such methods as (a) legally and (b) morally acceptable? If not, what representations has it made against their use?	The British Government's policy is not to deport or extradite any person to another state where there are substantial grounds to believe that the person will be subject to torture or where there is a real risk that the death penalty will be applied. Whether rendition is contrary to international law depends on the particular circumstances of each case. We encourage all members of the international community to respect international law and human rights standards.	The FCO response does not directly answer the questions.
25 February 2005—letter to FCO; 11 March 2005—FCO reply; both published 5 April 2005: Sixth Report: Foreign Policy Aspects of the War against Terrorism (HC 36-II)	Has the United Kingdom allowed any other country to use its territory or its airspace for such purposes? If so, which countries, how and when?	The British Government is not aware of the use of its territory or airspace for the purposes of “extraordinary rendition”. The British Government has not received any requests, nor granted any permissions, for the use of UK territory or airspace for such purposes.	This subsequently turned out not to be true
25 February 2005—letter to FCO; 11 March 2005—FCO reply; both published 5 April 2005: Sixth Report: Foreign Policy Aspects of the War against Terrorism (HC 36-II)	Has the United Kingdom received information which has been gained using these methods? If so, what use has it made of that information?	As you will be aware, this issue was the subject of a comprehensive inquiry by the Intelligence and Security Committee, whose report (Cm 6469) has just been published. Ministers have also answered a number of Parliamentary questions on this.	The ISC's Report on <i>The Handling of Detainees by UK Intelligence Personnel in Afghanistan, Guantanamo Bay and Iraq</i> was not about rendition and was only tangentially relevant to this question
22 March 2005; published 5 April 2005: Sixth Report: Foreign Policy Aspects of the War against Terrorism (HC 36-I)	We conclude that the Government has failed to deal with questions about extraordinary rendition with the transparency and accountability required on so serious an issue. If the government believes that extraordinary rendition is a valid tool in the war against	The Government's response to the Committee's question of 25 February did give a clear explanation of its policy towards rendition. The Government explained that its “. . . policy is not to deport or extradite any person to another state where there are substantial	The Committee does not accept the premise in the final part of this response, nor does it accept that this justifies the withholding of information from

<i>Date and publication</i>	<i>Committee question</i>	<i>FCO response</i>	<i>Notes</i>
	terrorism, it should say so openly and transparently so that it may be held accountable. We recommend that the Government end its policy of obfuscation and that it give straight answers to the Committee's question of 25 February. (Paragraph 98)	grounds to believe that the person will be subject to torture or where there is a real risk that the death penalty will be applied . . . The British Government is not aware of the use of its territory or airspace for the purposes of 'extraordinary rendition'. The British Government has not received any requests, nor granted any permissions, for the use of UK territory or airspace for these purposes . . ." The Government has also explained that it is not in a position to respond to all of the questions posed by the Committee without reference to information Parliament has decided is a matter for the Intelligence and Security Committee.	the Committee.
24 October 2005: Oral evidence from the Secretary of State	Q105 Sandra Osborne: I would like to ask you about the issue of extraordinary rendition. In response to this Committee's report of last year on the war against terrorism, the government said that it was not aware of the use of its territory or air space for the purposes of extraordinary rendition. However, it appears that there is a growing body of evidence to suggest that the UK air space is indeed being utilised for this purpose, albeit mainly in the media. Some of the suggestions seem to be extremely detailed. For example, the Guardian has reported that aircraft involved in operations have flown into the UK at least 210 times since 9/11, an average of one flight a week. It appears that the favourite destination is Prestwick Airport, which is next to my constituency, as it happens. Can you comment on that? What role is the UK playing in extraordinary rendition?	Mr Straw: The position in respect of extraordinary rendition was set out in the letter that the head of our parliamentary team wrote to Mr Priestley, your Clerk, on 11 March; and the position has not changed. We are not aware of the use of our territory or air space for the purpose of extraordinary rendition. We have not received any requests or granted any permissions for use of UK territory or air space for such purposes. It is perfectly possible that there have been two hundred movements of United States aircraft in and out of the United Kingdom and I would have thought it was many more; but that is because we have a number of US air force bases here, which, under the Visiting Forces Act and other arrangements they are entitled to use under certain conditions. I do not see for a second how the conclusion could be drawn from the fact that there have been some scores of movements of US military aircraft—well, so what—that that therefore means they have been used for rendition. That is a very long chain!	Does not respond to the question about UK <i>civilian</i> airports, eg Prestwick
24 October 2005: Oral evidence from the Secretary of State	Q107 Mr Keetch: They are not flying under US military flags; these are Gulfstream aircraft used by the CIA. They have a 26-strong fleet of Gulfstream aircraft that are used for this purpose. These aircraft are not coming into British spaces; they are coming into airports. Some are into bases like Northolt, and	Mr Straw: I would like to see what it is that is being talked about here. I am very happy to endorse, as you would expect, and I did endorse, the letter sent by our parliamentary team to your Clerk on 11 March. I am happy, for the avoidance of any doubt, to say that I specifically endorse its contents. If there is	The aircraft are not 'unspecified'

<i>Date and publication</i>	<i>Committee question</i>	<i>FCO response</i>	<i>Notes</i>
24 October 2005: Oral evidence from the Secretary of State and follow-up letter dated 22 November	<p>some into bases like Prestwick. Whilst it is always good to have the head of your parliamentary staff respond to our Clerk, Mr Priestley, could you give us an assurance that you will investigate these specific flights; and, if it is the case that these flights are being used for the process of extraordinary rendition, which is contrary to international law and indeed contrary to the stated policy of Her Majesty's Government, would you attempt to see if they should stop?</p> <p>Q110 Mr Illsley: Foreign Secretary, the letter which you supplied to the Committee in March which gave the conclusion that the British Government is not aware of the use of its territory or air space for the purpose of extraordinary rendition was taken at face value by most members of the Committee at that time, before the election. We took that to mean that we were not aware of any extraordinary rendition, and that it was not happening. The press reports were therefore something of a surprise. Would our Government be contacted by any country using our airspace, taking suspects to other countries? Would we be asked for permission or would there be any circumstances where we would be contacted; or is it the case that it could well be happening but that our Government is not aware of it simply because we have not been informed, or our permission is not necessary?</p>	<p>evidence, we will look at it, but a suggestion in a newspaper that there have been flights by unspecified foreign aircraft in and out of the United Kingdom cannot possibly add up to evidence that our air space or our facilities have been used for the purpose of unlawful rendition. It just does not.</p> <p>Mr Straw: Mr Illsley, on the precise circumstances in which foreign governments apply for permission to use British air space, I have to write to you, because it is important that I make that accurate.[*] What Mr Stanton on my behalf said in the letter is exactly the same: why would I, for a second, knowingly provide this Committee with false information, if I had had information about rendition? We do not practise rendition, full-stop. I ought to say that whether rendition is contrary to international law depends on the particular circumstances of the case; it depends on each case, but we do not practise it. I would have to come back to you on that question.</p> <p>* Official permission (ie Diplomatic clearance) is not needed for non-scheduled, non-commercial civil aircraft, including VIP flights over-flying or landing at civilian airports in the UK. In such cases the flight operator simply files the aircraft flight plan to the central Integrated Flight Plans Systems (IFPS). In the case of military or State aircraft landing at military airfields, clearance is sought from the MOD. Certain countries have a block clearance on a yearly renewable basis in a quid pro quo agreement (US, Germany, Italy and many others). Otherwise all nations must formally request permission to land or transit. However, neither international nor national aviation regulations require the provision of passenger information when transiting UK territory or airspace.</p>	<p>The letter is silent on the question of whether the CIA aircraft which use UK civilian airports are State aircraft or "non-commercial civil aircraft".</p>

<i>Date and publication</i>	<i>Committee question</i>	<i>FCO response</i>	<i>Notes</i>
23 November 2005: oral evidence from Ian Pearson MP	<p>Q119 Sir John Stanley: Could you give the Committee an assurance that officials in your department or, perhaps, elsewhere in government know perfectly well what is going on in terms of extraordinary rendition flights through UK airspace but have made the decision not to tell Ministers so that Ministers can hide behind the answer which was given to this Committee on 24 October: “We are not aware of the use of our territory or airspace for the purpose of extraordinary rendition”?</p> <p>Q120 Sir John Stanley: So if the US Government should be replying to the Foreign Secretary’s letter confirming that such flights have been taking place, when we come to ask you at what date did officials in your department or elsewhere within government know of this, the answer will be, from what you have just said, that no official knew anything at any time?</p>	<p>Ian Pearson: The remains the case, and I do not think it is right to say that officials are deliberately keeping information away from Ministers because that is the best way of protecting us from having to answer difficult questions. I think it is the simple truth that we are not aware, and that is the position at the moment, but we are certainly very aware of the allegations that have been made, we have seen the press reports and, as I say, the Foreign Secretary is asking the US for more information and will be writing in his official capacity as Presidency of the EU to do just that.</p> <p>Ian Pearson: I am certainly not aware of any official who has knowledge of these flights and is keeping that knowledge to him or herself. We have looked into this and, as a Government, we just do not have information (when I say “as a Government” that means officials as well as Ministers) on this.</p>	Information concerning two renditions in the late 1990s came to light 3 weeks after this meeting

#### **Letter to the Chairman of the Committee by the Secretary of State for Foreign & Commonwealth Affairs**

I agreed to provide a detailed response to three questions raised by the Committee during my appearance before it on 24 October 2005 as follows:

- the security situation in Basra (Younger-Ross, q 78)
- extraordinary rendition (Illsey, q 110)
- controls of radiological material in the Former Soviet Union (Mackinlay, q 137 & 138)

My responses to these questions are set out below.

#### **SECURITY SITUATION IN BASRA**

*Q78 Richard Younger-Ross: Pursuing the point on Basra, I had the privilege to visit there just after the fighting finished and saw what an excellent task our Forces were doing. I have to say that they were clearly not fully prepared for the task in front of them, because the Government had clearly not thought about the fact that it needed extra DFID help and advisors in relation to police and other areas. However, the Forces did a magnificent job in dealing with the local tribal issues and working with the local community. There has clearly been a deterioration in the relationships between our Forces there and the local authorities. What is being done to build those bridges?*

During my visit to Basra, on 11 November, I was able to meet the Deputy Governor and to see first hand that relations with the local authorities have improved since the events of 19 September. The joint UK/Iraq statement of 11 October, expressing regret that the incident took place and for the casualties on both sides and damage to public facilities, forms part of the wider efforts to restore good working relations with the Iraqi authorities in Basra.

Present at my meetings in order to continue support for the Iraqi political process in Basra—were senior members of Basra Provincial Council, and a cross-section of local civil society (including Shi’i and Sunni tribal leaders). All my interlocutors emphasised the need for greater consultation with the UK presence in Basra. During my visit, I called on the Basra Provincial Council to condemn those groups mounting attacks on MND(SE) and to ensure local security forces took effective action against them. This will help remove the major obstacle to an acceleration of reconstruction and the strengthening of co-operation.

In Southern Iraq more widely the Department for International Development (DfID) has committed £131 million for infrastructure rehabilitation, of which £53 million has been spent on employment creation and improving local administration, along with a £40 million project for improved power and water supplies in southern Iraq. The power and water project will also help central government design an effective long-term infrastructure strategy. A Governance Development Fund provides project funding for work enabling Iraqi capacity building to take place. We also co-chair, with the United Nations, the Southern Iraq Donor Group, which aims to bring all the major civilian and military agencies together to better co-ordinate and deliver our response to reconstruction and development in Southern Iraq.

Our staff—at the British Consulate General in Basra—have been hard at work ensuring greater Council involvement in reconstruction projects, security issues, and assistance for education and culture in Basra. We are, therefore, now currently on much better terms with the Governor and Council, and co-operation in all areas is proceeding as well as expected given the continuing fragile security situation. Our Consul General, James Tansley, now addresses weekly meetings of the Council and regularly discusses security issues with the Governor. We aim to continue this engagement to ensure that the legacy of our presence in Basra will create further renewal of the region.

#### EXTRAORDINARY RENDITION

*Q110 Mr Illsley: Foreign Secretary, the letter which you supplied to the Committee in March which gave the conclusion that the British Government is not aware of the use of its territory or air space for the purpose of extraordinary rendition was taken at face value by most members of the Committee at that time, before the election. We took that to mean that we were not aware of any extraordinary rendition, and that it was not happening. The press reports were therefore something of a surprise. Would our Government be contacted by any country using our airspace, taking suspects to other countries? Would we be asked for permission or would there be any circumstances where we would be contacted; or is it the case that it could well be happening but that our Government is not aware of it simply because we have not been informed, or our permission is not necessary?*

Official permission (ie Diplomatic clearance) is not needed for non-scheduled, non-commercial civil aircraft, including VIP flights over-flying or landing at civilian airports in the UK. In such cases the flight operator simply files the aircraft flight plan to the central Integrated Flight Plans Systems (IFPS).

In the case of military or State aircraft landing at military airfields, clearance is sought from the MOD. Certain countries have a block clearance on a yearly renewable basis in a quid pro quo agreement (US, Germany, Italy and many others). Otherwise all nations must formally request permission to land or transit. However, neither international nor national aviation regulations require the provision of passenger information when transiting UK territory or airspace.

#### CONTROLS OF RADIOLOGICAL MATERIAL IN THE FORMER SOVIET UNION

*Q137 Andrew Mackinlay: I can, but this problem of timing has happened before—but I will move straight to my point. In the Former Soviet Union there are decaying lighthouses for example around the coast where there is material that can be taken by people . . . which could go into dirty bombs . . . There have also been reports that the market place for that is in the “Stans”. Certainly there was quite a detailed and authoritative piece on the BBC PM Programme by Rod Broomby about this. It relates to what this Committee has drawn attention to in the past about the access to these materials throughout the Former Soviet Union—by way of example, lighthouses in remote places, which are looted—and also the fact that we are concerned about the “Stans” and we have not got representations for instance in Kyrgyzstan, where there is also the problem of Islamic refugees from Uzbekistan. In a sense, because we are under time constraints there are some related things here. One is the decay and access of stuff around the Former Soviet Union; second is the market place and the “Stans”, and third is the absence of our representation in this very fragile country of Kyrgyzstan, which has this issue and the issue of the refugees from Uzbekistan.*

The Global Partnership against the spread of weapons and materials of mass destruction was inaugurated at the G8 Kananaskis Summit in 2002. Under the Global Partnership, G8 leaders pledged to provide up to \$20 billion over 10 years to projects, initially in Russia, to support non-proliferation, disarmament, counter-terrorism and nuclear safety. The UK has agreed to contribute up to \$750 million over 10 years, with 80% of the current £36.5 million annual budget being spent on projects in the Russian Federation.

Practical progress has been made in implementing commitments under the Global Partnership, including the physical protection of nuclear materials and facilities. The G8 Gleneagles Statement and the Sea Island G8 Action Plan on Non-Proliferation, highlighted the importance of addressing the security of nuclear materials, equipment and technology as well as radioactive sources. A number of countries have now established programmes with Russia and the Ukraine to upgrade the physical protection of and account for nuclear materials. These include the US, UK, Germany, Canada, Norway, Sweden and the EU.

One aspect of this work has been securing radiological sources such as those you mentioned. Several donors to the Global Partnership, including the US, Norway, Denmark, the Nordic Environmental Finance Corporation (NEFCO), Germany, Canada and France are supporting dismantling, storing and replacing some 700 highly radioactive Radioisotope Thermoelectric Generators (RTGs) which have been used to power Russian lighthouses. A Russian “RTG Master Plan” is being developed and efforts are under way to increase co-ordination among participating countries.

22 November 2005

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**Letter to the Chairman of the Committee from the Secretary of State for Foreign and Commonwealth Affairs**

When I met your Committee on 13 December, I undertook to provide more detailed answers to some of the questions raised in the discussion. I attach answers to these questions, and to the questions that the Committee didn’t reach during the session.

*At Q30 in the transcript, Mr Keetch asked whether British Overseas Territories including Diego Garcia and RAF Akrotiri in the Sovereign Base Areas of Cyprus had been used for the purposes of rendition of suspects by the USA.*

The answer is “no”, as I made clear in my Written Ministerial Statement of 20 January.

At Q42 the Foreign Secretary undertook to offer a reply to Sir John Stanley’s question about whether Mr Benyam Mohammed Al Habashi was handed over deliberately by the British intelligence services to the CIA in Pakistan.

As I stated at the time, these are matters for the Intelligence and Security Committee to investigate. I therefore feel it would be inappropriate to go into further details in this letter.

*At Q51 Mr Straw offered to send the Committee a note on “unfair treatment, less than torture” and the way in which suspects are treated in the UK, in answer to a question from the Chairman on whether certain interrogation techniques permitted in the USA would fail within UK definitions of torture.*

At Q51 you expressed concerns that certain activities may be permissible in the US in interrogations, which are not permissible in the UK, because they are not defined as torture by the US. I indicated that led us towards a consideration of cruel, inhuman and degrading treatment, on which I undertook to send the Committee a note.

First of all, it is important to note that the US Detainee Treatment Act, enacted on 30 December 2005, provides that no individual in the custody or under the physical control of the US Government, regardless of nationality or physical location, shall be subject to cruel, inhuman or degrading treatment or punishment. This legislation makes a matter of statute what President Bush has made clear was already US Government policy. We have welcomed this. We will keep in close touch with the US Government on the implementation of the Detainee Treatment Act.

On the question of definitions, the United Kingdom understands the term “torture” to have the meaning set out in Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Article 1 CAT defines torture as “any act by which severe pain or suffering whether physical or mental is intentionally inflicted . . .”. It does not, however, give specific examples of what constitutes torture. The understanding of the definition of torture made by the US on ratifying CAT specifies the meaning of “mental pain or suffering” in more detail than Article 1 CAT. The UK made no reservations or understandings on ratification and has not adopted a formal definition of what constitutes mental pain or suffering for the purposes of Article 1. Section 134 of the Criminal Justice Act 1988 provides that a public official commits torture if he intentionally inflicts severe pain or suffering on another in the performance of his duties, and does not define “severe pain or suffering”.

I would add that the US Secretary of State made clear, again, in her statement of 5 December 2005 that:

- the US does not authorise or condone torture of detainees;
- torture, and conspiracy to commit torture, are crimes under US law; wherever they may occur in the world.

On the question of definitions, I would also note that under US legislation, the term “cruel, inhuman or degrading treatment” is to be interpreted according to the US Constitution. But the essential fact is that “cruel, inhuman or degrading treatment” of any detainees held by the US Government anywhere is legally banned under US law.

*At Q90 Mr Illsley asked whether there had been any progress regarding the Bulgarian nurses imprisoned in Libya.*

We remain concerned about their situation and want to see them released. With EU Partners we have made clear to Libya that we want it to resolve remaining EU concerns, including this case, as part of developing our engagement.

We have repeatedly raised this difficult and longstanding issue at all levels with Libya, both bilaterally and in our role as EU Presidency. With our EU Partners, the European Commission, and the US, we have been actively encouraging the parties to identify a solution acceptable to them both, including through inter-governmental meetings, held in confidence.

Following such a meeting in Tripoli on 21–22 December the UK issued a press release (copy attached) on behalf of representatives of the British, Libyan, Bulgarian and US governments, and of the European Commission, about the establishment of an International Benghazi Families Support Fund. It will collect and allocate financial and in-kind assistance to the Benghazi families, including continuing medical care to the HIV-infected patients, help to upgrade to international standards the medical facilities at which they receive treatment in Benghazi, and provision of financial assistance to the families. More details about the Fund are set out in the press release.

Following this progress, we welcome the ruling by the Libyan Supreme Court on 25 December to overturn the death sentences on the medical staff and return the case to the lower court for a fresh hearing. We have encouraged Libya to ensure this takes place soon.

In addition, the UK is providing assistance to alleviate the HIV crisis in Benghazi through the EU's "HIV Action Plan for Benghazi". The focus of this assistance is to upgrade the Benghazi Centre to become an HIV/AIDS centre meeting international standards. The assistance will take the form of training and in particular by sharing relevant European expertise.

*The EU is fielding an increasing number of missions abroad, with varying functions. Is this a deliberate trend and are there any further such missions on the way?*

The increase in the number of CFSP missions is a natural progression. ESDP began a few years ago from a UK-French initiative with the vision that it would grow into an important tool that could be used in a variety of situations internationally. It is now beginning to fulfil that role. The current missions in Rafah and Aceh in particular show that the EU is now considered by the international community as a key organisation for supporting efforts to improve peace and security around the world. ESDP has always had a number of priority areas, but it is only more recently that it has started to activate them having gained necessary experience and capabilities.

The only mission potentially on the horizon is in Kosovo. There is broad agreement amongst EU partners that some of the niche areas that the EU could fill in Kosovo include an EU policing mission as well as justice and the rule of law. This though is dependent on the outcome of the final status process.

The UK would expect to see ESDP play a role within its remit wherever it made sense and it had the right capabilities to act—always coordinating with other international actors to try to achieve best added value and ensure the appropriate instruments are deployed for each situation.

*Is the Rafah monitoring mission a model which the EU hopes to replicate, if all goes well?*

The Rafah Border Assistance Mission is the EU's second monitoring mission. The EU also has a monitoring mission in Aceh, and the Commission runs a customs border monitoring mission in Moldova. Monitoring is one of the priority areas for the EU's security and defence policy and it is possible that the EU could carry out a similar role elsewhere. However, each mission will differ according to the task and the environment in which it is operating. We will always be looking to ensure added value and that EU capabilities are utilised where they make best sense and make a real contribution.

*Does the EU have any plans to intensify relations with India, given its growing importance on the global stage?*

The EU recognises absolutely the growing importance of India. At the EU-India Summit in The Hague in November 2004 the EU and India established a strategic partnership. This was followed up at the EU-India Summit in New Delhi in September 2005, during the UK Presidency. The main focus was the agreement of a wide ranging and ambitious EU-India Joint Action Plan, which will form the framework for future EU-India engagement. This Joint Action Plan was the product of close co-operation with India over a number of months leading up to the Summit. Both sides hailed this achievement, emphasising shared values and a common interest in working together. Highlights of the Action Plan include closer collaboration on counter-terrorism; the establishment of an EU-India security dialogue covering regional security issues, disarmament and nonproliferation; the launch of an EU-India Initiative on Clean Development and Climate Change; establishing a High Level Trade Group; and establishment of dialogues on migration and consular issues, as well as on human rights. The Prime Minister was accompanied at the Summit by a large delegation of senior European CEOs who attended a parallel annual Business Summit.

EU and Indian CEOs registered a strong level of interest in their respective business communities for strengthening trade and investment opportunities. Manmohan Singh, Tony Blair and Mr Barroso all addressed the Business Summit. The general spirit of co-operation received an additional boost with the announcement by Manmohan Singh at the Summit press conference of an order by Indian Airlines for the purchase of 43 Airbus, worth USD 2.2 billion.

Since the Summit the UK Presidency has taken forward a number of initiatives. The UK chaired the first meeting of the new counter-terrorism working group; and led an EU team in Delhi for an exchange under the dialogue on human rights. In the run up to the Summit the UK worked hard with EU partners to secure support for India's membership of the ITER international nuclear fusion project. Since the Summit India has formally become a member of ITER.

India's importance to the EU will continue to grow, especially as India's own understanding of the EU expands on greater engagement with the EU (the UK Presidency organised a well received briefing seminar on the EU in Delhi for senior Indian policy makers). At the Summit there was common recognition that India's young, growing population makes it an indispensable partner for the EU. Both sides are committed to report on progress under the Joint Action Plan at the next EU-India Summit under the Finnish Presidency in Helsinki in autumn 2006. In the meantime, we expect that the Austrian Presidency will take forward other elements of the Action Plan, including by hosting a Foreign Ministerial Troika. The UK will continue to work with the Indians, Presidency and Commission to further boost the EU-India relationship.

I hope all this is helpful to the Committee.

*Jack Straw MP*

*31 January 2006*

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#### **Written evidence submitted by ABColombia**

Congratulations on your new appointment. I am writing on behalf of the ABColombia group (see [www.abcolombia.co.uk](http://www.abcolombia.co.uk) for a profile of the group—a coalition of six British and Irish development agencies working on Colombia) to encourage the Foreign Affairs Select Committee to carry out an inquiry into British foreign policy in Colombia during the next six-twelve months. ABColombia notes that since 1997, the FAC does not appear to have held an inquiry on British foreign policy in Latin America, and that the UK's relationship and cooperation with Colombia requires urgent scrutiny.

The armed conflict in Colombia has resulted in the deaths of over 70,000 people in the last 20 years and resulted in more than three million internally displaced people—one of the highest rates of displacement in the world. The conflict is characterised by a flagrant disregard for human rights and international humanitarian law by all sides. There are well-established links between paramilitary groups and the State, and elements within the Armed Forces continue to carry out extra judicial executions, torture and violations of due process. Impunity is widespread.

Despite this, the UK continues to express strong political support for the Colombian Government, and provides significant military support to the Colombian Government, with little or no analysis of its impact. In the current context, it is difficult to assess how the UK Government can guarantee, as it claims to do, that this cooperation does not end up in any way contributing to human rights abuses or to impunity in the absence of Colombia's full implementation of the UN human rights recommendations.

We consider that the following two issues would be important focal points for such an inquiry.

#### **MILITARY AND COUNTER-NARCOTICS AID:**

The UK currently provides military aid to Colombia in a variety of different forms. However, only a limited amount of information is available about the nature of this cooperation. There is a similar lack of transparency regarding the nature of anti-narcotics cooperation provided by the UK, in particular as concerns the relation between anti-narcotics and counter-insurgency cooperation.

In the current context in Colombia, where there are well-established links between paramilitary groups and the State, and where elements within the Armed Forces continue to carry out extra judicial executions, torture and violations of due process with great impunity, we believe that the provision of military aid such as provision of weaponry and war materials, training in combat tactics and other specialised courses such as intelligence, is unacceptable. We do not believe there are any guarantees to prevent such cooperation being used in violation of human rights. There is plenty of evidence regarding the Colombian Armed Forces directly violating human rights and international humanitarian law, in addition to the danger of such cooperation ending up in paramilitary hands. We have similar concerns about anti-narcotics aid that is channelled through the Colombian Armed Forces.

In the Foreign Office's recent report on human rights it stated that in Colombia "the human rights situation remains critical", yet the UK continues to grant export licenses for heavy machine guns and combat helicopters. Given current concerns around the human rights situation in Colombia, this UK policy appears to be in breach of the EU Code of Conduct on Arms Exports and the Consolidated EU and National Arms Export Licensing Criteria agreements.

On the issue of human rights training for the military, we are gravely concerned about the lack of impact of this training, and call for an urgent evaluation of the training programme, as agreed between the UN Human Rights Office in Colombia and the former Colombian Minister of Defence some two years ago. We believe it is particularly pertinent that the UK should call for this too, given that this concerns the effectiveness of the UK's own cooperation.

#### HUMAN RIGHTS AND DEMOCRACY

The UK has an important role to play both as President of the EU, Member of the UN Commission on Human Rights and member of the G24 (group of 24 signatories to the 2003 London Declaration regarding international cooperation towards Colombia) in terms of pushing the Colombian Government to comply with its international human rights and humanitarian law obligations (for example, the UN High Commissioner for Human Rights' annual recommendations, the recommendations of the annual Chair's Statement at the UN Commission on Human Rights, and those of the Special Mechanisms of the UN that have visited Colombia). The previous Minister for Latin America, Bill Rammell, consistently emphasised the UK's position as one of "critical engagement", suggesting that support for the Colombian Government would be dependent upon the willingness of the latter to implement these recommendations. It is therefore of concern that, despite considerable pressure and scrutiny, the Colombian Government has failed to make any significant progress with the implementation of the UN recommendations, and yet the British Government has not responded with adequate clarity and coherence, but has instead continued to express full support for the Colombian Government's policies. This position has been consistently maintained despite the fact that the UN Human Rights Office has noted that in a number of instances the Colombian Government has tried to push through legislation that directly contravenes international human rights standards.

We believe that a relationship of "critical support" requires greater clarity in terms of condemning policies that breach international norms, which result in impunity and which put human rights defenders at risk. One clear example of the problem of impunity is the current legal framework for the demobilisation of illegal armed groups. In an international donor meeting in Cartagena in 2005, Mr Rammell said that "nobody guilty of human rights violations should go unpunished", but this is precisely what is now happening with the current demobilisation process. There is widespread international concern about the legal framework for this process, and calls from many quarters (including by a UN expert panel) for the legislation to be revoked. The UK should add its voice to these calls.

If human rights are genuinely at the centre of FCO policy towards Colombia, then the British Government must adopt a more rigorous approach to human rights that goes beyond financial support to a handful of projects, to include clear political support for initiatives and directives designed to provide democratic and human rights guarantees in accordance with prevailing international standards. This includes support for initiatives to ensure the independence of the legal system and the application of due judicial process, such as strengthening the human rights department of the offices of the Attorney General, the Ombudsman and the Inspector General, as well as the Constitutional Court. Equally, those initiatives that do not conform with international standards should not receive the backing of the British Government. In sum, support for the Colombian Government must be conditioned on human rights guarantees and intended to strengthen human rights, democracy and the rule of law.

We recommend the following list of people as expert witnesses on human rights and cooperation to Colombia:

1. Michael Fruhling, Director, UN Human Rights Office in Colombia.
2. Gustavo Gallón, Colombian Commission of Jurists.
3. Jenny Pearce, University of Bradford.
4. Helen Flautre MEP, President of Human Rights Sub-Committee.
5. Amnesty International—Colombia research team.
6. ODHACO—International Office on Human Rights—Action on Colombia.

We are happy to provide further information on any of the above issues and would welcome the opportunity to meet with you to discuss them at your earliest convenience.

*Dr Emma Grant*  
Coordinator  
ABColumbia

27 July 2005

### Written evidence submitted by the National Spiritual Assembly of the Bahá'ís of the United Kingdom

The National Spiritual Assembly of the Bahá'í of the United Kingdom, the elected governing body of the Bahá'í faith of the UK, welcomes the publication of the 2005 annual human rights report by the Foreign and Commonwealth Office.

The world-wide Bahá'í community has historically been a strong supporter of universal human rights, and Bahá'í in the United Kingdom have over many years supported the ratification of international human rights laws, such as the Rome treaty to establish the International Criminal Court. As far back as 1947, the Bahá'í community has a record of public support for the Universal Declaration of Human Rights. This deep support for a universal rights culture is based on the founding principles of the Bahá'í faith which stress the oneness of the human race and the primacy of justice as a spiritual value.

Bahá'u'llah, the Prophet-Founder of the Bahá'í faith, wrote to Queen Victoria in 1868 praising the role of her government in abolishing slavery. Two of Bahá'u'llah's most famous maxims, "The earth is but one country and mankind its citizens" and "The best beloved in my sight is justice," provide Bahá'í with a world-view in which the undeniable equality of human beings must be recognised.

The National Spiritual Assembly wishes to offer specific comment on two sections of the report, sections 2.10 and 8.3. Both sections pertain to areas of specific interest to the Bahá'í community and relate to areas of human rights policy where the Bahá'í community possesses considerable experience.

#### SECTION 2.10—IRAN

The Bahá'í faith was founded in Iran and Bahá'ís constitute the largest religious minority in that state, numbering in excess of 300,000. Bahá'í representatives meet regularly with Ministers and officials at the Foreign and Commonwealth Office to raise concerns over the treatment of the Iranian Bahá'ís. The UK Government has actively raised the question of Iran's treatment of the Bahá'ís through bilateral and multilateral means, and through the EU. The Bahá'í community in the UK values the principled support of the Government on this issue.

We welcome the content and overall tone of section 2.10. We concur with the observations of the report to the effect that there has been no significant progress in Iran and that human rights have deteriorated there. This would certainly apply to the situation of the Bahá'ís. The report makes substantial reference to the persecution of Iran's Bahá'ís and observes; "It is deeply disappointing that the Iranian authorities have not acted on repeated calls by the UN General Assembly to ensure that the Bahá'ís enjoy full and equal rights."

The report also expresses disappointment at Iran's failure to implement in full the recommendations of the Working Group on Arbitrary Detention and the Special Rapporteur on the Right to Freedom of Expression. Reports by both UN special mechanisms had cited incidents of persecution of the Bahá'ís. We would observe that in addition to these, four other special mechanisms; the Committee of the International Labour Organisation, the Committee on the Elimination of Racial Discrimination, the UN Special Rapporteur on Racial Discrimination and the UN Special Rapporteur on Freedom of Religion and Belief, have investigated various aspects of human rights in Iran between 2003 and 2005. All of their reports found evidence of Iran's repression of the Bahá'í community.

Taken collectively, these reports demonstrate evidence that the pressure on the Bahá'í is wide-spread, systematic and mainly directed by the policy of government. Whilst the Bahá'í community welcomes the work the respective special mechanisms undertake, and would encourage the UK Government to support them, we would observe that the compartmentalised nature of their reports does not offer a single, comprehensive and impartial view of the human rights situation in Iran. In previous years resolutions passed at the UN Commission on Human Rights established the post of a UN Special Representative on Iran, whose reports provided a detailed analysis of the human rights situation in Iran. The Bahá'í community believes a new special mechanism should be mandated with the specific task of providing the international community with a report that will cover all human rights concerns in Iran.

We welcome the UK Government's decision to make human rights a priority during its tenure as EU President in the second half of 2005. In 2004 the UK and other EU governments co-sponsored a resolution at the General Assembly. The text of this resolution made specific reference to the plight of the Bahá'í. The annual report refers at one point to concern over Iran's treatment of religious minorities. It should be emphasised that any language on religious minorities in Iran should make separate reference to the Bahá'í as the Iranian Government does not recognise the Bahá'í faith as a religion.

The Government states that there has been little overall progress since the start of the EU-Iran human rights dialogue and it is searching for ways that the dialogue process could become more effective. The Bahá'í community did not oppose the dialogue, but at the outset of the process it suggested that it would be useful to have a set of published benchmarks by which the process could be evaluated. The Bahá'í International Community offered governments, including the UK, a set of benchmarks specific to the Bahá'í case that could have led to their emancipation in phased steps and would not have required changes to the Iranian constitution. It is disappointing to note that none of these criteria would have been reached in the dialogue so far.

The 2005 human rights report records a level of disappointment on the part of the UK Government at the lack of progress in Iran towards better human rights. The report was published in July and the Bahá'í community must report that since that date there has been a further increase in the momentum of the persecution of the Iranian Bahá'í community. This has included a wide-spread pattern of detentions and arrests, raids on private homes, and surveillance by authorities of the state. In October 2005 several hundred young Bahá'ís who had taken the examination to enter the Iranian university system discovered that they had been falsely recorded as Muslims. The official body administering entrance to university has declined their requests to correct their identity. The Bahá'ís will not dissemble to gain access to education and they are aware that to do so might leave them at risk of charges of apostasy. Therefore, 2005 will see the 26th year in succession in which the Bahá'í community has been denied the opportunity to study, to develop and to offer a greater contribution to their own society.

#### SECTION 8.3—FREEDOM OF RELIGION AND CONSCIENCE

The Bahá'í community welcomes on principle the inclusion in the report of section 8.3 on Freedom of Religion and Conscience. While we recognise that the report addressed problems of religious tolerance, including those faced by Bahá'ís in Iran, in chapter 2, we would have liked to see section 8.3 contain a specific reference to those states that have records of particular concern with respect to religious tolerance. We believe Iran to be one such state, and we would observe that Iranian policy towards the Bahá'ís is noteworthy in that it is directed by specific government policy contained in a 1991 memorandum on the “Bahá'í question”, a document that was signed in person by Supreme Leader Ali Khomeini.

#### CONCLUDING REMARKS

The Bahá'í community of the UK welcomes the content and tone of the annual human rights report. We particularly commend the attention to the persecution of the Bahá'í mentioned in section 2.10 at a time when the rate of repression of Bahá'í is clearly increasing. We urge the Government to press for increased international monitoring of Iran's human rights record, and we believe this can best be achieved through the establishment of a UN Special Mechanism dedicated to human rights in Iran.

We would urge the Government to name states with particularly poor records on religious tolerance in section 8.3, even if they have been named in other sections of the report. We believe Iran's record in religious intolerance merits a separate mention.

The Bahá'í community wishes to record and acknowledge action taken by the UK Government in defence of the rights of Bahá'í in Iran.

*Daniel Wheatley*  
Government Relations Officer  
National Spiritual Assembly

27 October 2005

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### Written evidence submitted by Christian Solidarity Worldwide

#### THE PERSECUTION OF CHRISTIANS IN INDIA, FROM THE PERSPECTIVE OF CASTE DISCRIMINATION

##### 1. BACKGROUND: CASTE DISCRIMINATION

The recent Political Declaration on the India-EU Strategic Partnership, issued on 7 September under the Presidency of the UK, included a commendable commitment to “work together to uphold human rights in a spirit of equality and mutual respect”. Consequent to this commitment, there is need for the EU, and therefore the UK in its outgoing Presidency, to raise concern with the Indian authorities about the widespread and egregious human rights abuses perpetrated in connection with the caste system in India.

Caste discrimination is the single largest human rights concern in India, affecting around 250 million people. The suppression of Dalits is considerable and wide-ranging, and is well-documented. Not only are Dalits compelled to perform the most menial and hazardous tasks, but many Dalit women are sold into prostitution, and the use of Dalit child labour is widespread. As hired workers, Dalits are typically paid under 50% of the minimum wage, and the careers of educated, more influential Dalits are hampered by their caste. Dalits are widely subjected to brutal and degrading assaults.

Several of the issues surrounding caste discrimination were highlighted during a recent hearing of the Subcommittee on Africa, Global Human Rights and International Operations in the United States Congress. In particular, the plight of Christians drawn from among the Dalits and Other Backward Castes (OBCs), who comprise the vast majority of India's Christian population, was raised. According to Congressman Christopher Smith, “Dalits and tribal peoples are often the targets of Hindu religious

extremism . . . many Dalits and tribal groups have converted from Hinduism to other faiths to escape widespread discrimination and achieve higher social status. . . . Converts to Christianity are particularly targeted.”

## 2. RELIGIOUS FREEDOM ASPECT

Caste discrimination, and the fact that the overwhelming majority of Christians, are drawn from the Dalits and Other Backwards Castes (OBCs) who, in embracing Christianity, leave behind their place in the Hindu caste ladder, lies at the root of the substantial problem of the persecution of Christian in India. Dalit communities which adopt Christian faith *en masse* constitute the chief targets of persecution. Christian and Dalit leaders speak of a “double persecution”: the stigma attached to their caste remains with Dalit Christians, in addition to which their Christian faith is a further taboo, attracting social ostracism, harassment and in some cases, even physical attacks and murders. It is worth noting that caste distinctions are most pronounced in the villages, which is where the most severe persecution of Christians is taking place.

The EU-India Strategic Partnership Joint Action Plan stated that India is a paradigm of “how various religions can flourish in a plural, democratic and open society”. Nonetheless, the persecution of religious minorities, particularly Christians, indicates a need to engage with the Indian authorities to ensure the protection and full participation of all India’s citizens.

### 2.1 *Legal Discrimination against Dalit Christians*

One element of restorative justice for Dalits in post-independence India, was the introduction in 1950 of the Constitution (Scheduled Castes) Order, which created a system of “reservation”, or quotas for Dalits in government, employment and education. However, the 1950 Order contained the proviso that if Dalits should convert from Hinduism to another religion, they would lose their Scheduled Caste status, and the privileges that this entails. In effect, this obstructs the freedom of Dalits to freely adopt a religion of their choice, which is in contravention of international standards.

The Order has twice been amended, to include Dalits belonging to the Sikh and Buddhist religions, but Christians and Muslims of Dalit background are still excluded from the “reservation” system. The Indian Supreme Court is currently hearing a case on the legality of the 1950 Order, which has been challenged by the Center for Public Interest Litigation, a civil rights organisation, in writ petition no. 180 of 2004. Following a hearing on 23 August, the Government of India awarded responsibility for this issue to the Justice Ranganath Mishra National Commission for Linguistic and Religious Minorities.

Christian organisations within India have called for the system of “reservation” to be extended to Christians. It is widely argued that, although there should be no caste system within Christianity, the pervasiveness of caste discrimination throughout society warrants the application of the “reservation” system to Dalits of any religion. According to a statement by Archbishop Chinnappa of Tamil Nadu, “Dalits of all religions live in the same society ruled by caste values. A change of religion does not alter the socio-economic status of Dalits. The social stigma and ostracism in society continue to haunt them wherever they go. A Dalit is considered untouchable, irrespective of the religious faith he or she may profess. As for atrocities, there is no discrimination between a Hindu Dalit and a Christian Dalit.”

The system of “reservation” may be considered as no more than a first step towards addressing the wider problem of caste discrimination. At present, the lack of “reservation” for Christian Dalits is an important tool for the subjugation of all Dalits, as it discourages conversion from Hinduism. To alter the law would be to cut at the root of this systemic discrimination.

### 2.2 *Anti-Conversion Legislation*

The freedom to embrace Christianity is curtailed in a number of states by anti-conversion legislation. According to Dr Kancha Ilaiah, testifying before the recent US Congress hearing, anti-conversion laws “perpetuate Dalit slavery” by obstructing their freedom to leave the Hindu religion.

Despite India’s constitutional protection for religious freedom (Article 25), anti-conversion legislation is currently in place in Orissa (1967), Madhya Pradesh (1968), Arunachal Pradesh (1978) and Chhattisgarh, which inherited that of its parent state, Madhya Pradesh. A Bill was passed in Gujarat on 26 March 2003, though its rules are yet to be framed and it is therefore not yet in force. A similar Bill is being proposed in Rajasthan, and the state governments of Madhya Pradesh and Chhattisgarh are working on making their respective anti-conversion laws more stringent.

The chief object of the state Freedom of Religion Acts is the prohibition of so-called forcible conversions. Article 3 the Orissa Freedom of Religion Act (OFRA) 1967 provides that “No person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by any fraudulent means nor shall any person abet such conversion”.

A number of specific concerns may be raised in connection with these Freedom of Religion Acts. Firstly, the terms used in connection with conversion are potentially open to wide interpretation, which has contributed to a fear among Christians that the laws can easily be misused against them. The definition of

“inducement” as given in the OFRA is that which includes “the offer of any gift or gratification, either in cash or in kind and shall also include the grant of any benefit, either pecuniary or otherwise”. This ambiguous definition may potentially be misused to interpret charitable acts as “temptation” to convert. Christian groups are involved in extensive charitable work throughout India, particularly among the lower castes and tribals, which is considered to be threatened by anti-conversion legislation. The definition of “any fraudulent means” is yet more ambiguous: “misrepresentation or any other fraudulent contrivance”. Such loose definitions are considered to render the laws subject to capricious interpretation.

Secondly, if the purpose of the state Freedom of Religion Acts was to restrict forcible conversion, the requirement for all conversions to be registered with a District Magistrate seems superfluous. This provision is, furthermore, based on the false assumption that a ceremony must take place in order for conversion to Christianity to occur (see for example Article 5(1) of the Gujarat Bill). In reality, the ceremony of baptism takes place only after a person has adopted the Christian faith, and indeed many Christian denominations in India are only prepared to baptise after at least three months of instruction in Christian faith. This provision is therefore in violation not only of the right to freely adopt, but also to manifest a religious faith.

### 2.3 *Hindutva Groups*

The activities of the militant “Sangh Parivar” groups in promulgating a “Hindutva”, or Hindu nationalist, agenda, are of particular concern to the Christian community in India. These Sangh Parivar groups, of which the Rashtriya Swayamsevak Sangh (RSS) and its daughter organisations are the largest, are responsible either directly, or through incitement, for a considerable number of attacks on Christian targets.

There has been increasing international awareness of the nature of the activities of the RSS, particularly within the USA. The US-based Terrorist Research Center recently labelled the RSS as a hate group, while a document entitled “Exploring Religious Conflict”, published by US-based think-tank, the RAND Corporation in August 2005, categorised the RSS as a “New Religious Movement”, affirming that, “[i]t espouses a strong and militant religious philosophy based on exclusivity and hate”. During the recent hearing of the Subcommittee on Africa, Global Human Rights and International Operations in the US Congress, the Vishwa Hindu Parishad (VHP), the religious and cultural wing of the RSS, was singled out for vilification. Its militant wing, the Bajrang Dal, has been responsible for perpetrating many of the violent attacks on religious minorities.

One manifestation of the Sangh Parivar’s incitement to religious hatred has been the VHP programme of “Trishul Dikshas”, or ceremonies for the distribution of three-pronged trishul knives, which is a source of concern for the Christian community. Reportedly, the ceremonies are used to promote support for Hindutva, often among illiterate labourers, and are likely to include inflammatory speeches and the distribution of provocative literature against religious minorities. The trishul knives function both as religious symbols and as weapons, six to eight inches long and sufficiently sharp to kill. Recent distributions of trishul knives by the VHP have been well-documented in Gujarat, Karnataka, Madhya Pradesh and Orissa. A large-scale distribution of trishuls was undertaken by the VHP in Madhya Pradesh on 4 September, the day after a ban on the knives was repealed by the BJP state government. On 16 August 2005, *The Deccan Herald*, a national newspaper, reported that around 200 Bajrang Dal workers were supplied with trishul knives by VHP General Secretary Praveen Togadia on 13 August at Rampura, in Surat, Gujarat.

There is need for a European condemnation of the activities of the Sangh Parivar groups, particularly the RSS and its daughter organisations, in inciting and carrying out violent attacks, especially against Christian and Muslim communities, which are drawn largely from among the Dalits, tribals and OBCs.

### 2.4 *Violence Against Christians*

Christian individuals and communities across India, have suffered a considerable number of attacks at the hands of Hindu fundamentalist elements. A recent statement issued by the All India Catholic Union, whose President, Dr John Dayal, is a member of the Government’s National Integration Council, projected that the number of recorded incidents against Christians in 2005 may exceed 200. This report noted that the violence is most severe in those states with a BJP government, given its likely Hindutva sympathies.

Spontaneous violence sometimes occurs, largely where communal tensions have been inflamed. However, many attacks are reportedly carefully planned or incited by Sangh Parivar groups, whose grievance is consistently against the activities of Christian individuals or groups among Dalits, OBCs and tribals, which, whether evangelistic or relating to social welfare, are construed as attempts to convert. Among the chief targets of these attacks are churches, educational establishments, healthcare programmes and other welfare projects.

The Roman Catholic Church, which undertakes much charitable work among Dalits and tribals, has experienced ongoing threats and considerable persecution. Among the most deplorable incidents of 2005, the Teresian Carmelites Convent in Mumbai, which operates a home for the elderly, was attacked on

23 January 2005. After the door and an exterior cross were damaged, a hand-written notice was left, which read, "Run away, we will come back. Go away, this country is ours; now it is the cross, next time it will be your heads".

In 2005, a number of Christian leaders are known to have been murdered at the hands of Hindu extremists. They include pastors K Daniel and Isaac Raju, killed in Hyderabad, Andhra Pradesh, in May, and Fr Agnos Bara, a tribal Catholic priest stabbed by upper caste Hindus while leading a peaceful rally for tribal rights in Jharkhand on 14 September. A number of other church leaders murdered in 2005 may have been the victims of Hindu extremists.

Of a considerable number of attacks on Christian targets which have been reported through 2005, a number of illustrative examples are given. It is thought that a large number of attacks have remained unreported.

On 14 October, a group of 10 Hindu extremists attacked a large prayer meeting in a community hall in Dayal Pur, Karawal Nagar Road, Delhi. They physically assaulted Pastor K Y Babu, who was injured and taken to hospital, and pastors Victor Masih, Justine and Robin Masih. The attackers also damaged some equipment in the church. When members of the church went to the police station to lodge a First Incident Report (FIR), they were confronted outside by the local BJP Member of the Legislative Assembly (MLA), Mr Mohan Singh, together with a group of 150 people. The mob threatened to kill the Christians if they should continue to conduct prayer meetings at this locality.

On 11 September, two churches in Raipur, Chhattisgarh, were attacked by Hindu extremist group, Dharam Sena. The Teacher Disciple Vineyard church in Jagannath Nagar, Raipur, was subjected to physical damage, as a mob tore a cross from the building and threw it into a septic tank. They also damaged other property. The church had previously been attacked by the same group on 14 August. The Dharam Sena extremists also attacked a meeting of the Christian Evangelist Assembly Full Gospel Church on 11 September, physically assaulting the wife and brother of the pastor, and accusing the church of undertaking conversions.

On 29 May, the Believer's Church in Laming, Thoubal District, Manipur, suffered its fourth attack in eight months, with gunmen opening fire on the church. Although 30 were present, none was harmed.

On 15 May, in Jamanya village, Jalgaon District, Maharashtra, a community court asked eleven Christian families to surrender their Christian faith, but all refused. On the following day, a group of Hindu villagers attacked the male Christians and violently sexually assaulted the female members of the families. Pastor Sarichand Chauhan, area coordinator of the Indian Evangelical Team, in reporting the incident to National Minority Commission, stated that women and children were brutally beaten, that the women were forcibly stripped naked and even that a stick was inserted into the vagina of one woman. An FIR was registered by the police, but it failed to record the alleged sexual assaults. Seven Hindus were arrested on 18 May in connection with the attack, and later released on bail. A counter-accusation was levelled against the Christians on 18 May, of having desecrating Hindu gods. This was denied by Pastor Chauhan, who suggested that local RSS members had urged the villagers to break the idols and to accuse the Christians. Thirteen Christians were arrested under sections 295, 506 and 34 of the Indian Penal Code, and subsequently released on bail.

On 1 May, in Mangalwarapete village, Karnataka, a mob of extremists, reportedly belonging to the Bajrang Dal and BJP and numbering around 500, attacked a house church in the village, beating and injuring Pastor Paulraj Raju and his wife, and a church elder. Raju had previously been beaten by local people in January.

On 19 February, in Kota, Rajasthan, Hindu militants, armed with sticks, iron rods, bicycle chains, knives and swords violently attacked Christian students and seminary staff arriving at the Evangelical Mission in Kota. The Additional District Magistrate warned the mission head that he would not give any protection to those associated with the mission. A similar attack took place on arriving students on 24 February. The Christians were dragged to the police station, where they were beaten in the presence of police officers. The authorities forced the Christians to sign papers stating that they were Hindus who had arrived in Kota for conversion to Christianity.

In some cases, the police has also been implicated in violence against Christian individuals, or in failing to take proper action in response to attacks against Christians. This is most frequent in those states under BJP governance, or where there is significant public sympathy for Hindutva and the Sangh Parivar, manifested in prejudice against minorities, and occurs for a number of reasons. Firstly, state police are under the control of the state governments, and tend to closely reflect their political sympathies; there is therefore substantial potential for political authority to veto police activity. The structure of the police force is currently governed by the Police Act of 1861, implemented under British rule, which was designed to keep the police acquiescent to political authority. Prime Minister Manmohan Singh has indicated a willingness to reform the policing system in India, which the Christian community in principle welcomes. The second reason given for anti-minority prejudice within the police, was that individual police officers may be afraid of pressure faced from local RSS leaders. Thirdly, in addition to the issues of police subjection to political authority and to popular pressure, there is alleged to be a prejudice endemic among the higher authorities of the security forces against minorities.

One instance of police prejudice against Christians occurred on 6 June, in Moti Chowk village, Durg District, Chhattisgarh, which is under a BJP government. A group of 200 Bajrang Dal militants attacked a church during a Sunday service. Pastor Jaichand Dongre and other church members were physically assaulted during the raid, and Bibles, Christian literature and musical instruments were looted by the mob. Subsequently, nine church members were taken to the police station and charged with “disturbing the peace” under Section 151 of the Indian Penal Code. The nine were held for two days before being released on bail. During his custody, Pastor Dongre was reportedly physically abused by police. Evidence of an anti-Christian bias on the part of the local police was supplied when Mr Patras Habil, a representative of the Minority Commission in Madhya Pradesh, telephoned the police station and was initially informed that the beatings and arrests were “deserved” by the Christians on account of their conversion activities.

Anti-Christian prejudice is exemplified also by the case of Mr Montu Babubhai Dabhi (also known as Mr Amit) in Gujarat. On 28 April, the police received a report from an anonymous informant concerning a person named Montu being in possession of a firearm. Of three suspects with this name, only the Christian Montu was arrested by police. No complaint was filed by the police office, and no evidence was brought against him. Mr Montu was tortured in police custody: his legs were forced into a T-shaped position, and stamped upon to the extent that his right leg has become paralysed. Moreover, Mr Montu was discharged prematurely by the hospital superintendent, allegedly under covert pressure from senior police officials. Only following the intervention of the High Court, in response to a legal appeal, was he readmitted into hospital and the police questioned about his severe mistreatment. This is an important and alarming example of the brutality and anti-Christian stance taken by the state police.

### 3. RECOMMENDATIONS

While mindful of the need for each issue to be tackled in a systematic and comprehensive manner, CSW calls upon the United Kingdom to engage constructively with the Government of India to raise concern about the discrimination and persecution against Christians, particularly those drawn from among the Dalits, tribals and OBCs. In particular, the Government of India should be encouraged:

- to introduce legislation akin to the Constitution (Scheduled Castes) Order Amendment Bill 1996 to enumerate Dalit converts to Christianity among the Scheduled Castes, and to grant them the concomitant benefits of “reservation”;
- to intervene for the repeal of the Freedom of Religion Acts in Arunachal Pradesh, Chhattisgarh, Madhya Pradesh, Orissa, and to prevent the implementation of Freedom of Religion Acts in Gujarat, and its enactment in Rajasthan, on the grounds that they are unconstitutional and in breach of international standards on religious freedom;
- to call the RSS to account for its activities in inflaming communal tensions, and in inciting violence against Christian communities;
- to take measures to obstruct the VHP programme of Trishul Dikshas;
- to implement measures to guarantee the independence of the police force from political authority, and to increase its accountability, towards the protection of minorities.

*Christian Solidarity Worldwide*

*November 2005*

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#### **Written evidence submitted by TAPOL, the Indonesia Human Rights Campaign, Free West Papua Campaign and the UK Coalition for West Papua**

##### INDONESIA

1. This memorandum is submitted jointly by TAPOL, the Indonesia Human Rights Campaign, Free West Papua Campaign, Oxford, and Benny Wenda, Head of DeMMaK, the Koteka Tribal Assembly and international lobbyist for West Papua (for these purposes the UK Coalition for West Papua—“the Coalition”). The submission addresses issues concerning West Papua raised by the Foreign and Commonwealth Office (FCO) at pages 56–57 of its Human Rights Annual Report for 2005.

2. The Committee is referred to submissions made to it by TAPOL and West Papua Association UK (WPAUK) on the 2003 and 2004 Human Rights Annual Reports for context and background information.

3. The FCO states that it continues to have concerns about West Papua. The Coalition welcomes this concern but believes that the FCO has underplayed the severity of the situation in West Papua both in its analysis and weak policy responses. The FCO’s concern has not translated into the necessary diplomatic and economic pressure on Indonesia to improve the human rights situation and resolve the conflict peacefully according to the wishes of the Papuan people.

4. The Coalition is encouraged by Indonesia's recent ratification of the International Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights, but is disappointed that it has entered a reservation in relation to the right to self-determination. The Coalition expects the UK Government, as a member of the international community, to monitor Indonesia's compliance with its obligations under the two Covenants.

#### *Human rights under sustained attack*

5. In the year covered by the Report, numerous reports emerged of operations by the Indonesian military (known by its acronym, TNI) in West Papua's central highlands, which displaced thousands and claimed an unknown number of lives through extra-judicial killings and the starvation and exposure of villagers forced to flee their homes. The FCO refers to these reports, but appears to have done little about them apart from expressing concern to the Indonesian Government. The FCO has a human rights officer based in its Jakarta embassy. The Coalition believes that the officer could have made more effort to visit the affected areas, verify the reports, and respond in a manner more commensurate with the gravity of the situation.

6. The situation is made worse by severe restrictions on access to West Papua by non-governmental intermediaries. This means that international human rights organisations, humanitarian agencies, and journalists are unable to carry out their work properly and effectively, if at all. At the same time, local human rights defenders and political activists are regularly threatened with violence or their lives. According to press reports, three days after the election of Indonesian President Susilo Bambang Yudhoyono in September 2004, a government committee including the army, police and intelligence agency decide to ban foreign journalists from West Papua and Aceh until further notice. The BBC's Jakarta correspondent, Rachel Harvey, has since been refused permission to visit West Papua on three separate occasions.

7. The FCO has said it will use the UK Presidency of the EU to highlight the issue of freedom of expression. "Allowing people to publicly investigate and report on human rights abuses makes it much harder for those responsible for them to hide behind a veil of silence and ignorance" the FCO says on its website. West Papua was originally closed to outside observation during the dictatorship of General Suharto, but little has improved since his downfall and the start of the democratisation process in Indonesia. The authorities have, therefore, been able to avoid proper scrutiny of their dire human rights record in the territory. The UK Government should remind Indonesia of its obligation to respect the right to freedom of expression under the ICCPR. It should use its Presidency of the EU and its subsequent membership of the EU Troika to press strongly for free and unfettered access to West Papua by human rights organisations, humanitarian agencies, diplomats, parliamentarians and journalists.

8. In this connection, the Coalition is extremely disappointed to have learned from the Dutch Ministry of Foreign Affairs in September 2005 that the UK Government has declined Indonesia's invitation to EU Troika Ambassadors to visit West Papua. If this is correct, it sends an extremely regrettable message to Jakarta that the UK Government is not seriously committed to promoting human rights in West Papua. The Committee is urged to question the FCO on this.

9. The Papuan people continue to be ill-served by the Indonesian justice system, which perpetuates impunity for security forces personnel accused of human rights violations and imposes lengthy prison sentences on Papuans involved in peaceful protests and non-violent political activities. Most recently, two senior Indonesian police officers were controversially acquitted of involvement in the killing of three Papuan students and the torture of dozens more in Abepura in December 2000. A few months earlier, two Papuan activists were jailed for 15 and 10 years simply for organising peaceful celebrations of West Papua's national day, 1 December, and raising the national "Morning Star" flag. This is another flagrant breach of the right to freedom of expression and the Coalition is concerned that the FCO has done little to press for the release of the activists and other Papuans imprisoned for their political beliefs and activities.

#### *Military build-up*

10. Despite promising a political solution to the problem of West Papua, President Yudhoyono is currently presiding over a major build-up of troops and the creation of new territorial commands in the territory. While troops are being withdrawn from Aceh, where a peace process is being implemented, they are being sent to West Papua in large numbers. In March 2005, the Indonesian military announced plans to locate a new division of its elite combat troops, Kostrad, in West Papua. This will involve the deployment of 12,000 to 15,000 troops in the period 2005 to 2009. The Indonesian Government disingenuously claims the deployment is to "secure the border with Papua New Guinea". However, it is clear that there is no genuine military justification for the deployment, which is likely to lead to increasing tensions and a further deterioration in the human rights situation. Reports that Islamist and pro-Indonesia militia groups are being organised, armed and trained by the TNI have increased fears of insecurity and violence against indigenous Papuans.

11. The UK Government has a programme known as the Global Conflict Prevention Pool, which is supposed to have a focus on West Papua. In Indonesia, the programme's emphasis is on security sector reform, but it is not clear what value this has in the face of the Government's commitment to the increased

militarisation of one of its major conflict areas. The Committee is urged to question the FCO about this programme and to explore with the FCO how the programme can be used to encourage a non-militaristic approach to resolving the West Papua conflict.

#### *Special autonomy*

12. In its Report, the FCO states that a special autonomy law passed in 2001 remains largely unimplemented. The Report also alludes to the confusion caused by the Indonesian Government's attempt to split West Papua into three separate provinces (which in itself violates the special autonomy law). There is deep dissatisfaction in West Papua with the Government's handling of these matters and its failure to improve the lives of the Papuans. There is also concern about persistent reports that special autonomy funds have been dissipated by corruption and used to fund military operations. A Papuan People's Assembly (MRP) set up under the autonomy law has been opposed because it is regarded as a mouthpiece for Jakarta and because of manipulation of the election process. In August 2005, the influential Papuan Tribal Council (Dewan Adat Papua—DAP), supported by thousands of demonstrators, rejected the special autonomy law and called for it to be "returned to Jakarta". The DAP also called for national and international dialogue aimed at realising the rights of the indigenous Papuans.

13. The UK Government and the EU have been strong supporters of special autonomy for West Papua. The proposed political arrangement is unraveling fast however. The FCO has failed to provide the appropriate policy response, apart from calling for the implementation of a law that has been rejected by the Papuan people. The Committee should encourage the FCO to consider the lessons learned from the Aceh peace process and seek ways of encouraging Indonesia to enter into unconditional all-inclusive dialogue with Papuan representatives to determine the political future of the territory.

#### *Economic, Social and Cultural Rights*

14. The Coalition notes and regrets that the FCO makes no mention of the Papuans' economic, social and cultural rights, which are also under sustained attack. Of particular concern are the problems caused by the persistent under-development of the Papuan people in the face of a huge influx of migrants from Java and other parts of Indonesia (reports suggest up to 6,000 migrants are arriving each week). It is estimated that non-indigenous Papuans account for around 40% of the population. They are already the majority in many urban centres. Their impact relates not only to their numbers, but also to their ability to exploit and dominate the commercial and economic sectors, thereby marginalising the indigenous Papuans who find it difficult to compete because of decades of poor education and other social and cultural factors.

15. The widespread exploitation of West Papua's abundant natural resources by foreign companies and interests associated with the TNI—including the illegal logging of the territory's extensive tropical forests—perpetuates the economic subjugation of the Papuan people. It is also a cause of tension and conflict. Extractive operations have involved the denial of land rights and severe environmental degradation. Some of the worst human rights violations have been committed in the vicinity of major enterprises, such as the Freeport copper-and-gold mine (in which Britain's Rio Tinto has an interest). There are concerns that BP's US\$5 billion liquid natural gas project, Tangguh, will attract similar problems.

16. Despite being one of Indonesia's most resource-rich provinces, West Papua is one of the poorest in terms of poverty levels, malnourishment, infant and maternal mortality, and educational attainment. Health care is grossly inadequate and the spread of HIV/Aids is reaching crisis levels. The latter is associated in part with migrant sex workers and brothel owners directly or indirectly linked to the security apparatus. The number of cases has doubled in four years and whole villages have been devastated by the illness. West Papua now has one of the highest rates of HIV/Aids in the whole of Indonesia.

17. The demographic transition occasioned by these and other developments poses a real threat to the survival of the Papuan people as a majority in their own homeland. Strong policy responses are required and the Committee should encourage the FCO to address these issues with colleagues in the Department for International Development.

#### *Historical injustices*

18. The root cause of the West Papua conflict remains the discredited Act of Free Choice in 1969 (see 2003 submission by TAPOL and WPAUK), which led to West Papua's incorporation into Indonesia. This remains be the Papuans' principal grievance to this day. On 15 November 2005, the Institute for Dutch History in the Hague will launch a report on the 1969 process by Professor PJ Drooglever, commissioned by the Dutch Government. The Coalition encourages the Committee to refer to this report. It trusts that the FCO will approach the report with an open mind and respond in ways which help to resolve the historical and contemporary injustices suffered by the Papuan people.

### *The UK role*

19. The UK has substantial economic ties with Indonesia. Historically, it has been the second largest foreign investor after Japan. It is a significant trading partner, and a major strategic partner through the supply of arms and other forms of military assistance. The FCO provides significant diplomatic support for the major UK-based multinationals—Rio Tinto and BP—operating in West Papua. This is problematic in a territory whose people are denied their right to self-determination and suffer routine abuse of their basic human rights. The Committee should urge the FCO should devote far more attention to promoting the peaceful resolution of the West Papua conflict and to the protection of West Papuan human rights. Ultimately that will be to the benefit of both UK and West Papuan interests.

### *Corrections*

20. The Coalition has noted a number of errors in the Report. It does not wish to point score, but is concerned that they are indicative of a wider malaise and a lack of real concern about the situation in West Papua and elsewhere. On page 57, the Reports states that the Indonesian Constitutional Court challenged the decision to split West Papua into two provinces. The challenge was made by a number of interested Papuans to the Court, not by the Court. The Report refers to the Court's decision, but does not say what it was (in fact the Court controversially ruled that the establishment of a new province of West Irian Jaya was unlawful, but that it must stand as the province had already come into existence). The two new provinces are formally known by Indonesia as Papua and West Irian Jaya, not West Papua and Irian Jaya as stated in the Report (although to the Papuans the undivided territory remains known as West Papua).

[21. On another matter on the same page, the Report states that the UN handed control over East Timor to the democratically-elected government in May 2000. In fact that happened in May 2002 when East Timor became independent.]

*November 2005*

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## **Written evidence submitted by the Trades Union Congress (TUC) and Justice for Colombia (JFC)**

### TRADE UNION RIGHTS IN COLOMBIA

#### *Overview*

The situation faced by trade union members in Colombia continues to be critical and it remains the most dangerous place in the world to carry out trade union activities. Colombian trade unionists, whether leaders or grassroots members, are experiencing a fully-fledged humanitarian crisis as the victims of selective, systematic and persistent violence directed against them with total impunity. As well as the ongoing human rights abuses there have been continuous and increasingly violent attacks by the Government, employers and the courts on collective bargaining, the right to strike and social dialogue as a whole—set against the background of major non-compliance with obligations arising from ratification of ILO Conventions on freedom of association and collective bargaining. Large scale restructurings of state enterprises have taken place which appeared, in most cases, to be aimed solely at eliminating existing collective agreements and destroying trade union structures in the enterprises concerned.

#### *Physical Violence*

Last year 99 trade union activists—nine more than in 2003—were killed, mostly in connection with collective bargaining disputes or strikes. This figure represents 68% of all of the murders of trade union activists around the world during 2004. Already this year we have confirmed details of a further 44 murders and we fear this number may rise in the coming months as the presidential elections approach.

Hundreds of trade unionists, both this year and last, received death threats, whilst many were victims of attempted murder or were abducted or “disappeared”. Many have been arrested and the army and police continue to intimidate and deny the right to free assembly. May Day celebrations in 2004 and 2005 were harshly repressed with many union leaders injured and one participant being forcibly “disappeared” in 2004, and at least one participant being beaten to death by police in 2005.

The most recent statistics collected by the ICFTU and the Colombian trade union centres show an increase in the total of murders, death threats and arbitrary arrests. There has also been a large increase in violence and other human rights abuses committed against women trade unionists with 26 assassinated since the start of last year.

Where the perpetrator is known, figures show that 50% of violations are carried out by army-backed paramilitary groups, 41% by state officials, 6% by common criminals and 3% by opposition rebel groups.

Trade unionists are regularly subject to arbitrary arrest on allegations of “rebellion” and, after months of imprisonment, are usually released without formal charge or trial. The allegation itself, however, is sufficient to increase the likelihood they will be targeted by the paramilitaries.

### *Expulsions of International Trade Union Visitors*

On various occasions in the past year Colombian authorities have attempted to prevent international trade union delegates from entering the country, including a delegation led by TUC Deputy General Secretary Frances O'Grady in November 2004. Others, who came attempting to monitor the situation and were subsequently refused entry and deported include: Victor Baez Mosqueira, General Secretary of the Inter-American Regional Organisation of the International Confederation of Free Trades Unions (ICFTU-ORIT), Cameron Duncan, Regional Secretary of Public Services International (PSI), Rodolfo Benítez, Regional Secretary of Union Network International (UNI) and Antonio Rodríguez Fritz, Regional Secretary of the International Transport Federation (ITF). Officials from the DAS security department at Bogotá airport also harassed other international trade union representatives including Hélène Bouneaud from the French confederation CGT, who was threatened with deportation, photographed and had her fingerprints taken.

### *Impunity*

Almost complete impunity persisted and of approximately 3,600 documented cases of assassinations of trade union members in the past 15 years the Colombian Government has been able to provide details of only six convictions. In addition, many murder cases are not investigated at all and the Colombian Government continues to claim, in the face of overwhelming evidence to the contrary (and despite the existence of a poorly implemented protection programme for trade unionists), that violence against trade unionists is a result of the general conflict in Colombia, rather than a form of selective and systematic violence directed against workers and their organisations. Many killings, including a massacre of three trade union leaders in August last year and the extrajudicial executions of two others last February, have been carried out by members of the army. The armed forces', directly or through collaboration with illegal paramilitary groups, are suspected of involvement in many other attacks.

### *Limited Right to Strike*

Though the Colombian Constitution recognises the right to strike, in practice numerous Colombian laws which ban strikes remain applicable to a wide range of public services. In most cases these do not necessarily qualify as "essential" services, in contravention of the ILO definition that only covers those "the interruption of which would endanger the life, personal safety or health of the whole or part of the population". Furthermore, the law prohibits federations and confederations from calling strikes, and the Ministry of Health and Social Protection (responsible for monitoring and administrative control of industrial relations) can still impose mandatory arbitration on a conflict when the strike goes on for more than 60 days, in contravention of ILO Convention 87 and recommendations by the Committee of Experts. In 2003, employers challenged the legality of strikes in 30 cases—26 were declared illegal.

One case worthy of special mention are the recent strikes by the oil workers' union USO which have repeatedly been declared illegal despite the fact that the oil sector is not considered, under international law, to be classed as an essential service and the ILO's supervisory bodies have found them to be legitimate disputes. As a result of their participation in these strikes hundreds of USO members have been fired from their jobs. At the time of writing, USO leaders in Cartagena had begun a hunger strike to protest against the privatisation of the refinery in Cartagena.

### *Limited Right to Collective Bargaining*

Barely 1% of employees are covered by collective agreements and many of these are in fact covered by collective accords ("pactos colectivos"). These are supposed to be an alternative to the agreements negotiated by the unions and apply to non-unionised workers. In reality there is generally no negotiation in such cases since the "accords" are imposed by the employer and tend to be used as a pretext for sidelining the unions and avoiding a system of mature industrial relations.

Colombian legislation has introduced clauses—in violation of ILO Conventions 98 and 151—that discriminate against the jobs and collective bargaining rights of public sector workers, by classifying them as "official workers" or "civil servants". Unions representing public sector workers are not allowed to put forward demands or sign collective agreements, since their right to collective bargaining is limited to submitting "respectful requests" that do not cover key aspects of industrial relations such as wages, benefits and employment contracts.

Furthermore, in both the public and private sectors, new provisions of the labour law, which were purported to introduce greater flexibility in employment contracts, have led to widespread subcontracting in the form of employment contracts which are deregulated or assimilated to contracts under civil law, as for example in the case of the so-called "work partnership co-operatives" ("co-operativas de trabajo asociado"). Because the labour regulations do not apply to these types of contract, workers are systematically excluded from trade union and collective bargaining rights.

Multiple factors have contributed to the reduced number of workers covered by collective agreements, though the chief ones are, of course, the low level of union membership and the violent attacks on the unions. Trade union membership has fallen by 50% in a decade and now stands at around one million—half of them members of the teachers' union FECODE.

### *Labour Reform*

A reform of labour regulations was imposed, without any form of consultation or social dialogue whatsoever (despite the existence of an ILO special technical co-operation programme for Colombia), which resulted in longer daily working time, reduced overtime payments, reductions in severance pay, increased worker flexibility, restrictions on collective bargaining and the loss of previously acquired rights. For example, the new law excludes the possibility of apprenticeship contracts being covered by collective bargaining. According to the ILO conventions, collective bargaining should cover “all written agreements concerning working conditions and terms of employment”.

### *Implementation of an Anti-Union Culture by the Government*

The way in which three major state-owned companies (Ecopetrol in the oil sector, Telecom in the telecommunications sector, and the Instituto de Seguros Sociales in the health sector) were restructured speaks volumes about the labour policies of the current government. Telecom was liquidated, without the company following the required legal procedures for this kind of operation, in order to destroy the 6,000-strong union and put an end to collective bargaining. At the same time, the Government used the assets of the liquidated company to set up another non-unionised telecommunications company, which only employed one fifth of the workforce of the old company under employment contracts and working conditions far worse than those formerly enjoyed by the workers.

The Colombian oil company ECOPETROL and the Social Security Institute (Instituto de Seguros Sociales, ISS) were divided into two companies, thereby reducing the unions' influence and denying the workers in the newly-formed companies many of the negotiated rights they had enjoyed in their former companies. The majority of the ISS employees were classified as “civil servants”, thus losing the rights they had previously enjoyed under the collective agreement signed between their union (Sintraseguridad Social) and the ISS, including the right to be represented by that union.

### *Additional Points of Concern*

(a) In recent years the Colombian Government has made virtually no progress on implementing the recommendations made by Office of the United Nations High Commissioner for Human Rights in Colombia, nor those made by the supervisory bodies of the ILO. This is despite repeated promises made by senior government officials in recent years to implement the recommendations.

(b) The UK Government continues to administer a substantial and primarily classified military assistance project in Colombia despite continued attacks by the Colombian armed forces against trade unionists and others expressing disagreement with government policies. The assistance is believed to include the permanent presence of UK troops on Colombian soil and regular visits to the UK by Colombian military officers—including at least two officers against whom credible allegations of serious human rights abuses have been made. In addition there is no transparent monitoring mechanism in place to ensure that assistance is not benefiting those who abuse human rights and it is widely believed that military units involved in repeated attacks against the civilian population are receiving UK assistance.

(c) It appears that no progress has been made in the investigation into the massacre in the “Peace Community” of San Jose de Apartado in February 2005. Eight members of the community, including community leader Luis Eduardo Guerra and three young children, were brutally killed by what human rights organisations and the community themselves allege were members of the Colombian army. Despite international pressure on the Colombian Government and promises to undertake a prompt and transparent investigation, the authorities have still made little or no advances on the case.

(d) The Colombian Government continue to provide international organisations (such as the ILO) as well as human rights organisations (such as JFC) with statistics and figures that are patently false. These include figures showing that less trade union members have been murdered than is really the case and others pertaining to show that more perpetrators are being punished than is really the case. As a consequence of disquiet about the veracity of evidence and the incontrovertible persistent impunity, the 2005 ILO Conference in June decided that a high-level tripartite mission should visit Colombia. The key conclusions of the mission, which took place in October, were that:

- combating impunity required commitment to continuous tripartite dialogue on fundamental human rights, clear political will and the necessary resources;

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- existing tripartite bodies such as the Inter-institutional Committee for the Promotion of Human Rights; the Permanent Consultative Committee on Labour and Wages Policy; and the Special Committee for the Resolution of Conflicts (before they might be submitted to the ILO) should be reactivated;
  - there should be a permanent ILO presence in Colombia to develop a programme and sustainable activity to combat impunity, to guarantee more effective realisation of freedom of association, tripartite dialogue and the aims of the Special Technical Cooperation Programme.

### *Notes*

This report was prepared by Simon Steyne (TUC International Officer and Worker Member of the ILO Governing Body) and Liam Craig-Best (Secretary of Justice for Colombia).

The sources consulted include:

- The Unified Workers Centre of Colombia (CUT).
- The National Trade Union School of Colombia (ENS).
- The Colombian Commission of Jurists (CCJ).
- The International Confederation of Free Trade Union (ICFTU).
- Reports of the supervisory bodies and of the Governing Body of the ILO.

The TUC, supported by Justice for Colombia, maintains close relations with the three national trade union centres in Colombia, which co-operate through a “united command” (Commando Unitaria), especially with the largest of the three—the CUT—and with the ICFTU-affiliated CTC. Regular meetings are held, in Colombia, Britain and Geneva, between the leadership of the British and Colombian trade union movements and there is a continuous exchange of trade union visitors and delegations. The TUC has been active in supporting the Colombian trade unions in the ILO and in promoting greater co-ordination of international trade union solidarity in the Global Unions.

Justice for Colombia was established, with the support of the TUC, as an alliance of TUC-affiliated unions and NGOs, to broaden and deepen British trade union solidarity with the Colombian trade union movement.

*Trades Union Congress  
Justice for Colombia*

*November 2005*

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## **Written evidence submitted by Saferworld**

### INTRODUCTION

This submission highlights key issues relating to UK arms sales and countries identified by the Foreign Office Human Rights Reports 2005 as countries of concern. It is divided into three sections:

- key recommendations;
- arms licences and equipment that have been granted to countries of concern; and
- background information on the issues relating to each recommendation.

In 1998, the Government introduced two reports: the Foreign Office Human Rights Annual Report; and the Annual Report on Strategic Export Controls. In 2004, Quarterly Reports on Strategic Export Controls were also introduced. Since their inception, Saferworld has been comparing these two reports in accordance with the Consolidated EU and National Arms Export Licensing Criteria against which arms licences are assessed. The Criteria states that the Government will not issue an export licence “which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts” or “if there is a clear risk that the proposed equipment might be used for internal repression.”

The implementation of criteria relating to human rights is often seen as one of the most politically sensitive issues in the field of arms export control. The Foreign Affairs Committee and the Joint Quadripartite Select Committee on Strategic Export Controls (QSC) have consistently urged the Government to fully apply human rights criteria when granting export licences.

This submission assesses the Government 2005 Annual Report on Human Rights<sup>2</sup> against the Annual Report on Strategic Export Controls 2004<sup>3</sup> and the UK Quarterly Reports Jan–March and April–June 2005.

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<sup>2</sup> UK Foreign and Commonwealth Office Human Rights Report Annual Report 2005, July 2005. Cm 6606.

<sup>3</sup> UK Strategic Export Controls Annual Report 2004, July 2005 Cm 6646.

Saferworld is concerned that the Government's policy on arms exports continues to undermine its commitments on human rights. In 2004, the Government authorised arms sales to 19 of the 20<sup>4</sup> states identified in the Human Rights Report as "major countries of concern". The submission makes key recommendations<sup>5</sup> and highlights the most worrying licences granted and trends.

#### KEY RECOMMENDATIONS

- The Government should introduce a "presumption of denial" for arms exports towards an agreed list of "countries of concern", where there are human rights concerns. The list should be agreed with the Quadripartite Select Committee.
- Licensed production agreements and overseas subsidiaries should be subject to much stronger regulation, including specific re-export clauses in export licences to prevent UK companies from undermining UK and EU export controls.
- Additional measures should be taken to ensure appropriate controls that British companies wanting to license the production of weapons overseas should first have to apply to the UK Government for a licence.
- The Government should implement a system to allow clear and effective monitoring of the end-use of UK arms exports.
- The arms embargo on China should be retained.

#### ARMS EXPORTS AND HUMAN RIGHTS COUNTRIES OF CONCERN

##### *Afghanistan*

The Human Rights Report states:

"We continue to receive reports of widespread human rights abuses"

Export licences were granted for *inter alia*:

2004: components for assault rifles, components for semi-automatic pistols

Jan–June 2005: 45 assault rifles and small arms ammunition.

##### *Colombia*

The Human Rights Report states:

"The human rights situation remains critical"

Export licences were granted for *inter alia*:

2004: heavy machine guns, components for combat helicopters.

Jan–June 2005: small arms ammunition.

##### *Indonesia*

The Human Rights Report states:

"We continue to have concerns about Papua . . . some NGOs and activists have reported attacks on villagers in the Papuan highlands, we have expressed our concerns to the Indonesian Government about these reports"

Export licences were granted for *inter alia*:

2004: components for combat helicopters.

Jan–June 2005: components for air-to-air missile launching equipment.

In 2004, the QSC raised serious concerns about the level of instability within Indonesia and the apparent use of UK equipment in violation of human rights and in breach of the end-use assurances the Indonesian Government had given the UK. The QSC recommended that "the Government must be prepared to monitor the end use of the equipment concerned effectively and actively where the suggestion of misuse arises."<sup>6</sup>

<sup>4</sup> Only North Korea did not receive arms.

<sup>5</sup> Background information on each of the recommendations is provided on p 3.

<sup>6</sup> QSC, Strategic Export Controls: Annual Report for 2002, "Licencing Policy and Parliamentary Scrutiny." House of Commons HC 390, 5 May 2004. Ch 4, p 29, point 102.

### *Israel*

The Human Rights Report states:

“The UK opposes the Israeli policy of targeted killings, which are illegal under international law”

Export licences were granted for *inter alia*:

2004: armoured all wheel drive vehicles, military aero-engines.

Jan-June 2005: components for combat helicopters.

### *Nepal*

The Human Rights Report states:

“The human rights situation has been steadily deteriorating in Nepal for several years, with serious abuses being carried out by both Maoist insurgents and the security forces”

Export licences were granted for *inter alia*:

Jan–June 2005: components for assault rifles.

### *Russia*

The Human Rights Report states:

“The human rights situation in Chechnya remains arguably the most serious in the broader European continent”

Export licences were granted for *inter alia*:

2004: shotguns, components for combat aircraft.

Jan–June 2005: air rifles, gun silencers, shotguns, air guns.

### *Saudi Arabia*

The Human Rights Report states:

“The Saudi Government has continued to violate human rights”

Export licences were granted for *inter alia*:

2004: heavy machine guns, assault rifles.

Jan–June 2005: general purpose machine guns, armoured all wheel drive vehicles, gun silencers, assault rifles.

### *Pakistan*

In addition, the Government authorised the export of large quantities of arms to Pakistan, which despite serious human rights problems did not make it on to the Government’s “top 20”.

Export licences were granted for *inter alia*:

2004: components for large calibre artillery; shotguns, harpoon guns, heavy machine guns.

Jan–June 2005: components for large calibre artillery, components for large calibre artillery; shotguns, combat helicopters.

## BACKGROUND INFORMATION ON KEY ISSUES

### *Arms embargo on China*

Despite the fact that there is an EU embargo on arms sales to China, in 2004 the Government authorised strategic exports, predominantly dual-use goods which could be used for military purposes, to China to the value of £100 million, as well as 13 additional licences of indeterminate value. During 2005 the EU has been debating whether to lift the arms embargo; following US pressure the UK has recently argued to continue the embargo, however the Government’s record on licences granted to China makes a mockery of this position.

In its most recent report, the Foreign Affairs Committee recommended that “the raising of the EU arms embargo on China would send the wrong signal at this time.” In 2005, the QSC reached a similar conclusion as the Foreign Affairs Committee over the embargo on China: that despite reassurances of “no qualitative or quantitative increases,” “this pledge is in itself imperfect.”

*Diversions and misuse*

In the case of several of the countries identified in the human rights section above, it is concerning that licences for exports have been granted where there is a risk of diversion. As the UK Government does little to check what happens to arms exports once they leave the country, there is little way of knowing whether the arms find their way to other users, such as criminal gangs, pariah states, terrorists, paramilitaries or warlords or other rebel forces. A number of these states have reputations as conduits of arms to other irresponsible parties. For example, concerns have long been held over the links between the Colombian Government and right-wing paramilitary forces within the country, while China, Israel and Pakistan have all been identified as serial proliferators of military equipment or technologies. There have also been examples of misuse by recipient states. Israel has in the past failed to honour explicit end-use undertakings while in 2004 the Quadripartite Committee criticised the UK Government for failing to monitor UK equipment that was allegedly misused by the Indonesian Government.<sup>7</sup>

*Incorporation*

Also of concern has been the willingness of the Government to issue export licences for equipment for “incorporation” (ie components that will be incorporated into weapons systems in the recipient country for onward export) to countries with dubious export control practices. In 2004, these incorporating countries included China, India, Indonesia, Israel, Malaysia, South Africa and Turkey, none of which would be regarded as having export control standards equivalent to that of the UK. Thirty incorporation licences were issued for Israel in 2004, including components for electronic warfare equipment, for airborne radars, for weapon day and night sights, and for unmanned air vehicles.

*Licensed Production Overseas and Uzbekistan*

Turkish-made Land Rover Defender 110 military vehicles were used by Uzbek troops during the Andijan massacre in May 2005. The vehicles were a gift from the Turkish government to the Uzbek Government, and it is extremely likely they were produced under licence from the UK by the Turkish company Otokar. Although 70% of the components are exported from the UK in kit form for assembly in Turkey, it seems this production takes place completely outside the UK licensing regime—this is a serious loophole. It is highly unlikely that the UK Government would have licensed the direct export of these Land Rovers to the Uzbek security forces—it is therefore of concern that the intention of the Government can be so easily undermined by the unregulated use of licensed production arrangements.

*Saferworld*

November 2005

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**Written evidence submitted by Kurdish Human Rights Project**

I am most grateful to you for offering KHRP an opportunity to comment on the report’s content. As you will be aware, KHRP is an independent, non-political human rights organisation and registered charity dedicated to the promotion and protection of the human rights of all persons in the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere. However, for the purposes of these submissions, I have concentrated on the section of the FCO report which addresses the current human rights situation in Turkey. The submissions are based on knowledge gained from recent fact-finding missions, trial observations and human rights training programmes, from ongoing casework within the European Court of Human Rights and from information gained from local, reliable partner organisations. References to KHRP reports and press articles are also included where relevant.

**TURKEY AND EU ACCESSION**

It is submitted that the introductory three paragraphs of the report do not adequately reflect the human rights situation in the context of Turkey’s accession negotiations with the EU. Indeed, the report appears to represent an overly positive position regarding Turkey’s fulfilment of the Copenhagen criteria. Although it is agreed that the European Commission’s October 2004 Regular Report on Turkey’s progress towards accession concluded that Turkey had “sufficiently” fulfilled the Copenhagen criteria, it should not be forgotten that the Commission did not consider that the Copenhagen Criteria had been met in full. It also voiced substantial reservations on human and minority rights reforms. The Second International Conference of the EU Turkey Civic Commission, held at the European Parliament on 19 and 20 September 2005 and supported by members of the Council of Europe,<sup>8</sup> maintains the view that Turkey has not yet fulfilled the political elements of the Copenhagen Criteria (see Annex 1, Final Resolution of Second International Conference of EUTCC).

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<sup>7</sup> See export licences to Indonesia above. QSC, Strategic Export Controls: “Annual Report for 2002.” Ch 4, pp 26–29.

<sup>8</sup> Organised by Rafto Foundation (Norway), KHRP (UK), Medico International (Germany), Bar Human Rights Committee of England And Wales (“BHRC”) (UK).

Further, although it is agreed that Turkey has recently introduced a wide range of legal and other reforms, KHRP and other local and international organisations, including those present at the EUTCC conference in September 2005, remain concerned that these reforms have not been implemented in practice. Once the EU decided to open accession negotiations with Turkey on 17 December 2004, *the reform impulse dissipated substantially and human rights groups in the country now report high instances varying types of human rights violations.*

In this context, the report notes in particular that Turkey passed a law that compensates losses resulting from terrorism, Law 5233. As a result of a fact-finding mission conducted in June 2005 organised jointly by the Diyarbakir Bar Association, Human Rights Watch, the Bar Human Rights Committee of England and Wales (BHRC) and the KHRP, and a strategy meeting held in Diyarbakir to discuss, analyse and provide advice on Law 5233, KHRP has grave concerns about the practical effect of this law. More than 50 lawyers and NGO representatives from southeast Turkey attended the strategy meeting, all of whom represent applicants before the assessment commissions. A copy of the fact-finding Mission report is enclosed (see Annex 2 “The Status of Internally Displaced Kurds in Turkey and Compensation Rights: Fact Finding Mission Report”). By way of summary, KHRP has the following doubts about the law’s effectiveness:

- Law 5233 contains ample scope for claims and payments to be avoided, minimised and delayed.
- Concerns about the impartiality and independence of the assessment commissions also exist.
- Many applicants are automatically excluded from applying to the commission.
- Law 5233 excludes payment for suffering and distress, symptoms commonly felt by IDPs.
- The Law contains an inappropriate time limit for IDPs to apply to the compensation commissions: they had just one year.
- The damage assessment commissions are currently unable to deal with all the applications they have received.

#### TORTURE AND ILL-TREATMENT

KHRP finds the report’s conclusion that the Turkish government continued to work towards implementation of the recommendations of the ECPT and back up its policy of zero tolerance inaccurately reflects the ongoing problems the Turkey faces in addressing this insidious practice. Turkey’s recent efforts to combat torture, including by reducing detention periods and providing for access to medical examinations and legal counsel for detainees are certainly to be welcomed. However, torture continues to reach levels unheard of in western democracies, whilst perpetrators are rarely adequately punished, if at all, and Turkey has failed to implement much-needed independent inspections of detention facilities in spite of an ECPT recommendation in June 2004. Indeed, a recent European Parliament human rights delegation visiting Turkey found “shocking” reports of murders and mutilations (see *Guardian* article at Annex 3).

Furthermore, in addition to the traditional forms of bodily torture, KHRP has learned that state agents have begun to use more insidious forms of torture that do not leave marks, such as extreme exposure to loud noise or extreme light for extended periods; taking citizens to locations outside prison premises for interrogation and threatening their lives and that of their families for an extended period of time; and the use of falaka hanging.

#### FREEDOM OF EXPRESSION AND ASSOCIATION

KHRP does not agree with the report’s conclusion that the new penal code has narrowed the scope for convictions of those expressing non-violent opinion. In April 2005, KHRP and BHRC sent a fact-finding mission to Istanbul, Diyarbakir, Dersim and Batman, to investigate the protection currently afforded to journalists, writers, artists and human rights defenders since the introduction of the pro-EU reforms. The mission found that the new penal code has united Turkey’s journalists *from all political backgrounds* in protest against the reforms (see Annex 4: “Dissenting Voices: Freedom of Expression and Association in Turkey”). Journalists are being arbitrarily imprisoned and heavily fined as authorities continue to silence stories about Kurds or the activities of the Turkish army. Article 305 of the new Penal Code, whereby journalists face up to 15 years imprisonment for disseminating “propaganda” against “fundamental national interests”, in particular, is of grave concern. Many journalists are believed routinely to self-censor their work for fear of punishment.

Further, on 1 September 2005, Orhan Pamuk, the acclaimed Turkish novelist, was indicted for having “blatantly belittled Turkishness” as a result of comments made to a Swiss newspaper regarding the killing of Kurds and Armenians in Turkey (see *Guardian* article at Annex 5). Musa Kart, a Turkish cartoonist, has recently been fined \$3,500 for showing Prime Minister Recep Erdogan in a “humiliating” way by portraying him as a cat entangled in a ball of wool (see *Times* article at Annex 6).

A KHRP and BHRC fact-finding mission to Turkey in July 2005 investigated the implementation of linguistic rights and mother tongue legislation enacted by the Turkish government in an effort to meet EU pre-accession criteria. The mission found that the actual implementation of these reforms was scattered and ineffectual in practice (see Annex 7: “Recognition of linguistic rights? The impact of pro-EU reforms in Turkey”). They have been applied on a piecemeal basis. For example, although private language courses in

Kurdish opened in Turkey in 2004, these were forced to close in August 2005 due to commercial difficulties and bureaucratic obstacles. There was also little interest in the classes: Kurdish people, especially those living in poverty, do not wish to pay to attend a course to learn a language they have known since birth, but rather to receive their overall education in that language, including grammar, literature, math, science, history, geography, and philosophy. In addition, other laws have been used to thwart the limited progress made by the reforms, whilst some of the new legislation has been found to be more restrictive in practice than previous legislation.

#### STYLE AND TONE OF THE REPORT

As an overall comment, KHRP finds the tone of the Turkey section of the report too conciliatory, in comparison with other sections of the report. For example, the section on Armenia carefully voices the human rights situation in a more appropriate tone, “There are several human rights concerns in Armenia . . . while Armenia has often adopted good legislation, implementation is deficient”. Given the issues set out above, and the widely voiced concerns regarding human and minority rights in Turkey<sup>9</sup>, KHRP asserts that the Turkey report could and should have adopted a similar tone.

*Lucy Claridge*  
Legal Officer  
Kurdish Human Rights Project

3 November 2005

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#### Written evidence submitted by the Commonwealth Human Rights Initiative (CHRI)

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights across the Commonwealth. CHRI is headquartered in New Delhi, India but we also have an Africa Office based in Ghana and an office in London. Our objectives are to promote awareness of and adherence to the Harare Commonwealth Declaration, the Universal Declaration of Human Rights, and other internationally recognised human rights instruments, as well as in-country laws and policies that support human rights in member states. For more information please visit our website: [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org).

CHRI would like to express its support for the FCO’s Human Rights Annual Report as a tool to monitor and comment on the human rights situations across the globe. We welcome the opportunity to provide information to the Foreign Affairs Committee in relation to the 2005 Report.

The following is a compilation of some serious concerns regarding the human rights situations in select Commonwealth countries in 2005. The research into these countries has been conducted to inform submissions to Commonwealth Ministerial meetings and other related bodies. As such, it provides information on each country from a comparative Commonwealth perspective, particularly highlighting how certain countries are failing to abide by the criteria for membership of the Commonwealth—to follow the principles contained in the Commonwealth Harare Declaration.

#### PAKISTAN

Despite the fact that 18 months have passed since Pakistan’s reinstatement to full membership of the Commonwealth, there has been little positive change in terms of human rights, democracy and good governance. On the contrary, the situation has deteriorated. This situation seems to be undermining the standards that the Commonwealth has stated are required for membership of the association.

CHRI has documented human rights violations in Pakistan particularly regarding violent intimidation of the media and members of civil society, as well as violence by para-military forces. We reiterate that such violations continue. One recent case involved the attack in Lahore on Asma Jahangir, the United Nations special rapporteur on freedom of religion and head of the Human Rights Commission of Pakistan. Ms Jahangir was beaten with batons by the police and publicly humiliated. Jahangir and another 41 people, including Hina Jilani—the UN special rapporteur on human rights defenders—were arrested during the event.

Recently, police in Karachi cracked down on a number of publications, raiding the offices of several newspapers, arresting four journalists and several newspaper vendors as well as confiscating copies of the publications. There is much concern that the government of Pakistan may be using fears over religious and sectarian extremism to pressure newspapers and curb freedom of the press.

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<sup>9</sup> See European Commission “2004 regular Report on Turkey’s Progress Towards Accession”, COM (2004) 656 final, 6 October 2004.

Arbitrary arrests and disappearances in the name of the “war on terror” are frequent. The Anti Terrorism Act (ATA) was amended to provide for life-imprisonment for supporters of terrorists—however the ATA seems to be abused by the Government, resulting in many disappearances, arrests without trial and cases of torture. There are even reports of a six-year-old girl being held in prison under the Terrorism Act.

Of major concern is the lack of democratic governance in Pakistan. A restoration of democracy involving a full shift from military to civilian governance has not yet occurred; on the contrary, the role of military in governance has actually been strengthened and institutionalised. There has also been the case of at least one para-military group which has been made into a serious political force by President Musharraf and which is backed by the military—thus further strengthening the military control of the government.

The recent local council elections were described by the opposition as the “most violent and most blatantly rigged” in Pakistan’s electoral history. More than 40 people died in the two phases of the polls, amid widespread allegations of rigging and other malpractices both at pre-poll stage as well as on the polling day itself. One positive aspect was that the Chief Election Commissioner cancelled the polls results in areas where women were not allowed to vote. The opposition have expressed a complete lack of confidence in the ability of President Musharraf’s government to hold free, fair and impartial elections. Some have also expressed their intention to boycott any further elections under the government of Musharraf.

This political situation is particularly of concern considering the Commonwealth’s commitment to democratic, civilian governance and that Pakistan’s reinstatement to the Commonwealth was on the basis of progress made in restoring democracy and rebuilding democratic institutions.

#### MALDIVES

CHRI wishes to draw your attention to the Maldives, due to continued violations of human rights and disregard for the principles of participatory democratic governance and the rule of law.

We are pleased to note President Gayoom’s public commitments to reform, and the Commonwealth’s provision of technical assistance. The Commonwealth needs to publicly state its intention to closely monitor these reforms as international scrutiny, as well as support, is essential in better ensuring that reforms become reality within the stipulated timeframe.

However, despite President Gayoom’s promises of goodwill, violations of the Harare Principles continue. Though the Maldivian government has taken a positive step forward in allowing the registration of political parties, this has been undermined by recent events such as the arrests, particularly targeting members of the main opposition party, which took place during peaceful demonstrations. We are concerned by reports of human rights violations, including the use of violence, against those arrested. We urge that those arrested and charged are given a fair trial—particularly considering the implications which these trials will have on the political future of the country. We are encouraged by the permission granted to the International Commission of Jurists (ICJ) to observe the trials and hope that trials are serious, fair and impartial. Anything less than the highest standards of impartiality and fairness by the judiciary towards members of the opposition would eliminate any credibility of the government regarding their claims for striving to achieve democracy.

Other concerns relate to harassment of the free press, particularly when the government’s actions are criticised; and restrictions on civil society through delays in registering human rights NGOs. We must also express our apprehension for the Human Rights Commission Act ratified on 18 August. While it is positive that efforts have been made to make the Maldives Human Rights Commission a statutory body, concerns have been raised that the Act does not conform to the Paris Principles (the foundation and reference point for the establishment and operation of national human rights institutions) and may in effect diminish the authority and credibility of the Commission.

A clear and strong public statement is required to send a message to the Maldivian administration and other Commonwealth nations that actions that violate the Harare Principles are unacceptable and will not be overlooked by the Commonwealth. Continued silence implies acceptance and risks damaging the Commonwealth’s reputation for membership being dependent on the principles of democracy and human rights articulated in the Harare Declaration.

The following is a very recent press release by CHRI on the current situation in the Maldives:

*Trouble in Paradise: What’s Wrong in the Maldives?*

*Media Release from the Commonwealth Human Rights Initiative, 24 October 2005*

In response to strong public protests, President Maumoon Gayoom of the Maldives has committed his government to bring about constitutional reform. However, despite these promises, international human rights and democratic norms continue to be regularly breached in the Maldives.

The Director of the Commonwealth Human Rights Initiative, Ms Maja Daruwala stated: “While it is positive to note that international players, including the Commonwealth Secretariat, are providing assistance behind the scenes, there is a disappointing lack of public statements condemning negative events in the Maldives. Continued silence implies acceptance of violation of human rights and risks damaging the Commonwealth’s reputation whose membership is dependent on adherence to the principles of democracy and human rights articulated in the Harare Declaration.”

The Maldives is plagued by human rights violations and disregard for the principles of participatory democratic governance and the rule of law. The free press faces harassment—particularly when the government’s actions are criticised—and civil society faces restrictions through delays in registering human rights NGOs. Concerns have been raised that the Human Rights Commission Act ratified in August does not conform to the international standards of the Paris Principles and may in effect diminish its authority and credibility. The positive step of allowing registration of political parties has been undermined by arrests that effectively target the opposition.

Of particular concern are issues of access to justice and fair trial standards. The Maldives criminal justice system has been indicted for “systematically failing to do justice and regularly doing injustice.” Observers and studies done in the recent past including by top British barristers headed by Sir Ivan Lawrence QC have voiced serious concern about the lack of separation of powers and the fact that the President is in control of everything including the judiciary.

In these circumstances, the 10 year sentence on charges of “terrorism” of Jennifer Latheef on 18 October is an indication of the problems with the judicial system. Ms Latheef, 32, is an outspoken critic of President Gayoom’s 27-year rule, an uncompromising advocate of human rights and civil liberties. She has been termed by Amnesty International as a “prisoner of conscience”. Apart from being the human rights coordinator of the opposition Maldivian Democratic Party, she is also a well-known youth leader, writer and photojournalist.

Ms Latheef’s “terrorism” charge arose in connection with her participation in a demonstration in September 2003 to protest the custodial deaths of four young prisoners. Three others involved in the demonstration have already been sentenced to 11 years jail each. Charges include “the assault of a number of police officers, plus the torching of government buildings and an election office”. Ms Latheef denies all charges.

The trial itself has been mired in controversy. Six out of the seven prosecution witnesses against Ms Latheef were police officers whose statements were not always consistent. One police officer, for instance, claimed that he saw Ms Latheef throw a stone at him while he was walking away from her—and that it hit him on his shin, despite the fact that he had his back towards her. Despite such lack of credibility, the judge ruled that Ms Latheef was guilty of terrorism, and has sentenced her to 10 years in jail. Ms Latheef was immediately taken to the police headquarters before being transferred to prison, where she remains.

Ms Daruwala explained that the promised reforms in the Maldives are undermined by the lack of demonstrable progress, as well as lack of due process or adherence to standards of fair trial. Ms Daruwala called for an urgent review of Ms Latheef’s trial and stated: “It is hoped that following such blatant disregard for human rights, the international community will finally take decisive action in the Maldives. It is time for action by the Commonwealth in particular, or the association may face another situation like in Zimbabwe”.

## ZIMBABWE

CHRI wishes to draw your attention to the deteriorating human rights and political situation in Zimbabwe. CHRI condemns “operation clean up”—a housing demolition operation by the Zimbabwean government aimed predominantly at opposition-oriented communities—which has made over 700,000 people homeless or jobless. A further 2.4 million people are calculated to have been affected. UN officials have confirmed that demolitions continue in Eastern Zimbabwe despite claims by the government that these have ended. Among the people evicted are a large number of women with HIV/AIDS, widows, children with disabilities and HIV/AIDS orphans. Starvation deaths have also increased.

The Constitutional Amendment (No 17) Bill was passed in the Zimbabwean Parliament on 30 August 2005. The Bill includes derogations to the right to freedom of movement as well as amendments to the protection of property giving the government more power at the expense of the citizen. This Bill is a further indication of the Zimbabwean government’s lack of respect for the principle of constitutionalism and the rule of law as well as its disregard for the protection of fundamental human rights and the need by the state to adhere to minimum human rights norms.

CHRI calls on the Commonwealth to speak out in favour of democracy and human rights in Zimbabwe and to engage with civil society groups in Zimbabwe and the Zimbabwean diaspora.

*Clare Doube*

Co-ordinator, Strategic Planning and Programme  
Commonwealth Human Rights Initiative (CHRI)

4 November 2005

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## Written evidence submitted by the Council for Arab-British Understanding

### INTRODUCTION

The Foreign Office's work on human rights is essential. We very much welcome that human rights plays a central role in the Department's priorities. The continuing publication of the Annual Human Rights report is also most welcome.

It remains our firm belief that adherence to international humanitarian law and human rights law is vital in helping win back Arab and Muslim support. All too often, the perception that there are double standards in relation to international law is borne out by the reality on the ground. The failure to ensure that Britain pushes equally for such standards in all areas, at home and abroad, undermines our key strategic interests as defined by the Foreign Office.

It is our belief that in the war on terrorism, it is vital that we uphold the standards of the rule of international law and demonstrate fairness in application. A failure to do so serves only the interests of the extremists who will highlight this in their propaganda.

As yet, the widespread perception, not just in the Arab and Islamic world, is that Britain and the United States do not deal with states on a level playing field when it comes to human rights, and that our own record human rights record has also—rightly or wrongly—been brought into question.

This memorandum addresses two key areas covered by the report. The Council would like to address issues relating to human rights concerning Israel and the Occupied Territories and Iraq.

### SECTION 2.11: IRAQ

CAABU welcomes the Foreign Office's extensive involvement in the reconstruction and democratisation efforts that have been undertaken in Iraq. The emphasis on training Iraqi Government officials, the military, and police officers in the area of human rights and international law is a valuable contribution to encouraging a future Iraq that respects human rights principles. There are, however, some remaining concerns.

The primary concern that CAABU has with regards to the Iraq section of the Human Rights Report is the startling lack of a response to the alleged human rights violations during the assault on Fallujah in November 2004.

Amnesty International reported a number of breaches in human rights law on the part of American and Iraqi forces as well as on the part of insurgents. For example, health workers and medical facilities appeared to be a direct target of American and Iraqi forces. Among other attacks, a number of sources documented an American bombing of the Central Health Centre in Fallujah, where 35 civilians were killed, including a number of health workers. There are also concerns that water and electricity supplies were cut off before the assault, affecting the Iraqi civilian population.

We strongly encourage the Foreign Office to make efforts to improve its monitoring of human rights abuses on the part of the occupying forces in Iraq.

### SECTION 2.12: ISRAEL AND THE OCCUPIED TERRITORIES

The FCO report rightly acknowledges that Israel continues to flout human rights laws in the Occupied Territories.

However, as was the case with last year's report, which Amnesty International criticised, the scale of the human rights abuses is still underestimated.

While the FCO report mentions in several areas Israel's violation of the Fourth Geneva Convention, CAABU believes stronger emphasis should be placed on international law throughout. Britain is obligated as a High Contracting party to ensure compliance, but after 38 years of occupation, and numerous UN Security Council Resolutions,<sup>10</sup> Israel appears no closer to compliance than before. The question has to be asked as to whether the Foreign Office commitment to these conventions is only paper-thin. There has been no discussion as to either monitoring or enforcement mechanisms. Even when the formal language acknowledges Israel and the Palestinian Authority's obligations under international law, it is not matched by any apparent political or diplomatic determination to see this realised. This was a point made very eloquently in the report of the International Development Select Committee in 2004. It is regrettable that the Foreign Office pays no attention to its own legal obligations to insist and demand scrupulous compliance with the Fourth Geneva Convention. We hope that the Foreign Office will take an active role in calling for a meeting once again of the High Contracting Parties to the Fourth Geneva Convention, last held in 2001.

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<sup>10</sup> Reference to the need for Israel to adhere to the Fourth Geneva Convention is referred to in numerous Security Council Resolutions including: UNSCRs 271, 904, 1322, 1435, 1554.

*Impact of occupation*

The overwhelming human rights issue for the 3.5 million Palestinian inhabitants of East Jerusalem, the West Bank and the Gaza Strip is the 38-year-old military Israeli occupation. It is remarkable that the Foreign Office report does not make this clear. The occupation that has lasted since 1967 has had the biggest impact on every aspect of Palestinian lives and has also generated extremism and radicalisation amongst a larger segment of Palestinian society.

The UK Government should be calling for the end to this occupation without delay. The end of this occupation would be the biggest single possible boost to Israeli security, as well as providing for a huge improvement in the Palestinian human rights situation.

*Israeli Settlement expansion*

We are concerned that the Foreign Office report did not highlight settlement expansion and land appropriation. Although the report is not meant to be exhaustive, this represents both a very serious human rights issue and perhaps the single largest obstacle to peace. The transfer, directly or indirectly, by an occupying power of parts of its own civilian population into the territory it occupies is considered serious enough to be labelled a war crime as laid out in the 1998 Statute of Rome. The Foreign Office, however, does not seem to share this view based on the action it has taken to encourage an end to this practice.

Despite the withdrawal from the Gaza settlements and the four in the northern West Bank in August 2005, more settlement units are being built in the West Bank and East Jerusalem than have been dismantled. Israeli Government statements have before and after consistently shown a commitment to expand settlements.

The absence of a reference to this expansion is stranger still given that in 2003–04 the Foreign Office funded a monitoring report on Israeli settlement expansion for £110,000.

*Barrier/Wall*

It is disappointing that the Foreign Office response to the Israeli barrier has been merely low-key. The wall/barrier is nearing completion, and is still overwhelmingly constructed on occupied territory in clear blatant disregard for international law and the will of the international community.

Firstly, the ruling out of the International Court of Justice of 9 July 2004, backed up by a resolution of the United Nations General Assembly that the UK supported, carried with it obligations that have not been fulfilled. For example, the International Court of Justice ruling made it explicitly clear that, “All States are under an obligation not to recognise the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They must not render aid or assistance in maintaining that situation, and must see to it that any impediment to the exercise of the Palestinian people’s right of self-determination is brought to an end” (paragraph 159).

It is not clear what steps, if any, the Foreign Office has taken to ensure that the United Kingdom does not “render aid or assistance in maintaining that situation.” There is clear evidence that British companies have exported equipment used in the construction of the wall.

We would call on the Foreign Affairs Committee to seek a full and clear picture of exactly what communications and actions have been taken, and will be taken in view of Israel’s flagrant disregard of the legal position that the route of the wall on occupied territory is illegal.

*Accountability of the IDF*

CAABU believes that the issue of Palestinian deaths in the course of Israeli military operations and the lack of accountability of IDF personnel for such violence is a graver concern than the FCO intimates. It noted “welcome exceptions” but these were only cases involving the death of foreign citizens. Additionally, CAABU believes more detailed statistics are in order, highlighting the disproportionately high number of Palestinian deaths outside of combat to the low number of criminal investigations. For example, only seven convictions have been processed to date in these kinds of cases. It is commendable that the JAG in the IDF is fairly quick in prosecuting cases of sexual abuse and drugs, but their efficiency does not carry over to their under funded criminal investigation branch, which would prosecute soldiers in cases that involve Palestinian deaths. It is a particular concern that the Foreign Office does not highlight the propensity for IDF soldiers to use live ammunition in non-threatening situations.

Moreover we are concerned that there are still active links with the IDF on behalf of the British Government in terms of arms sales and assistance in training.

### *Targeted Killings*

In reference to the Foreign Office's mention of Israel's policy of "targeted killings", the Foreign Office should call on Israel to abide by due judicial process under the internationally accepted norm of "innocent until proven guilty."

However, we would prefer that the Foreign Office does not use the term "targeted killings" as these assassinations have been anything but targeted on many occasions, resulting in civilian deaths, as the FCO Report itself correctly points out.

### *"Arab-Israelis" box*

The Foreign Office was quite right to draw attention to the situation of Arab citizens of Israel. We noted that the Foreign Office "remains concerned" at the human rights violations affecting Arab-Israelis. However, the report makes no mention of any action or activities on the part of the Foreign Office to raise these concerns with the Israeli government. An improvement in the human rights situation in Israel for its non-Jewish citizens would be a boost for future relations across the board in the Middle East and should therefore be encouraged.

We hope that they may consider future programmes to assist in this area. The Bedouin in the Negev would be an obvious target of such assistance.

### *Palestinian prisoners and torture*

The Foreign Office has highlighted that one of its priorities is to stop torture. Therefore it is remarkable given this emphasis, that there is no mention of the numerous and ongoing human rights reports—including from the United Nations—about this.

There are over 7,000 Palestinians in Israeli jails, many having been transported into Israel once again in clear violation of the Fourth Geneva Convention. Only around 1,500 of these prisoners have been put on trial.

Moreover, considering that the rights of the child was identified as one of the three priority themes, the FCO might have highlighted the issue of the 400 or so Palestinian child prisoners, and also reports that some of them may have been tortured.

### *London Meeting on supporting the Palestinian Authority, 1 March 2005*

The report draws attention to the London meeting on 1 March 2005. However, at the meeting and in its conclusions, there were no references to Israel's obligations under international humanitarian and human rights law. Human rights did not appear as an issue and there was no reference to the obligation on the part of Israel to adhere scrupulously to international law. Such an important meeting was the perfect occasion to highlight the British and international community's concern on the issue of human rights and law but nothing was said in public.

In particular, there was no mention of the continued expansion of illegal settlements in the Occupied Territories. This is another example of the British Government's continued failure to bring up pertinent issues of human rights and international law violations on the part of Israel at key moments in front of key audiences.

This served to reinforce the view that human rights were not a top priority.

### *Palestinian Refugees*

One of the gravest human rights concerns related to the Israeli-Palestinian conflict is the issue of the UN-registered Palestinian refugees, who now number four million. Yet there was no mention of this in the report, and given its scale it is surprising. Refugees from other countries are mentioned in other areas of the report.

UN-registered refugee camps have been assaulted by the IDF and refugees have been killed and injured, demonstrating a disregard for the United Nations. One example is the IDF assault on Jabaliya refugee camp in the Gaza Strip in October 2004.

According to the UN Special Rapporteur of the Commission on Human Rights, John Dugard: "The IDF carried out an assault on the refugee camp of Jabaliya, in response to the killing of two Israeli children in Sderot by Qassam rockets. One hundred and fourteen persons were killed and 431 injured. Many of the victims were civilians and 34 children were killed and 170 wounded. Ninety-one homes were demolished and 101 seriously damaged, affecting 1,500 people. The demolition of houses in Rafah, Jabaliya and other parts of Gaza probably qualify as war crimes in terms of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)."<sup>11</sup>

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<sup>11</sup> <http://domino.un.org/UNISPAL.NSF/0/9c172354fe3c565785256f8e006f3988?OpenDocument>.

## FCO ACTIONS

*EU-Israel Association Agreement and Human Rights*

In a response to a written question on 10 January 2005, the then Minister for Europe, Dennis MacShane, stated that he did not deem it “appropriate” to take action in accordance with article 70 of the EU-Israel Association agreement. Given the severity of the human rights situation in Israel and the Occupied Territories, this position needs to be justified. The Minister referred to Road Map commitments but it appears that there is no semblance of compliance with these commitments, not least in terms of a settlement freeze.

A strict adherence to human rights on both sides would remove many of the day-to-day grievances on both sides. The question has to be asked: if the Government does not wish to enforce human rights clauses in international agreements, why then does it sign them?

The Government has maintained a position for some time that there is no point in pressuring either side. But given the continued and consistent flagrant violations of international law, it is surely time to demand rather than merely call for, adherence.

*Council for Arab-British Understanding*

4 November 2005

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**Written evidence submitted by Robert Amsterdam**

*Mr Mikhail Khodorkovsky*

We are lawyers acting for Mr Mikhail Khodorkovsky. As you will know, our client, the founder and former owner of the Yukos company, was recently convicted by the Russian Federation authorities and sentenced to nine (reduced on appeal to eight) years in jail. You may have read that Mr Amsterdam was recently interdicted by Russian police and expelled from the country, simply for representing my client.

We understand that your Committee is undertaking an inquiry into the Human Rights—Annual Report 2005 recently issued by the Foreign and Commonwealth Office. This report makes reference to the human rights situation in the Russian Federation and specifically (on page 185) to the prosecution of Mr Khodorkovsky and his associate, Mr Platon Lebedev.

The purpose of this letter is to provide you with some further details concerning this prosecution and the grave human rights violations this involved and which are continuing and to highlight to you the pressing concern for the United Kingdom to which these violations give rise.

Since the Report was published, the appeals of Mr Khodorkovsky and Mr Lebedev were almost entirely unsuccessful. Mr Khodorkovsky is now in jail in Krasnokamensk, a remote uranium mining town in eastern Siberia, Mr Lebedev in Kharp in northern Siberia. Both jails are brutal and highly unsanitary.

It should be noted that the unfortunate case of our client does not stand alone. A new class of political and economic prisoners has now developed in Russia among which we would include Sutyagin and Danilov, the famous spy cases as well as Trepashkin and others which involve gross violations against lawyers and other human rights defenders. We must underscore that the show trial in the case of our client would not have even been conceived by the Kremlin were it not for the silence of the west with respect to the increasing use of the Russian courts as the political enforcement arm of the Kremlin.

In that regard we not only highlight the activities of the chairperson of the Moscow City Court in arranging for the removal of more than 17 judges over the last number of years who did not comply with the state attack on judicial independence. We also wish to underscore the appointment this year of a new Chief Judge for the Supreme Arbitrazh Court who at the age of 32 has been appointed to head this court with no previous judicial experience. It would appear the sole criteria for his appointment was based on the fact that he had been a senior legal officer of Gazprom which is an entity largely controlled from the office of the Presidential Administration.

The Human Rights Annual Report document fails to connect the tragedy of Russian human rights today with the overall deterioration in the Corruptions Perceptions Index as reported by Transparency International. The Russian Federation’s Corruption Perceptions Index 2004 score was 90th out of 146 countries. In 2005 it was 126th out of 159 countries.

We would argue that it is indeed the corruption of the state administration that is a propulsive force behind the deterioration both in judicial independence and overall judicial corruption. The report, with respect while descriptive does not analyse the reasons behind this gross deterioration. We believe it is fair to suggest that the presidential administration itself should be held accountable just as Justice Wortman found in the Cherneshavya decision heard this year at Bow Street.

The Report voices some concerns regarding the trial process of Mr Khodorkovsky and Mr Lebedev. These are well founded. The criminal process was marked by very considerable unfairness, including the following:

1. There was a wholesale lack of independence of the judiciary from the prosecuting authorities. The judges at the Basmanny Court in Moscow, where the entire action was heard, are well known for their closeness to the Russian authorities. No significant decision—from applications on bail to questions on the admissibility of evidence—in the entire process went in favour of the Defendants.
2. The Defendants were not allowed proper legal representation and insufficient time or opportunity to meet with their legal counsel. Moreover, even more unconscionably, the defendants' legal firm had its offices searched by the police and sensitive privileged material concerning the prosecution was taken away, a wholesale violation of the defendants' rights to a fair process.
3. During the trial proper, the authorities orchestrated demonstrations outside the court building in order to assert more pressure of the judges to convict.
4. Throughout the trial process, not only were the Defendants kept in jail and denied bail, although there was no credible justification for this, in court they were kept in cages and unable to converse properly with their lawyers.
5. The trial process was conducted without even the appearance of equality of arms. The defence team were constantly harassed and witnesses intimidated. The Russian Procuracy behaved without any calculus of fairness in leading witnesses and distorting evidence.
6. Since the trial, not only has Mr Amsterdam been expelled from the country but the Russian prosecuting authorities lodged a complaint with the Moscow Bar Association against three of the Russian lawyers of Mr Khodorkovsky seeking to have them disbarred. The complaint was on entirely specious grounds. We understand while it has been rejected by the Moscow Bar the leading human rights counsel Yuri Schmidt awaits a disbarment hearing before the St Petersburg Bar scheduled for Mid November.

Every independent agency which has monitored the trial process has condemned it as being wholly unfair. For example:

1. Richard Boucher, the spokesman from the US State Department, stated that the Khodorkovsky trial has “eroded Russia’s reputation and eroded confidence in Russian legal and judicial institutions”.
2. The Rapporteur appointed by the Council of Europe, Ms Sabine Leutheusser-Schnarrenberger, a former Federal Justice Minister of Germany, stated in respect of the convictions of Mr Khodorkovsky and Mr Lebedev:

“This judgment massively undermines trust in Russia and must not be the last word in these proceedings. It must be a wake-up call for all those who have until now seen Russia wholly uncritically as a crystal-clear democracy.”

The situation in Russia and in particular the cases of Mr Khodorkovsky and Mr Lebedev are of pressing concern to the United Kingdom not only because the wholesale violation of human rights is a matter of legitimate concern worldwide but also because the actions of the Russian authorities undermine the security of investments in the country and the entire investment climate.

With regard to both Mr Khodorkovsky and Mr Lebedev their present circumstances in incarceration lead us inevitably to the conclusion that the Russian authorities are intentionally placing their lives in grave danger contrary to the tenets of both international law and fundamental human rights. We urge the active intervention of the Government of the United Kingdom to seek the immediate release of Mr Khodorkovsky and Mr Lebedev from the concentration camp conditions in which they are currently being held, and the restoration of human rights in Russia.

If it would assist the Committee, we would be very happy to appear before it where we could provide more information concerning the prosecution of our client and answer any questions your client may have.

*Anton Drel*  
Robert Amsterdam

4 November 2005

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### Written evidence submitted by Campaign Against Criminalising Communities (CAMPACC)

#### OVERVIEW STATEMENT

An objective of the Foreign Affairs Committee is to “examine the expenditure, administration and policy of the FCO”. In order to do this with regard to Human Rights, the Committee has already taken up issues of rendition and torture abroad in the “War on Terror”, eg in its 6th report on the FCO Human Rights Report 2004.

Below we extend some of those points for a broader purpose: to draw links between the “war on terror” as an oppressive, anti-democratic agenda at home and abroad. As well as a human rights abuse, torture should be seen as a political strategy which links UK intelligence services with its foreign counterparts. The UK is not simply an innocent recipient of statements resulting from torture; rather, UK agents collaborate with those who violate human rights abroad and even encourage such violations.

Dubious “information” gained from torture abroad is used to label more and more people here as “terror suspects”, thus justifying the domestic “war on terror”, including detentions and prosecutions. More generally, UK “anti-terror” laws are used to terrorise migrant and Muslim communities in this country, especially to deter dissent against oppressive regimes allied with the UK, and to deter any support here for resistance abroad (as we have documented elsewhere<sup>12</sup>). Torture abroad is one important component of that strategy; when refugees flee here, they then fear being deported back to torture, beyond their brutal treatment by UK immigration authorities.

As an integral part of your remit for UK foreign affairs, the Committee should investigate foreign-domestic links in systematic torture and its multiple political roles. The Committee has a responsibility to hold the Government accountable for those roles.

#### SPECIFIC EXAMPLES

The rest of our submission provides specific examples of UK complicity in torture abroad and its plans to extend that complicity, even encouragement.

##### (1) *The UK supports US practices of “extra-ordinary” rendition.*

A recent investigation has found that the UK is offering logistical support to the US practice of “extra-ordinary rendition”, the abduction of terror suspects and the taking of them to countries, most notably Egypt, for interrogation, where they are likely to be tortured (“Destination Cairo: human rights fears over CIA flights”, *The Guardian*, 12/09/2005). CIA-manned aircraft involved in these operations have flown into the UK 210 times since the 9/11 attacks and the 26 strong fleet run by the CIA has used 19 British airports and RAF bases, including Heathrow, Gatwick, Luton and Belfast airports. Egypt is a country where torture against political dissidents and ordinary citizens is widespread, according to Human Right Watch (“Empty promises can’t protect people from torture”: Joint letter to Tony Blair from Human Rights Watch and Liberty, *The Guardian*, 23/06/2005).

The logistical support this Government offers to the CIA practice of rendition requires investigation and condemnation. The abduction of individuals is illegal and the act of knowingly supporting the sending of persons to countries where they will be tortured is a violation of Article 4 of the UN Convention Against Torture, which requires signatories to make complicity with torture a criminal offence, and a breach of the international prohibition on the return of persons to countries where they face a risk of torture.

##### (2) *The UK Government obtains and uses “intelligence” from liaisons with foreign security services who practice torture.*

The UK co-operates with governments who regularly practise torture against detainees, thus acting in complicity in those acts. This liaison provides an incentive for such countries to torture their detainees.

Craig Murray (former British Ambassador to Uzbekistan) has described how the UK liaised with the authorities there in order to obtain regular intelligence for use in the UK’s “War on Terror.” This is again a violation of Article 4 of the UN Convention against Torture. When he protested against the British foreign policy of liaison with the Uzbek security forces, Craig Murray was told that Jack Straw and the MI6 chief had decided that torture intelligence is important in the War on Terror (*The Independent*, 27/10/2005).

Moreover, British agents have been present in foreign jails when torture has occurred. In his article on the liaison between UK and Uzbek security forces, Craig Murray reports that detainees abducted and flown to countries where they have been tortured, under the practice of rendition, have spoken of the presence of British personnel in the prison in which they have been detained. Members of the British security services questioned the Algerian key prosecution witness in the “ricin-plot” trial, who is held in Algeria, and who had probably been subjected to ill-treatment by the Algerian authorities. When the case went to trial, the prosecution offered no credible evidence of ricin, nor of a conspiracy; so the torture “evidence” provided a weak substitute.

<sup>12</sup> CAMPACC (2003) Terrorising Minority Communities with “Anti-Terrorism” Powers: their Use and Abuse, Submission to the Privy Council Review of the Anti-Terrorism Crime and Security Act 2001, [www.campacc.org.uk/ATCSA\\_consult-final.pdf](http://www.campacc.org.uk/ATCSA_consult-final.pdf)

(3) *The UK Government wants evidence obtained under torture to be admissible in courts here.*

The government has been arguing before the House of Lords for the right to act on intelligence obtained by the torture of persons abroad. It wants to be able to use that material to detain people in the UK and to use as evidence before the courts. Although ostensibly an element of domestic policy, it has links to foreign policy. If torture evidence becomes admissible here, then this will further encourage torture by regimes abroad. The ability to use torture evidence in court will go hand in hand with continued and increased liaison between those countries' security services and our own, because the fruits of foreign torture will then become useful to the domestic "War on Terror". Furthermore, the admittance of torture evidence to court gives these countries a green-light to continue using torture. It will be conducive to their relations with the British Government, in the sense that it will be a component of the co-operation between the two governments.

(4) *The Government deports people to countries where they are likely to face torture.*

The Turkish and Kurdish community have reported that the Home Office has massively stepped up removals of people to Turkey over the last few weeks. There have been raids on homes and shops with people being snatched in the early mornings. Many individuals are being detained and then given letters of refusal for their asylum applications, and some have judicial reviews or appeals outstanding. Not only is this an abuse of due process but again, these individuals are being sent away to face a real risk of ill-treatment and torture. According to Human Rights Watch, torture remains commonplace in Turkey. For instance, the Turkish Human Rights Association reported 692 incidents of torture and ill-treatment by police in the first six months of 2004. Repression of Kurds and Kurd-sympathisers is particularly severe (<http://hrw.org/english/docs/2005/04/27/china10549.htm>).

A European Parliament delegation visiting Turkey to check on its progress in human rights has found "shocking" reports of murders and mutilations, a British MEP said yesterday. The findings, which come a week after Brussels launched membership talks with Turkey, highlight the scale of progress the predominantly Muslim country needs to make in its quest to join the European Union.

Richard Howitt, part of the mission by the parliament's seven-member human rights subcommittee, told *The Guardian*: "What we heard was shocking. There were accounts of soldiers cutting off people's ears and tearing out their eyes if they were thought to be Kurdish separatist sympathisers . . . You can't hear these things without being emotionally affected."

The MEP, Labour's European foreign affairs spokesman and a champion of Turkey's EU accession, said the abuses had been corroborated by human rights organisations.

The British Government intends to obtain diplomatic assurances against torture in order to deport terrorism suspects to countries where they are at high risk of torture. This practice is in breach of the international prohibition on the return of persons to countries where they face a risk of torture, and torture itself is absolutely prohibited under Article 3 of the European Convention on Human Rights incorporated into UK law by the Human Rights Act 1998.

It is understood that the British Government is seeking to deport a number of Algerian nationals certified under the Anti-Terrorism Crime and Security Act 2001. Some were acquitted by a jury in the so-called "ricin plot" trial. The Government is negotiating with the Algerian government for diplomatic assurance that these individuals will not be subjected to ill-treatment on their return. Algeria is a country in which a range of repressive practices is employed against those involved in political dissent. These practices include arbitrary detention, summary executions and torture. The FCO itself noted in 2004 that "the overall level of human rights abuses [in Algeria] remains high". Amnesty International reported in 2004 that those suspected of "acts of terrorism or subversion [are] systematically tortured" ("UK: Empty promises can't protect people from torture", Joint letter to Tony Blair from Human Rights Watch and Liberty. 23/62005).

Furthermore, torture is itself a clandestine activity which is illegal in most countries, and to which they would not admit. It is therefore absurd to assume that a diplomatic statement can be taken as assurance that an individual will not be tortured.

The UK has been asking foreign governments (such as Algeria, Jordan, Morocco and Tunisia) for assurances that deportees will not be subjected to torture. Such efforts warrant scrutiny and condemnation. If assurances are obtained, there will be more deportations to these countries, probably to face torture, despite diplomatic assurances to the contrary. Hence the British Government will be complicit in the torture and ill-treatment of individuals abroad. Thus an element of domestic policy (deporting refugees) will effectively become a part of foreign policy. Conversely, the deportations may be driven partly by foreign policy, as a means to silence dissent against oppressive regimes allied with the UK.

*Campaign Against Criminalising Communities (CAMPACC)*

6 November 2005

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### Written evidence submitted by Free Tibet Campaign

Free Tibet Campaign stands for the Tibetans' right to determine their own future. It campaigns for an end to the Chinese occupation of Tibet and for the Tibetans' fundamental human rights to be respected. It is independent of all governments and is funded by its members and supporters.

#### RECOMMENDATION 1

*Make a public commitment to promote direct contact between Hu Jintao and the Dalai Lama in the course of all bilateral contacts and multilateral fora involving China*

- The UK and EU should aim to secure from China an undertaking to drop all pre-conditions to negotiating a settlement on Tibet with representatives of the Dalai Lama, and should promote the inclusion of all areas with Tibetan autonomous status, as designated by China, in any negotiations.
- The UK should develop a set of criteria that will allow the EU to evaluate the progress of formal contact between China and the Tibetan Government in exile. The UK should ask by what criteria China assesses the progress of these talks, and how they decide when future meetings will take place.
- The UK should encourage the Chinese government to refrain from personal attacks against the Dalai Lama or his attempts to reach a negotiated solution, since these only serve to undermine any advancement that might be made as part of the dialogue process. Whilst the Tibetan Government in exile is placing great emphasis on the dialogue as the best means to achieve a peaceful resolution to the Tibet issue, and exercising great diplomacy in its communication about the dialogue, there has been no reciprocal effort on China's part.
- The EU should appoint a Special Representative for Tibetan Affairs to facilitate dialogue in order to resolve the long-standing issue of Tibet.

#### *Background to formal contact between China and the Tibetan Government in exile*

Summary: Formal contact between the exiled Tibetan leader and China re-opened in 2002, following a decade of stalemate. Tibetan envoys and their aides have visited Beijing and Tibetan areas on three occasions since September 2002 and a fourth meeting took place in July this year in Berne, Switzerland. There is, however, little indication so far that Chinese leaders are genuine in wishing to work towards real negotiations; a cynical interpretation is that these visits are a political expediency to silence critics of China's Tibet policy. The meeting between Tony Blair and Hu Jintao during the State Visit is a major opportunity to persuade China to authenticate the talks as a valid process, and a request that Hu Jintao (with his background in Tibet) meets the Dalai Lama, would be the single most effective way of breaking down the distrust of the Dalai Lama's moderate position.

Although both sides have indicated that the talks are considered constructive and should continue, China's pre-conditions to substantive negotiations still stand. These are:

- (a) The Dalai Lama must abandon his claim for the independence of Tibet and stop all "splittist" activities. (This he has done for the last decade.)
- (b) The Dalai Lama must openly recognise Tibet as an inalienable part of China.
- (c) The Dalai Lama must recognise Taiwan as one of China's provinces.
- (d) The Dalai Lama must recognise the government of the People's Republic of China as the country's sole legitimate representative.

#### *Background to proposal for Special Representative for Tibetan Affairs*

The Dalai Lama has repeatedly called on the EU to appoint an EUSR for Tibet, following the move by the US Administration to appoint a Tibet Special Co-ordinator in 1997. An EUSR for Tibet would add another dimension to dialogue between the EU and China outside the already existing human rights mechanisms. The appointment of an EUSR for Tibet would demonstrate the EU's interest in the political dimension of the Tibet problem and would be a practical way to help implement EU policy objectives.

Note: There was an attempt to achieve consensus over the appointment of an EU Special Co-ordinator for Tibet during 2002. The UK appeared to be supportive, but the initiative appears to have been blocked by EU Ambassadors in Beijing. It is time for the matter to be discussed again. In the meantime the EU should mandate Javier Solana's Personal Representative for Human Rights, Michael Matthiessen, to dedicate a significant proportion of his time to promoting dialogue between Tibet and China.

## RECOMMENDATION 2

*Adopt a Priority Initiative to eradicate Torture in Tibet*

(Note: Chinese officials have said that torture would be at the top of the Procuratorate's list of priorities for 2006.)

- The UK should extract clear commitments from China concerning their proposals to address torture. Specifically to consistently outlaw the use of torture to extract “confessions” from detainees.
- China to properly implement the Convention against Torture, which it ratified in 1988, and withdraw its reservations to the Convention (in which it does not recognise the competence of the Committee against Torture, as provided for in Article 20).
- The UK to secure from China an agreement to sign and ratify the Optional Protocol to the Convention Against Torture (CAT) which allows unannounced visits to prisons and other institutions of concern. In the interim, for China to allow all UN Special Representatives and Working Groups unhindered access to Tibet to investigate human rights concerns. China should guarantee that a visit by Manfred Nowak, UN Special Rapporteur on Torture, will take place this year (the visit was cancelled in 2004 but is thought to be planned for November 2005.)

*Additionally*

- Reforms that China should carry out include:
  - Ensuring that all detainees are granted immediate access to lawyers, family, friends and medical personnel within 24 hours of arrest.
  - Introducing a training programme for police and prison personnel in Tibet, in order to eradicate the use of torture and ill-treatment.
  - Institute a system for prisoners to report incidences of torture, and a procedure for investigating and prosecuting those who commit acts of torture.

*Background to Torture in Tibet*

Despite China being a signatory to the Convention Against Torture, torture remains endemic in prisons and detention centres throughout China and Tibet. In January 2005 a suspended death sentence against Tibetan religious leader Tenzin Deleg Rinpoche was commuted to life imprisonment. The case against Tenzin Deleg, who was accused of “splittist activities” and taking part in “causing explosions”, has never been made public, but was based on a “confession” by his co-accused, Lobsang Dhondup. Dhondup publicly withdrew this confession, alleging he had been tortured. Dhondup was executed in January 2003.

Successive United Nations Special Rapporteurs on Torture have made considerable efforts to visit China and Tibet, but China refused to agree to the terms of such a visit until 2004. China then asked that the visit be postponed. It will finally take place later this month (November 2005).

## RECOMMENDATION 3

*Reinvigorate efforts to gain access to the 11th Panchen Lama of Tibet, who has been in “protective” custody for ten years**Background to the case of Gedhun Choekyi Nyima*

The 11th Panchen Lama of Tibet is a 16 year-old boy, called Gedhun Choekyi Nyima. He and his family were abducted on 17 May 1995, two days after the Dalai Lama officially recognised him as the reincarnation of the much-loved 10th Panchen Lama, who had died in 1989. Despite repeated requests by national governments and the United Nations, no foreigner has been permitted to visit Gedhun Choekyi Nyima or his parents, to establish their well-being. China maintains that that family remain in custody at their own request.

In September 2005 China must report to the United Nations Committee for the Rights of the Child, and will be expected to respond to concerns raised about the Panchen Lama.

## RECOMMENDATION 4

*Timelines must be introduced against the benchmarks for the EU/China Human Rights Dialogue*

- Objectives for the Dialogue should be publicly linked to a timeframe for compliance by China. The objectives should be specific and should relate to action by China, rather than merely agreements to talk about an issue, provide information or accept visits from partners. Additionally:

- Dialogue should be conducted by high-level officials on both sides and include Ministerial exchanges. The UK should support the creation of a permanent secretariat in the EU to oversee the dialogue and ensure better continuity.
- Evaluation of the UK/China Human Rights Dialogue should be undertaken by Parliament. Regular evaluations should incorporate submissions by NGOs. 2007 will be the tenth anniversary of the UK's own dialogues with China, and this important yardstick offers an opportunity for a substantive review. However, no sensible review is possible unless there are timeframes of against the UK's benchmarks (see above).
- Specific criteria should be articulated for the circumstances under which dialogue would be suspended or terminated. The continuation of dialogue at any cost should be abandoned as an operating principle.
- Dialogue sessions should include independent social groups, experts, scholars, lawyers and other individuals. NGOs should be self-selecting and be guaranteed the right of free expression. Dialogue partners should try to encourage the Chinese government to engage in dialogue domestically, rather than only internationally.
- The dialogue should strengthen the authority of UN human rights standards and mechanisms rather than undermining them. (The EU—including UK—erroneously still appears to regard the dialogue as being incompatible with critical resolutions at the Commission for Human Rights.)

#### RECOMMENDATION 5

Tony Blair, members of his government must raise with Hu Jintao Chinese leaders regularly the need to take urgent steps towards freedom of the media, which has yet to improve despite the promises made in 2001 by the Beijing 2008 Olympic bid Committee. The UK Government should further commit to a special initiative, in tandem to its planned cultural exchanges, that will secure a negotiated settlement for Tibet and improve human rights in China before the Beijing Games of 2008.

#### RECOMMENDATION 6

FCO must make efforts to introduce strong human rights elements in trade and business relations with China. In particular, Trade Ministers and business leaders must ensure that all future business deals with China adhere to an agreed code of corporate principles, including protecting individuals who are exercising freedom of speech in China. In April Chinese journalist Shi Tao was sentenced to 10 years in prison after Yahoo! in Hong Kong provided China with information about his use of a private email account to send details abroad about an internal government memo concerning the 15th anniversary of the Tiananmen Square massacre.

*Alison Reynolds*  
Director  
Free Tibet Campaign

7 November 2005

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#### Written evidence submitted by Eritreans for Human and Democratic Rights UK (EHDR-UK)

Eritreans for Human and Democratic Rights-UK (EHDR-UK) is a UK based voluntary activist movement working for the respect of human and democratic rights of Eritreans in Eritrea and abroad. It is independent of any political persuasion or religious creed. It was set up in May 2002 in response to the deteriorating human rights and political situation in Eritrea.

We at EHDR-UK are appreciative of the Foreign and Commonwealth Office's Human Rights Report 2005 which highlighted the human rights situation across the globe and the initiatives the UK Government and its EU partners have taken to support the respect of human rights in our world today. Indeed, injustice somewhere is a risk to justice everywhere, and hence human rights abuse should be an issue of concern to every human being. It is therefore in this light that we seek to highlight the plight of Eritreans, whose human rights are continuously being trampled upon by a regime that is following a brutally dictatorial course upon which it openly embarked in 2001, heralded by the arrest of 11 top party and government officials and the shutting down of all privately owned newspapers. Today Eritrea is the scene of gross human and democratic rights abuse that spans across every aspect of Eritrean life. However, we feel that the report has largely omitted many of these and neglected to include Eritrea in the list of countries that warrant serious concern owing to their poor human rights records. We think this is a serious omission.

Over the year covered by the report, there were a number of new and continuing worrying developments. These include:

- Over 40 young people were killed in Adi Abieto detention centre in November 2004 when they tried to escape from forced recruitment into the army;
- There were reports of 161 young Eritreans being gunned down when they tried to escape from the inhospitable Wia military training/detention camp in April/May 2005;
- Hundreds of Evangelical and Pentecostal Christians were detained over the last year from weddings and other social events, all churches not belonging to the three official churches remain closed and their activities banned since May 2002. A number of Muslim teachers were disappeared in 1994 and have not been heard of since;
- Eritreans continued to flee to the neighbouring countries in their thousands;
- The number of new Eritrean asylum seekers in the UK and EU continued to increase;
- The former high ranking ministers and officials (also known as G11) who were members of parliament and many others remain in unknown detention centres incommunicado detention. The Government also started a new wave of re-incrimination in order to set the scene for their execution. None of them have been seen in public and there is grave concern about their well being;
- All the independent journalists remain incommunicado detention and the country is still without independent media;
- The rule of law is seriously hampered in Eritrea and arbitrary arrests without due process are the norm;
- The country's parliament has not met for a number of years now;
- The Constitution which was ratified by the Constituent Assembly in 1997 remains unimplemented;
- Political parties are still not allowed in Eritrea.

The above list and the evidence we are providing fully demonstrates the need for taking actions that ensure that the human and democratic rights of every Eritrean are respected in line with the Universal Declaration of Human Rights. We, therefore, urge that Eritrea be added to the list of "countries of concern". Furthermore, we urge the Committee to recommend further action be taken by Her Majesty's Government on the Eritrean authorities until the human rights situation improves in the country. The UK with its European partners has already taken some bold steps against similar states such as Burma and Zimbabwe. We feel that the situation in Eritrea is at least as bad if not worse than those states. We urge the Committee to recommend travel bans to officials of the Government and the ruling party in order to persuade the Government of Eritrea to adhere to the various human rights agreements that the nation is a party to. It is our sincere hope that the evidence presented below will achieve our main aim of highlighting the gross human and democratic rights abuse in Eritrea.

*Noel Joseph*  
Executive Director  
Eritreans for Human and Democratic Rights UK

7 November 2005

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### **Written evidence submitted by the Jubilee Campaign**

#### COMMENTS ON THE SECTION ON IRAQ IN THE FCO'S REPORT

1. The Jubilee Campaign is an interdenominational Christian human rights organisation. It serves as Secretariat to the All Party Parliamentary Group on Street Children and also has consultative status at the United Nations.

2. The FCO's 2005 annual human rights report's section on Iraq fails to mention in any detail the desperate situation of Iraq's second largest ethnic minority, the ChaldoAssyrians, who are also the largest religious minority in Iraq, as they make up over 95% of the Iraqi Christian community.

3. Since the fall of Saddam Hussein, ChaldoAssyrian organisations have recorded the killing of over 100 Iraqi Christians. Christians have been subjected to escalating violence in Iraq. The indigenous ChaldoAssyrians are being targeted for violence regularly due to their distinct ethnicity and faith. Although the indigenous people of Iraq, they are a double minority in their own ancestral homeland since they are both an ethnic and religious minority.

4. While the average Iraqi faces many risks in the unstable situation in Iraq, Iraqi Christians are exposed to even more dangers as they have to deal with the additional threat of attacks from Islamic extremists, who want to drive them out of Iraq, kill them or force them to convert to Islam simply because they are Christians.

5. Iraqi Christians are also perceived by Muslim extremists as allies of the "Christian" West which gives the extremists even more motivation to attack the Christians. They face additional problems from their neighbouring Kurds in northern Iraq, some of whom have used violence against ChaldoAssyrians or illegally expropriated Christian villages and land depriving many ChaldoAssyrians of their livelihood and

shelter. At least 58 ChaldoAssyrian villages have been misappropriated by Kurds and repeated representations to Kurdish leaders for the return of this land have so far been ignored. This is one example of the inability of ChaldoAssyrians living under Kurdish domination to obtain proper redress for their grievances. Some ChaldoAssyrian land was also confiscated under the regime of Saddam Hussein and either given to Iraqi military and intelligence personnel or rented to Kurds or Arabs. Until now the land has yet to be returned to its ChaldoAssyrian owners.

6. The ChaldoAssyrian Christians are a highly vulnerable community under siege. While there is no danger of the Kurds or Arabs vanishing from Iraq or having their communities in Iraq reduced to a tiny remnant, there is a real danger that this may happen to the ChaldoAssyrians unless their security situation vastly improves.

7. There are currently only about 800,000 to one million ChaldoAssyrians left in Iraq. Tens of thousands of them fled to neighbouring countries such as Jordan and Syria after lethal and coordinated church bombings by Islamic extremists killed at least 12 people and injured many more in August 2004.

8. Below are just a few examples of Iraqi Christians being attacked for their faith:

8.1 Many Christian Churches in Iraq have received threatening letters from Islamic fundamentalists. Bishop al-Qas of Amadiyah, in the Kurdish region, said that posters had been put up urging Christians to convert to Islam or leave the country.

8.2 ChaldoAssyrian Christians have received threatening letters telling them to support Muslim rebellion against the Coalition authorities and practise Islam or suffer the consequences. The recipients of these letters are told to follow the Muslims' basic rules of wearing the Islamic veil and following Islamic teaching. If the recipients do not submit and comply, then it is threatened that they will be raped, tortured, killed, kidnapped, or have their house, along with their family, burned or exploded. Muslim extremists are calling Iraqi Christians "crusaders" or a fifth column for the Christian West and the Americans.

8.3 Three Christian bishops in Mosul have received letters ordering them to permit the marriage of Christian women to Muslim men, a process which often involves the woman's conversion to Islam, and threatening to kill one member of each Christian household as punishment for women not wearing the Islamic veil.

8.4 Islamic extremists conducted lethal terrorist bombings on Sunday 1 August 2004 against five churches in Baghdad and the northern city of Mosul, which killed 12 people and injured many more. Bombs exploded at two churches in Baghdad on 8 November 2004. Both churches were bombed within a space of five to 10 minutes. At least three people were killed and 40 injured. On 16 October 2004, five ChaldoAssyrian churches in Baghdad were targeted and bombed by Islamic extremists. Nobody was injured. Islamic extremists bombed two churches on Tuesday 7 December in Mosul wounding three people.

8.5 On 26 June 2004 a grenade was thrown at the Holy Spirit Church in the Akhaa quarters in Mosul. The explosion caused serious injuries to one person.

8.6 The ChaldoAssyrian Christian community in Iraq, despite being one of that country's indigenous people groups, is in a far more vulnerable and weak position than the Kurdish, Arab, Shiite or Sunni Muslim communities in Iraq.

#### SUGGESTED ACTION BY THE BRITISH GOVERNMENT

9. The fact that the Iraq section of the FCO's annual report gave no specific attention to the desperate situation of Iraq's Christian community suggests that the Foreign Office has seriously underestimated the vulnerability of this community and the intensity of the pressures and attacks they are facing.

10. The British Government should take practical steps to assist Iraq's Christians including the following measures:

10.1 One significant way of enhancing the security of the ChaldoAssyrians is to grant them an administrative region as has been guaranteed under Article 53(D) of Iraq's Transitional Administrative Law. Such an administrative region can act as a safe haven for Iraq's Christians and would also encourage the tens of thousands of Christians who have fled Iraq, especially in recent months, to return to their ancestral homeland. This administrative region should be situated in and around the Nineveh Plains and in Dohuk province, which are at the heart of the ChaldoAssyrians' ancestral homeland and which is still heavily populated by ChaldoAssyrians. This region would be jointly administered by ChaldoAssyrians and other ethnic groups historically linked to the area such as the Yezidis.

10.2 The long and tragic history of massacres and genocide against the ChaldoAssyrians has demonstrated that they cannot rely on other ethnic groups to manage their affairs and provide them security. For example, in Dohuk province the ChaldoAssyrians live under the control of the Kurdistan Democratic Party (KDP) who have refused to heed ChaldoAssyrian appeals for the return of their 58 villages which have been partially or fully illegally occupied by Kurds. To make matters worse, the KDP has even encouraged Kurds from countries outside Iraq, such as Syria, to go and settle on the ChaldoAssyrian land. Furthermore, the KDP has done very little to protect the ChaldoAssyrians and very few Kurds who commit crimes including kidnapping and murder against ChaldoAssyrians are ever brought to justice. There have in fact been a number of incidents where the KDP authorities have handed over ChaldoAssyrians to Kurdish mobs

who killed them. During the Iraqi elections in early 2005, up to a hundred thousand ChaldoAssyrians and thousands of others were prevented from voting in northern Iraq because of KDP interference with the election process. This significantly reduced the chances of ChaldoAssyrian candidates being elected to the Iraqi Parliament and is yet another stark example of the many difficulties which ChaldoAssyrians living under KDP control have when it comes to obtaining their rights.

10.2.1 Failure to grant the ChaldoAssyrians their own administrative region will keep many of these Christians in northern Iraq under Kurdish control which will inevitably perpetuate the discrimination and injustices they are suffering under the Kurds. Such ongoing friction between the two ethnic groups could eventually lead to civil war, thus it is crucial that the ChaldoAssyrians be granted an administrative region where they can control their own affairs.

10.3 Most ordinary ChaldoAssyrians see their hope for better security and self-determination within Iraq in the setting up of an administrative region for the ChaldoAssyrians. It will also be an effective way of preventing discrimination against the ChaldoAssyrians in law enforcement because in that region the ChaldoAssyrians will be responsible for overseeing their own security needs. For example, in one incident when a ChaldoAssyrian family's home was broken into by some Muslims, the family urgently begged the Iraqi police to come and assist them but were simply told to take care of themselves. This kind of police indifference is highly unlikely to occur in a ChaldoAssyrian administrative region where they are operating their own police force. The need for such a region is especially urgent at a time when violence targeted specifically at the ChaldoAssyrians is escalating and the British Government and its US ally should play an active role in helping to bring this about.

10.4 The KDP should also be pressured by Britain and the US to ensure that all the land and villages illegally expropriated by Kurds are returned to the ChaldoAssyrians and the violence, kidnapping and other crimes against ChaldoAssyrians in KDP controlled areas are punished.

10.5 The British Government and its US ally should also financially support the redevelopment and reconstruction of ChaldoAssyrian villages and infrastructure and the return and resettlement of ChaldoAssyrian refugees and give whatever support they can to the Christians of Iraq to enhance their security and protection.

10.6 By assisting the reconstruction of ChaldoAssyrian villages and infrastructure and the return and resettlement of ChaldoAssyrian refugees as well as helping the ChaldoAssyrians with their security and protection, the British government would be enabling the return of tens of thousands of ChaldoAssyrian refugees who have recently fled Iraq and thereby empowering a force for moderation within Iraq. Furthermore, if they had their own administrative region and much of the rest of Iraq became increasingly Islamised, their region would probably be a very positive example to the rest of the country of good governance, religious tolerance and moderation. One indication of Iraq's possible Islamisation is the reference in the draft Iraqi constitution to the prohibition of any law conflicting with the principles of Islam. This might be used in future to try and pave the way for the introduction of Islamic sharia law in Iraq. Any such move would be highly unlikely to gain any support in a ChaldoAssyrian administrative region.

10.7 The ChaldoAssyrians together with moderate Muslims in Iraq are the main bulwarks against the growth and spread of Islamic fundamentalism in that country. If the Iraqi Christian community is reduced to a tiny remnant, it will have no power to oppose the imposition of Islamic law in Iraq. The presence of a vibrant Christian community in Iraq also adds much strength to the ability of moderate Iraqi Muslims to oppose the spread of Islamic fundamentalism. The British Government would be making a grave mistake if it viewed the plight of the Christian community in Iraq as simply a side issue peripheral to the major events affecting that country. It is the non-Muslims who are the natural allies of moderate Muslims opposed to the spread of militant extremist Islam in Iraq. Even if the British Government has yet to fully realise this, there can be little doubt that many of the Islamic extremists are already aware of this, which is one reason why they are now focusing their attacks so strongly on the Iraqi Christian community.

#### COMMENTS ON THE SECTION ON BURMA IN THE FCO'S REPORT

1. In the Burma section of the FCO's report (page 37, paragraph 6), they claim that, "The [Burmese] Government has continued ceasefire negotiations with the Karen National Union (KNU). The provisional truce established in 2003 remains shaky and some low-level fighting continues." This statement can give a misleading picture of the situation for the Karen people as being a lot more peaceful than before but unfortunately this is not the case. The Burmese military have repeatedly committed truce violations and human rights violations and numerous military attacks by the Burmese army against Karen people and their villages have occurred, as if the provisional truce was non-existent.

2. At page 38, paragraph 7, the report states that "Ethnic groups have suffered disproportionately in Burma . . ." While this is very true and we welcome this statement, the Jubilee Campaign is concerned that some of the ethnic groups which are suffering the most severe atrocities, such as the Karen, Karenni and Shan people also be specifically named in the Foreign Office report. The Burmese military have been inflicting systematic atrocities on the Karen, Karenni and Shan people, killing numerous civilians, including

women, children and the elderly. These atrocities include widespread and systematic rape, summary executions, torture, disappearances, destruction of villages, crops and livestock, causing massive displacement (over 650,000 Karen, Karenni and Shan internally displaced) and severe food shortages.

3. Given the humanitarian catastrophe which the Burmese military have created in the Karen, Karenni and Shan areas of Burma, the urgent needs of hundreds of thousands of internally displaced Karen, Karenni and Shan, many of whom are hiding in the Burmese jungle with little or no food and medicine, and are usually killed on sight if discovered by Burmese troops; a lot more specific attention should have been given to this catastrophic situation facing the Karen, Karenni and Shan, in the FCO report.

3.1 The report states that the FCO are “deeply disturbed that Aung San Suu Kyi remains under house arrest” and while this is a very important issue, the report fails to mention any specific FCO concern or action regarding the desperate plight of the Karen, Karenni and Shan people of Burma. Even specific mention of these ethnic groups is generally avoided in the FCO report. Despite the fact that the Karen and Karenni make up the vast majority of refugees in refugee camps on the Burma-Thai border, the FCO report refers to them as “Burmese refugees”.

3.2 At page 38, paragraph 7, the FCO rightly acknowledges that ethnic groups have faced “appalling abuses” yet fail to try and name the ethnic groups, such as the Karen, Karenni and Shan, who face such abuses. There are over 20 ethnic groups in Burma, which is all the more reason why the FCO needs to be more specific in naming the ethnic peoples who face such appalling abuses.

Reference is made to UN General Assembly and UNHCR resolutions on this issue co-sponsored by the Foreign Office. While such action is to be welcomed, far more needs to be urgently done to end the appalling atrocities against the Karen, Karenni and Shan. The last paragraph of the Burma section fails to mention any plans by the UK to put pressure on the Burmese regime to end their atrocities against the Karen, Karenni and Shan people.

#### RECOMMENDATIONS TO THE FOREIGN OFFICE

4. Adopt a far more balanced human rights policy on Burma, which gives as much importance to dealing with the systematic atrocities by the Burmese military against the Karen, Karenni and Shan as is given to the situation of Aung San Suu Kyi and other Burmese pro-democracy activists.

5. Refer the human rights situation in Burma, including the systematic atrocities against the Karen, Karenni and Shan, to the UN Security Council. The FCO has resisted taking such action in the past, claiming that there will be no consensus for the Security Council to put Burma on its agenda. But this becomes a self-fulfilling prophecy for by failing to even try to have Burma discussed at the Security Council, the FCO guarantees that this important subject continues to be ignored by the UN Security Council.

6. The UN Security Council should also be lobbied to pass resolutions imposing global trade and investment sanctions as well as an arms embargo against Burma until the Burmese regime stops their systematic atrocities against the Karen, Karenni and Shan people and withdraws their troops from Karen, Karenni and Shan areas, as well as making significant improvements on other human rights issues.

7. Ban all new investment by UK companies in Burma just as the US Government banned such investment by US companies, in the late nineties.

*Wilfred Wong*

Researcher and Parliamentary Officer  
Jubilee Campaign

7 November 2005

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#### **Written evidence submitted by the International Campaign for Human Rights in Tunisia**

We write to you in your capacity to draw your attention to the alarming deterioration in all fields and on all levels in Tunisia, as a result of the Tunisian authorities' repressive policies towards all political dissidents and civil society activists. This oppressive reality is in flagrant contrast with the official discourse, which unscrupulously exploits the slogans of democracy, human rights and civil society whilst adopting a repressive security policy that is unparalleled except in authoritarian states.

The existence of over 500 prisoners of conscience, who live in extremely severe prison conditions and whose human dignity is systematically undermined, tragically epitomises Tunisia's crisis. Several of these prisoners have died, either under torture, or as a result of wilful medical negligence. These political prisoners were sentenced in 1992 in unjust military trials, which lacked the minimum requirements for a fair and independent trial.

On the level of political life and civil society, the Tunisian government maintains an iron grip and close police surveillance on the activities of authorised and unauthorised political parties. This has led to a political life void of any credible representation. At the same time, institutions of civil society have been targeted and undermined, and the judiciary has been implicated and used in the government's own battles against its dissidents.

As for the press and other media, they remain completely under the government's control, thus turning into propaganda tools for the head of state. All spheres of independent public expression—including radio, TV and press—have been restricted. The internet itself is under strict surveillance, either through monopoly of service providers by the President's relatives and close allies, or through banning particular websites and restricting free access to independent news sources. This is in addition to the widespread state of corruption and nepotism in higher government levels. The President's relatives and close allies are systematically looting the country's resources and interfering in all aspects of the economy, driving thousands of Tunisians to emigrate to Europe.

The Tunisian government is in breach of international accords and conventions it had ratified, and is in breach of the second article of the Euro-Mediterranean Partnership agreement, which stresses the protection of liberties and human rights. By all legal, political or ethical standards, the Tunisian government is unfit to host the international information summit, set to be held there in mid November and due to be attended by heads of state, kings, and prominent politicians and officials.

These same causes have prompted a number of representatives of political parties and civil society institutions to embark on a hunger strike on 18 October, following the spread of strikes throughout Tunisian prisons for over a month. They demand the release of political prisoners, an end to their long suffering, the guaranteeing of the freedom of political and associational activities, and the lifting of all restrictions on the media.

I have no doubt that you are fully aware of the bleak situation in Tunisia and that you will support reform and democratic progress in the country, in defence of the universal values of freedom and human rights.

*Ali Ben Arfa*

Campaign for Human Rights in Tunisia

14 November 2005

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#### **Written evidence submitted by the Society for the Protection of Unborn Children (SPUC)**

1. The Society for the Protection of Unborn Children (SPUC) is a lobbying and educational grassroots membership organisation, founded in London in 1967 to defend human life from conception to natural death. SPUC has been invited by parliamentary committees to submit evidence on a range of topics.

2. SPUC has been concerned about the human rights abuses which have occurred as a result of China's population control programme (the "one-child policy") since the policy's inception. These violations include forced abortions and sterilisations, infanticide, arbitrary detention, destruction of property and torture by so-called family planning officials.

3. Shortly before his death in October, Dr John S Aird, a world expert on China's one-child policy<sup>13</sup>, sent SPUC the following email:

I had hoped that I might be able to live long enough to witness the final collapse and dissolution of China's inhumane family planning policies and share in the celebration, but that does not seem likely now. Despite rising domestic criticism of the policy in Chinese intellectual circles and the mounting and virtually insoluble problems of gender imbalance and ageing, the new Chinese leadership under Hu Jintao seems to have taken, if anything, a still harder line on population control than its predecessor. I think the Party leaders have tied themselves so tightly to this policy for so long that they dare not modify it significantly now for fear of giving the impression they have finally recognized it was all a terrible mistake. Sooner or later, however, I am sure that will be the verdict of Chinese historians.

4. In the circumstances it is scandalous that there is not one single mention of the one-child policy in the FCO's 2005 HR Report.

5. SPUC is aware that the Committee does not investigate individual cases, the Committee's remit being UK government foreign affairs. However, the shocking facts of the individual cases detailed below stand in stark contrast with the 2005 FCO HR Report's total silence on the one-child policy.

6. In our submission to the Committee's 2004 enquiry, we detailed the plight of Mao Hengfeng. Amnesty International has since issued the following update:

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<sup>13</sup> An obituary of Dr Aird's appeared in the Washington Post on 30 October <http://www.washingtonpost.com/wp-dyn/content/article/2005/10/29/AR2005102901294.html>

Mao Hengfeng was released on 12 September [2005], on completion of her 18-month term of “Re-education through labour”. However, she defied orders to stop protesting about this and other violations of her rights, and so the security forces have harassed and beaten both her and her husband, Wu Xuewei. Both are at risk of arbitrary detention and torture. [. . .] On the day of her release, “Re-education through Labour” officials reportedly threatened Mao with “serious consequences” if she continued her protests. When she refused to stop protesting, the officials reportedly forced 12 other inmates to bind her hands, arms and legs. She was then bundled into a van and driven out of the RTL facility. [. . .] Mao Hengfeng and her family were reportedly held under house arrest from 23 to 27 September [2005], after she said that she would go to a UN representative office in Beijing to protest about these abuses.

7. The following is a close paraphrase of Amnesty International’s recent reports of another current case of abuse, that of Chen Guangcheng:

Chen Guangcheng, a blind, self-educated lawyer, has been under a form of house arrest since 7 September [2005]. Before his detention, Chen Guangcheng had been assisting villagers to take legal action against the Linyi city authorities in Shandong, who they allege had been breaking the law by conducting a campaign of forced abortions and sterilizations of local women in pursuit of birth quotas. Chen Guangcheng was reportedly kicked and beaten by a group of people when he tried to leave his house on 24 October [2005]. He was injured in the attack but was denied access to medical treatment. According to a report from US-based Radio Free Asia (RFA), eyewitnesses claim that two local officials led the assault. According to reports, several of the families involved in the villagers’ legal action have withdrawn following threats and harassment by the authorities. Amnesty International fears Chen Guangcheng is at risk of further abuse [. . .] Amnesty International has learned from reliable sources that operations of the Beijing-based Shengzhi Law Office have been suspended by the Chinese authorities for one year. [. . .] Shengzhi Law Office is one of a small number of law firms in China which has taken on cases involving human rights issues, and Amnesty International is concerned that this suspension will severely undercut the work of human rights activists in the country. [. . .] The firm has also supported Chen Guangcheng . . .

8. Amnesty International has also reported recently (2005) on yet another case:

Ma Weihua, a woman facing the death penalty on drugs charges, was reportedly forced to undergo an abortion in police custody in February, apparently so that she could be put to death “legally” as Chinese law prevents the execution of pregnant women. She had been detained in January in possession of 1.6kg of heroin. Her trial, which began in July, was suspended after her lawyer provided details of the forced abortion. She was eventually sentenced to life imprisonment in November.

9. SPUC asks the Committee to:

- recommend that the FCO gives priority to the worsening reality of the one-child policy in its 2006 HR Report.
- put the following questions to the Minister of State:
  - (a) Why has the 2005 FCO HR Report omitted mention of the one-child policy?
  - (b) In the course of the drafting of the 2005 FCO HR Report, was mention of the one-child policy considered for inclusion, and if not, why not?
  - (c) Was mention of the one-child policy omitted from the 2005 FCO HR Report on the advice of the Department for International Development and/or DfID-funded organisations active in China and/or other parts of Her Majesty’s Government?

*Anthony Ozimic*  
Political Secretary  
Society for the Protection of Unborn Children (SPUC)

16 December 2005

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### Written evidence submitted by World Vision

World Vision welcomes the opportunity to respond to the Human Rights Annual Report 2005 published by the Foreign & Commonwealth Office (FCO) and to the request for evidence from the Foreign Affairs Committee. This Memorandum constitutes the written comments/evidence of World Vision.

World Vision is one of the world’s leading relief and development agencies. It is a Christian organisation and currently works in nearly 100 countries, helping over 100 million people in their struggle against poverty, hunger and injustice, irrespective of their religious beliefs.

## 1. GENERAL COMMENTS ON THE REPORT AND WORK OF THE FCO

1.1 World Vision welcomes the Annual Human Rights Report presented by the Foreign & Commonwealth Office in pursuance of its policy on Human Rights. It sets a clear framework for the work of Her Majesty's Government in this area and provides useful information on the activities undertaken.

1.2 World Vision welcomes the FCO recognition of the importance of respect for human rights, the rule of law, and the democratic processes in ensuring stability, prosperity, progress and security.

## 2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CHAPTER 6 P 169–181)

### 2.0 *Access to Health and Education* (p 173–175)

2.0.1 World Vision welcomes the commitment by the UK Government in its HIV/AIDS Strategy to prioritise the rights and needs of orphans and vulnerable children and to provide at least £150 million to help meet their needs. However, we urge the UK Government to:

- Establish a monitoring system that will track this commitment and show where the money is allocated.
- Encourage a significant proportion of these resources to be made available to community based organizations and faith based organizations which in many countries are the major providers of resources for orphans and children affected by AIDS.
- Use its influence with other G8 Governments and EU member states to encourage them to allocate at least 10% of their HIV/AIDS expenditure for children affected by AIDS.
- Use its influence with the national governments and other donors to press the Global Fund to Fight AIDS, TB and Malaria to make orphans and children affected by AIDS the focus of Round 6 in 2006.
- Use its influence with national governments, UN agencies World Bank and IMF to ensure that the needs of children affected by AIDS are included in macro policy frameworks, including PRSPs, national development plans and national HIV/AIDS strategies.

2.0.2 World Vision welcomes the UK Government's funding of research on cotrimoxazole and on anti-retrovirals for children, as well as supporting UNICEF to mobilize global opinion on the need to develop paediatric AIDS treatment. However, there are several other vital steps World Vision urges the UK Government to take to promote paediatric AIDS treatment:

- As a matter of priority, provide the resources needed to scale-up programmes which include cotrimoxazole as part of basic health services, since it has been shown that this antibiotic has reduced mortality of children living with HIV/AIDS by more than 40%.
- Use its influence with national governments and the UN to ensure that national and international HIV treatment targets explicitly include children.
- Provide resources for research and investment in simple and affordable diagnostic kits for children and make them widely available.
- Provide funding for increased research and development for child-specific treatments, including fixed dose combinations for children.
- Provide increased resources and technical assistance to urgently scale-up programmes to prevent mother-to-child transmission of HIV (PMTCT), especially making new medicines available to all the women and children who need them.

2.0.3 World Vision welcomes the FCO's recognition of education as a "fundamental human right" (p 174 para 5) and the need to actively seek to address the current gender disparity in education in many of the least developed countries (LDCs).

2.0.4 However, efforts to reach the second Millennium Development Goal (MDG) of universal education by 2015 will be ineffective if the needs and rights of disabled children to education are not addressed. According to estimates by the World Health Organisation just 2% of all disabled children in the developing world receive an education. Poverty, lack of basic infrastructure and negative attitudes all affect disabled children's access to education. World Vision strongly recommends that the UK Government pay greater attention to the needs and right of all disabled children to a quality education in efforts to meet the MDGs.

2.0.5 In light of this, World Vision urges the UK Government to make good on its welcome commitment of £12 million towards the Education for All (EFA) Fast-Track Initiative (FTI) and £10 million to the Commonwealth Education Fund (CEF). However, World Vision urges the UK Government to champion the right of disabled children in all its investment in education in the developing world as part of wider strategies to promote an inclusive society.

2.0.6 Despite the UK Governments generous financial commitment to the FTI, the initiative is set to experience a substantial shortfall in funding as a significant number of low-income countries join the initiative over the next two years. As such, World Vision asks that current financial commitments be met and a clear timetable for increase in aid for education identified and implemented between now and 2007.

## 2.1 *Globalisation and Fair Trade* (p 175–177)

2.1.1 World Vision welcomes the UK Government's commitment to fair trade. In light of this, we would urge that the UK use its influence at the WTO Ministerial Meeting in Hong Kong in December 2005 to push for agreement and implementation of a trading system that impacts positively on the life circumstances of the world's poor, with a specific focus on the impact upon children. Trade rules are currently stacked against the poor. For example, millions of people dependent on revenue from exports such as cotton, coffee and sugar, remain poor as subsidies that favour the rich are kept in place. Families struggle to maintain their livelihoods and it is usually the children who suffer first—often times left with no option but to take up harmful or exploitative work rather than education in order to survive and are most susceptible to disease and malnutrition.

## 2.2 *People Trafficking* (p 180–181)

2.2.1 World Vision welcomes the measures which the UK Government has taken thus far to combat the trafficking in people. However, much more remains to be done. The Council of Europe Convention on Action against Trafficking in Human Beings provides a solid basis for action to combat trafficking and to protect and respect the rights of trafficked people. World Vision would therefore strongly urge the UK Government to become party to this treaty through its ratification.

2.2.2 World Vision is particularly concerned that not enough is being done to support children trafficked into the UK. In particular we draw attention to the need to:

- provide more resources and information to social services to enable them to provide the high levels of support and assistance that trafficked children require;
- provide quality safe accommodation for trafficked children, whether this be in safe houses or with trained foster carers;
- provide trafficked children with access to medical, psychological and legal assistance as well as schooling, training and employment opportunities;
- develop and distribute a good practice manual to all social services, with follow-up training to ensure its implementation, in order to provide the appropriate service delivery for trafficked children.

## 3. DEMOCRACY, EQUALITY AND FREEDOM (CHAPTER 8 P 205–235)

### 3.0 *Equality and Discrimination* (p 212–215)

3.0.1 World Vision welcomes the UK Government's active support for an international convention on the rights of people with disabilities and would ask that one expression of this would be that all UK Government policies and practices actively seek to be inclusive.

### 3.1 *Women's Rights* (p 225–230)

3.1.1 World Vision's recent publication entitled *Empowering Women and Girls: Challenges & Strategies in Gender Equality* (see annex 1) clearly outlines four current challenges facing women and girls, namely HIV/AIDS, violence, armed conflict and trafficking. As such, World Vision welcomes the UK Government's commitment to these issues.

3.1.2 In continuing to advocate for the human rights of women, World Vision asks the UK Government to:

- Push for sufficient budgets to be granted to the Government ministry or department responsible for gender and children which in some countries receives the smallest budget in comparison to other ministries; as well as support organisations working directly or in collaboration with communities on women's and girls issues.
- Determine feasible mechanisms, enforcement measures and implementation of policies to address impunity of violators of women's and girl's rights especially in situations of armed conflict.
- Involve women in decision making during peace negotiations and the political process at the national, regional and international levels which is crucial for the protection of women and girls from violence and other violations of their rights.
- Aim to eradicate harmful traditional practices against women and girls such as female infanticide and female genital mutilation (in the case of FGM advocate alternative rites of passage which embraces positive cultural "coming of age" ceremonies without the mutilation of the girl child).

### 3.2 *Children's Rights* (p 231–235)

3.2.1 World Vision welcomes the statement that child rights are “a priority” in the work of the FCO (p 231 para 2) and the continuation of the child rights panel. However, we would ask that regular meetings of this panel be reinstated.

3.2.2 World Vision welcomes the UK Government’s desire to prevent children from suffering the harmful consequences of armed conflict across the globe. However, World Vision is disappointed that the UK Government still fails to set an example of establishing high standards on the issue of children and armed conflict by failing to remove the interpretative declaration on the minimum age for recruitment and participation in hostilities entered upon ratifying the Optional Protocol to the CRC on the minimum age for recruitment and participation in hostilities. The UK Government therefore continues to permit a lower standard for children in the UK than that proposed by the international community.

3.2.3 World Vision reiterates its recommendation that the interpretative declaration be withdrawn by the UK Government as an indication of its commitment to the human rights of children impacted by armed conflict.

3.2.4 World Vision welcomes the UK Government commitment to the EU Guidelines on Children in Armed Conflict and current work on the biennial review of these Guidelines. World Vision’s main concern is that the review will address the impact that the EU Guidelines on Children and Armed Conflict have had on children in the field.

3.2.5 In the UK Presidency’s biennial review of the EU Guidelines, World Vision would also ask that they ensure that:

- the EU should dedicate at least one child rights expert in Brussels to coordinate the response to the CAAC Guidelines and other experts be identified in Delegations in the field;
- the list of pilot countries identified in the Action Plan of the CAAC Guidelines are more closely aligned with those mentioned in the Annexes to the UN Secretary General’s 5th Report on Children and Armed Conflict;
- the EU develop its own mechanism for monitoring and reporting on Children and Armed Conflict and this be an annual responsibility of Heads of Mission in EC Delegations.

3.2.6 World Vision welcomes the section on sexual abuse within this human rights publication and, in particular, the attention drawn to the sexual abuse children suffer at the hands of foreign tourists (p 234) but is concerned that the position of “situational offenders” is not addressed in the report. World Vision recommends that the FCO not only focus on those with the specific intention of going overseas to abuse a child but also on awareness raising activities for “situational offenders”—those who don’t travel with the intention of abusing a child, but do so because a particular situation presents them with an opportunity to do so.

*Annex 1*—World Vision (2005) Empowering Women and Girls: Challenges & Strategies in Gender Equality.

*Graham Dale*, Head of Policy and Advocacy  
*Stuart Kean*, HIV/AIDS Policy Adviser  
*Philippa Lei*, Child Rights Policy Adviser  
*Jo Trevor*, Parliamentary Adviser  
 World Vision

November 2005

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#### **Written evidence submitted by Rt Hon Lord Anderson of Swansea**

#### **SUBMISSION TO THE FOREIGN AFFAIRS COMMITTEE REGARDING HUMAN RIGHTS VIOLATIONS AGAINST MINORITY FAITHS IN INDONESIA**

Today I met the Reverend Rinddy Damanik who left with me the enclosed three documents:

- A. Details of incidents in Central Sulawesi, including the horrific beheading of three Christian girls on 29 October by militants who left notes warning of further outrages to come.
- B. (i) A CWS note on West Java, including the 11 fatwas issued in July by the National Council of Ulemas (MUI) forbidding pluralism and “liberal thoughts” which targeted not only Christians but moderate Muslims and minority groups such as the Ahmadiyah. Indeed there has been a degree of solidarity by Muslim moderates with those attacked.
- B. (ii) The text of a declaration by AGAP, a militant coalition. The Indonesian Government has made some limited positive moves but have not made any effective actions including arrests of perpetrators some of whom are well known. Reverend Damanik at pages 3 and 4 makes a series

of recommendations to the British Government and the international community. I do hope that the Committee will be prepared to draw on these when questioning the FCO. I understand that the International Crisis Group (ICG) has similarly reported on the Mujaheddin.

*Rt Hon Lord Anderson of Swansea*

*18 November 2005*

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**Written evidence submitted by FDC Envoy to the UK and European Union**

**UGANDA: A COUNTRY SPIRALING BACK TO DARK OLD DAYS OF THE PAST OR WORSE**

**SUMMARY**

This briefing paper is intended to draw the attention of this meeting of the European Council to the following urgent matters:

- Dr Besigye is not a remand prisoner, but a hostage;
- Uganda government has three times made demands for a political ransom from his family and party in return for his release—confess to terrorism and we will set you free;
- Dr Besigye’s continued detention, illegally, is raising real and growing concern about his personal safety. Thousands of President Museveni’s opponents have either died in detention, or released only to die of natural “causes” shortly afterwards;
- Dr Besigye’s detention on trumped up charges confirms the 2004 Human Rights (HRW) report, “State of Pain”, which indicated that “Most victims of illegal detention and torture attribute their treatment to political suppression, reporting that security or military agents accused them of past or current political opposition, insurrection or support for rebel groups, treason or terrorism, or of knowing persons involved in such activities”;
- The only “treasonable” offence Dr Besigye has committed is to mount the most formidable and credible opposition to President Museveni;
- The only “illegal” weapon in his possessing are millions of Ugandans who now regard him as the vehicle for change;
- The only “rape” which he has carried out is to rape President Museveni’s ambition to be life president;
- The endemic war in northern Uganda and Eastern Congo confirm the report by the Brussels-based International Crisis Group (ICG), which has said that President Museveni uses war as a strategy to stay in power;
- Uganda is irreversibly heading towards a sham transition—from Museveni to Museveni and eventually to self-destruct civil war;
- Real democracy is a prerequisite for peace and poverty reduction;
- Museveni is not only the President of Uganda. He is also the supreme institution of state. Just as Zaire collapsed with Mobuto’s death, Uganda too will die along with Museveni the mortal man when he goes;
- The Commonwealth meeting in Malta handed President Museveni a licence to act with impunity and terrorise Ugandans and commit multiple rape—the rape of human rights, the rape free press and the rape independent court of law;
- Uganda is the key to peace, security and stability in the Great Lake and Central Africa; and to pacify the region Uganda must be democratised first; and
- The European Union must recognise that president Museveni has gone beyond redemption and immediate, tough actions including substantial aid cuts and targeted sanctions on Museveni and his senior officials and their families, are the only realistic options.

**ISSUES**

On 22 November 2005, EU issued a statement on the arrest of the main Ugandan opposition leader Dr Kizza Besigye. The statement reads in part:

“The European Union (EU) views with deep concern the arrest of the Forum for Democratic Change (FDC) leader, Dr Kizza Besigye, and 22 others on charges including treason. The move to a pluralist democratic system in advance of the next elections in February or March 2006 is seen by the EU as a crucial step in the political development of Uganda. In this regard, the EU is concerned that all parties should be able, and be seen to be able, to compete in a fair and

transparent manner. The EU therefore calls for the due legal process and protection guaranteed under the Ugandan Constitution to be made fully available to Dr Besigye and the others charged, and for those charged to be granted an early, free and transparent trial.”

Sadly, this reasonable statement has been ignored by the Ugandan authority. Not only have they decided to concurrently try Dr Kizza Besigye before both the High Court and the Military Tribunal over the same sets of charges. They have also ignored the High Court bail and are continuing to detain him, illegally, in Luzira maximum security prison. Besides, they are not even pretending that his trial will be “free and transparent”. For example, Dr Besigye’s defence lawyers were tried and convicted on the spot and the Danish ambassador, Mr Stig Barlyng, who is the chairman of the Donor Democracy and Governance Group in Uganda, was thrown out of the General Court Martial proceeding where Dr Besigye’s case was being heard. These developments belie a more sinister reality.

Symbolically and in practice, Dr Besigye is not a remand prisoner, but a hostage, just like several unfortunate western and other citizens who have been held and murdered by Al-Qaeda in Iraq. The only difference is that while the Al-Qaeda non-state actors are responsible for abducting and murdering several western and other citizens in Iraq, the hostage-takers in Besigye’s case were ordered by the Ugandan government. Whether by state or non-state or take actors, hostage-taking involves the same techniques: a bait, the abduction, issuing threats, ransom demands, ensuring water-tight guard and control around the victim, and it is the abductors who double as the arresting police officers, prosecutors, judges, jury and executioners. Consider the following in relation to Dr Besigye’s case:

1. Being a democrat by conviction, he was lured with a bait he could not resist: “come back to Uganda before by 28 October to register or you will not be legible to contest a political office.” Although he had contested the election in 2001, his name has unaccountably disappeared from the 2006 electoral registry;
2. Contrary to president Museveni’s denial, the directive for Dr Besigye’s arrest was issued by the president in a letter to the Cabinet dated 19 October;
3. He was not arrested by the police but kidnapped at gun-point by some 40–50 heavily armed military and security personnel;
4. On 16 November, Presidential Advisor on Military Affairs Gen David Tinnyefunza demanded that Dr Besigye should confess to the crimes he has not committed. On 22 November, the Minister of Internal Affairs Dr Ruahakana Rugunda wrote a letter to FDC leaders inviting them “for a consultative meeting with Government on the prevailing political/security development following the arrest of Dr Kizza Besigye”. And 7 December Museveni aid on Arua local radio station: “If Besigye wanted, he could have used the amnesty law because if he did that, there would be no problem for him. He would simply come and fill the (amnesty) form and say I have been involved in this (treasonable act) and I want to abdicate it”
5. He is being tried not only through the government mouth-piece, the New Vision, but also in an illegal court, which is the General Court Martial. Its Chairman General Elly Tumwine has publicly stated that his ruling is based orders and not legal argument;
6. And Luzira prison has become a military zone with armoured vehicles and heavily armed soldiers deployed on 24-hour patrol of its vicinity.

#### *Death by natural cause after release from detention*

Dr Besigye’s continued detention, illegally, is raising real and growing concern about his personal safety. To underscore these concerns, on 21 November 2005, his wife Winnie Byanyima, an executive in the Africa Union publicly told the world that she fears that “her husband may be killed.”

Of course “General” Yoweri Museveni is not like the other Ugandan military ruler “Field Marshal” Idi Amin who slaughtered his victims anywhere, in the streets, their homes and work places and in their prison cells. Save for Patrick Muhumuza Mamenero who was brutally tortured and killed by Chieftaincy of Military Police (CMI) on 13 August 2002, and Peter Oloya Yumbe, a remand prisoner in Gulu, who was executed by the Uganda Peoples Defence Forces (UPDF) 16 September 2002; tens of thousands of Museveni’s victims have left their prison cells alive only to die of “natural” causes shortly afterwards.

It is estimated that between 1986 to date, some 15,000 people including civilians and military personnel, especially those from Acholi, Lango and Teso sub regions, may have lost their lives due to “natural” causes following their release from detention. The vast majority of these deaths were not mentioned or mourned outside the victims’ immediate family or village. They were just ordinary Ugandans, the unknowns.

However, the deaths of the following high-profile political and military figures made local and international headlines in the 1980s and 1990s.

Mr Paulo Muwanga, the former Vice President in Obote Two administration. He joined the Okellos’ military junta as an Executive Prime Minister, and although he was reported to have tried a negotiated peace with Museveni during the bush war, he was arrested immediately after the NRA take-over. He spent several months in detention, developed a medical complication and died of a “natural” cause soon after his release.

Major Robert Namiti, a lawyer and soldier in the Uganda National Liberation Army (UNLA). Like Paulo Muwanga, he also joined and briefly served the NRA. He was arrested and detained for several months. He also died of a “natural” cause soon after his release.

Major William Olwol also an army officer in UNLA. He fled with Milton Obote to Kenya and then Lusaka after Okellos’ military take-over. He was arrested along with Brigadier Opon Acak and detained in Luzira and various military barracks for several years. He fell ill while in detention and was taken to Mulago hospital where he died of a “natural” cause in a matter of hours.

Lieutenant Colonel Kenneth Kilama also died of a “natural” cause while in detention. He had resisted NRA take-over, moved northwards and regrouped to fight in an attempt to topple Museveni’s new regime.

Lt Col Otto, formerly an army officer in the UNLA based in Mbarara barracks. He surrendered to Museveni’s forces and was detained in Luzira and released after several months. He also died of natural cause.

Capt Kenneth Chana, a former army officer in the UNLA who surrendered after joining the Uganda People’s democratic Army (UPDA) rebellion against Museveni. He took part the peace between the UPDA/ NRA. He was arrested, detained and released after several months. He died shortly afterwards.

Lt Col Angelo Okello, a former UNLA and later Commander of the Uganda People’s Democratic Army. He was arrested in 1990, detained for several months and then released. He died of “a natural” cause shortly afterwards.

Charles Alali, a civilian “Political Commissar” of the UPDA. He benefited from the Amnesty law and was made the minister for “Batter Trade”. He was later arrested and detained for several years only to be released before dying of a “natural” cause.

#### *Unprecedented human rights abuse*

President Museveni’s one-man and one-party rule has led to unprecedented human rights abuse as reported by two internationally renowned human rights organisations.

In April 2004, the Brussels-based International Crisis group produced a report, which said that “Uganda uses war as strategy to remain in power”. Tragically, the war in northern Uganda is today claiming 1,000 lives a week. In the last 19 years, the same war has already claimed 300,000 lives, maimed many more, caused the abduction of 20,000 children, created the tragedy of “commuter” children who trek every night to the relative safety of the towns, and driven 1.6 million men, women and children into Internally Displaced Person (IDP) camps.

Also in April 2004, the New York-based Human Rights Watch produced a report entitled “The State on pain”, which stated in summary:

“The use of torture as a tool of interrogation is foremost among an escalation in human rights violations by Ugandan security and military forces since 2001. In what most victims consider a state-sanctioned campaign of political suppression, official and ad hoc military, security and intelligence agencies of the Ugandan government have proliferated, practising illegal and arbitrary detention and unlawful killing/extrajudicial executions, and using torture to force victims to confess to links to the government’s past political opponents or current rebel groups. These abuses are not acknowledged by the Ugandan government that instead fosters an enabling climate in which such human rights abuses persist and increase while perpetrators of torture, rather than be held accountable, act with impunity.

Forms of torture in use in Uganda include kandoya (tying hands and feet behind the victim) and suspension from the ceiling of victims tied kandoya, “Liverpool” water torture (forcing the victim to lie face up, mouth open, under a flowing water spigot), severe and repeated beatings with metal or wooden poles, cables, hammers and sticks with nails protruding, pistol-whipping, electrocution, male and female genital and body mutilation, death threats (through showing fresh graves, corpses and snakes), strangulation, restraint, isolation, and verbal abuse and humiliation. Some of these practices have resulted in the death of detainees in custody. An informal survey at Kigo Prison near Kampala, where “political” cases are held, indicated in June 2003 that 90% of detainees/ prisoners had been tortured during their prior detention by state military and security agencies.

Most victims of illegal detention and torture attribute their treatment to political suppression, reporting that security or military agents accused them of past or current political opposition, insurrection or support for rebel groups, treason or terrorism, or of knowing persons involved in such activities. Others report they were accused of having engaged in or witnessed criminal activity such as murder or robbery, while some link their abuse to personal disputes and vendettas by officials.”

*Sham transition to multi-party political system*

On 5 August, the European Union also issued a statement, which read in part:

“It is important that the 2006 elections are seen by all parties to be free and fair. The European Union accordingly looks forward to the government standing by its commitment to separate the Movement from the State, and to Parliament adopting the necessary legislation for a multi-party system by the end of September 2005.”

Sadly too, this statement has been ignored by the Ugandan authority.

Although it is less than 90 days to the first multi-party presidential and parliamentary elections in 25 years, the Government is yet to take the following steps, which are critical to free and fair elections:

- The Movement Act 1997, which fuses the Movement political system with state institutions including the army, police, prisons and the civil service, is still firmly in place. The Movement Secretariat, which manages and funds the partisan political activities of the ruling party, is still maintained by the state.
- The Electoral Commission is still chaired by and packed with Commissioners who are appointed by President Museveni.
- To underline the crisis, the Attorney General Khiddu Makubuya told parliament on 6 September that the Movement organs will remain in place until 12 March 2005. Given that the elections are now set for 28 February, it follows that these multi-party elections will be conducted under one-party laws.

With the main opposition leader held hostage and the ruling party fused with the state; it is fair to conclude that the forthcoming elections in Uganda will be as free and fair as they would have been if Joseph Stalin, Adolf Hitler and Saddam Hussein had organised multi-party elections under Communism, Nazi or the Bath Party respectively.

It is also fair to conclude that Uganda is edging towards a transition from Museveni to Museveni. Inevitably, this will mean more of the same division of the country between a small, extremely rich minority, which can afford the best lifestyle including education and medical service money can buy at home and abroad, and the vast majority of Ugandans who cannot afford the basic necessities of life. It will also mean the continuation of institutional corruption, the politics of patronage, gross human rights abuse, unemployment for hundreds of thousands of the “unconnected” graduates and wars within and across Uganda borders, which Museveni’s government has become internationally known.

*Democracy is critical for poverty reduction*

Perhaps the best case in support of the critical role that democracy can play in promoting peace and poverty reduction was stated in the United Nations Human Development report 2002, “Deepening Democracy in a fragmented world”. It states:

“Politics matter for human development. Reducing poverty depends as much on whether poor people have political power as on their opportunities for economic progress. Democracy has proven to be the system of governance most capable of mediating and preventing conflict and of securing and sustaining well-being. By expanding people’s choices about how and by whom they are governed, democracy brings principles of participation and accountability to the process of human development.”

One could be forgiven for thinking that this paragraph was written with Uganda in mind, given the level of corruption, the endemic war and increasing poverty, which the country has experienced.

*The Commonwealth has missed the point*

In spite of the well established social and economic benefits of democracy, and in spite of its own 1991 “Harare Declaration”, the Commonwealth through its Secretary General Don McKinnon has recently said in Malta:

“Does democracy put food on our tables, clothe our children, put roofs over our heads, or give us a future?”

No Commonwealth leader will again stand up and criticise President Mugabe or any other dictator for his poor records on democracy and human rights, and no human rights activist will take them seriously if they did.

*Uganda is the key to peace, security and stability in the Great Lake*

As the 1994 genocide in Rwanda, the 1998–2002 invasion and occupation of the Democratic Republic of Congo (DRC), and the 19-year-long war in northern Uganda have tragically demonstrated, it is highly unlikely that there will ever be real and lasting peace in the Great Lake region until Uganda is democratised.

It must be noted that Uganda government agreed to leave the DRC only having trained and armed several militia groups, which are today causing mayhem in the eastern regions of that country. According to the July 2005 report in the Economist, up to 3.7 million people have died as a direct result of the war.

It must also be noted that Uganda government has repeated frustrated several negotiated peace settlements since 1994.

*The European Union is the last hope*

In order to bring peace in Uganda and throughout the Great Lake and Central Africa region, the European should, without delay, take tougher actions on Uganda including the following:

- Cut all non-humanitarian financial assistance to Uganda;
- Impose targeted sanctions including travel bans not only on President Museveni, his ministers, army officers mentioned in the UN report of the illegal exploitation of the Democratic Republic of Congo (DRC) and the cash-for-votes MPs; but also their immediate family members; and
- Work with other regional and international organisations with a view to securing world-wide sanctions against the regime, its leading officials and family members.

The EU needs to take these actions not only for the sake of humanity and the people in Uganda and the Great lake region, but also for the best interest of its member states.

When another civil war breaks out in Uganda, as seems likely, it is the EU which will be invaded by an exodus of refugees from the region. It also the EU which will have to pay for the settlement of many more who cannot come, and it is the EU which will eventually meet the cost of social and economic reconstruction of the war-ravaged Uganda.

*Sam A Akaki*

International Envoy to the United Kingdom and the European Union  
Forum for Democratic Change (FDC)

3 December 2005

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**Written evidence submitted by the Ogaden Community Association**

We, the Ogaden Community in the UK, are deeply distressed and concerned about the massacre and extra-judicial killings that the Ethiopian government troops had perpetuated against the Ogaden civilians at several locations during the last two months.

On the 21 November 2005 the Eritrean troops in the Ogaden burned the houses of the rural community of Fool Jeex and all their food supplies (60,000kg of maize) and destroyed their water reservoirs making one thousand people destitute and homeless. On the 15 November the troops killed wantonly 30 people in broad daylight and wounded 17 people in the town of Qabri daharre—see attached report from ONLF and the international media reports.<sup>14</sup> Before that there were similar massacres in the town of Shilabo where the civilians listening to the BBC broadcast were gunned down and five prominent elders of the community were killed and dozens wounded. The same occurred in Farmadow in October. At the beginning of 2005 two elders and women were burned alive in the Qorille hamlet. The Ethiopian occupation troops in the Ogaden kills without any censure the civilian population of the Ogaden knowing that they will not be made accountable.

This pattern of killing civilians is not confined to the Ogaden only but is spreading all over Ethiopia. The Ethiopian governed had no compunctions in murdering its civilian population in front of the cameras in broad daylight in the capital in Addis Ababa let alone the rural areas out of international security in the Ogaden.

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<sup>14</sup> Not printed.

We kindly request your government to ask the UN human rights commission to send a fact finding mission to the Ogaden and investigate the crimes against unarmed civilians. Ignoring this will encourage the Ethiopian regime to commit more heinous crimes and hindsight lamentations will not help victims of genocide. 80% of the funds used to commit these crimes come from international donations intended to help this very people. Attached Reuters report 17 November 2005.<sup>15</sup>

*Ogaden Community Association*

20 December 2005

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### Written evidence submitted by Gareth Howell

I enclose some thoughts that the committee might like to consider.

Drawing attention to a new supranational order and its potential as a vehicle for human rights campaigns is not an easy matter! I have tried where nobody else seems to have done. Endeavouring to criticise something in a document where it is not even considered, other than a few words about Andizhan in a Washington speech by the foreign secretary, is not an easy task.

My Kinsman Lord David Howell, (former foreign secretary) has some fairly clear views on Eurasia for the future, but he has probably not considered it in the context of human rights, merely as international organisation. It may be that he sees it as including the Shanghai Cooperative, which I do not see as a possibility at all. I do see CAC as a liberating organisation, even for the hidebound “thinkers” of Al Qaeda, who would find themselves with an International Islamic organisation based on territory and not just rhetoric or terror.

*Gareth Howell*

18 October 2005

### Annex 1

## HUMAN RIGHTS AND INTERNATIONAL ACTIONS

### *Civil and Political Rights*

It was somewhat naïve from the cultured, to suggest that the Cuban retaliation against the US demands in the UN for inspection of CUBAN detention facilities by requesting the same for Guantánamo bay detention centre was a brazen political ploy. How would you like that on your doorstep, indeed within your own home?

I was therefore glad to see the UK support the Cuban resolution on the “Right to Food”.

The pre-draft declaration on human rights and responsibilities, which was passed by one vote is seen by the UK as an attempt to make people’s enjoyment of human rights conditional on an individual’s behavior. “We will continue to make clear our strong opposition.”

In the UK however, the last time I enquired, prisoners did not have the right to vote whilst they are in prison regardless of their prison servitude being unrelated to political crimes. The foundation of human rights is certainly universal and inalienable but the practice of them apparently is not.

### *UN GA third committee*

The naming and shaming of Iran and Turkmenistan, given the other extremely dubious UK government decisions in the Middle East, and the supporting of the resolutions against those countries, and the fact of the developing CAC (Central Asian Community) was unwise and ill considered. The UK gave strong support to the resolutions.

The 60th session of UNGA during the UK EU presidency which will be a key part of UK human rights programme, needs to be more carefully thought out, if it is to be of any lasting value.

As a disabled person I may comment that the new DDA act 2005 is local evidence in the UK, of the UK commitment to elaborate new international standards for the rights of the disabled. If you have bought it, you can shout about it; otherwise keep quiet!

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<sup>15</sup> Not printed.

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## *OHCHR*

I can see no commitment at all to a representative for human rights in the Central Asian region, including Turkmenistan and Iran but also the other countries of the newly fledged CAC.

### *UK involvement in UN peacekeeping missions*

It is my humble opinion that one of the most valuable services that the UN provides worldwide is Peace keeping forces. The national identity of some of the military personnel is frequently immensely satisfying to hear of, on the basis of utter and complete disinterest in the outcome of the conflict, only there to keep the peace.

The presence of international forces “Allies” invoked by the US in Iraq has been disquieting at the very least and devalues international peacekeeping efforts. Countries and prime ministers have been wise to withdraw their token troops at an early date.

### *UN Reform*

The following statement I find to be a very satisfying and creative one:

We strongly support a peace building commission . . . this would strengthen the UN’s ability in conflict prevention, management and resolution for countries emerging from conflict . . . establishing a Rule of Law unit . . . this will ensure human rights are considered in counter terrorism work . . . (4.4.134)

### *Human rights and the Rule of Law*

I regretted the government’s overruling of the House of Lords Judicial committee decision that anti-terrorism measures were incompatible with our obligations under the ECHR, by passing the prevention of terrorism act in March of this year. Whilst a lively legislature and judiciary needs diverse opinion to be effective, a nation state likewise needs its human rights to apply to all its citizens whether they are new to it or here with the hills. They were and are incompatible with ECHR obligations.

### *Afghanistan project*

The three year project implemented by the Bar human rights committee BHRC in Afghanistan seeking to raise awareness of legal procedures is a highly desirable one, in a country which seems to enjoy the rule of the gun in a way that Scottish glens did in the 18th Century, where abduction to the West Indies as slaves was a frequent fate of the unarmed and vulnerable. We should like to give the Afghan people the opportunity to live in a modern, civilized world, without the need to resort to the threat of violence to achieve dialogue. The proper training of judges, human rights workers, lawyers and so on, will help bring the country into the modern world.

### *187 KofiAnnan*

The remarks by Kofi Annan make me uneasy as to any philosophical grounds that a terrorist organisation may have. I quote “Terrorism is in itself a direct attack on human rights and the rule of law”. The OIC (Organisation of Islamic Conferences) which itself has direct representation at the UN, has an agenda for the rule of law which is directly at variance with that of the UN. It is based on the law of the Caliphs and a return to that law. Supposing that the Arabic/Urdu based Islamic world has a world vision which includes a supranational organisation which is entirely unrecognised as a possible part of the world order by the UN, and yet to the Muslim and Arab seems entirely consistent with his history and culture, then his human rights are being unwittingly undermined. It is an attack on the rule of law but it may well not be an attack on human rights.

### *Major countries of concern*

#### *Iran*

The freedom to wear nothing or everything in the post modern Western world is a curious one considering the number of problems it causes on the internet; Pedophilia, internet fraud based on sexual depravity, and other even more demeaning activities purveyed thereon.

Meanwhile enthusiastic Muslim teenage girls who wish to wear their head gear in school in UK and France are either banned from doing so or strongly discouraged. FO human rights give scant respect though to another sovereign state, which insists that there should be a strong dress code in their country. Iranians are criticised for exercising such a code in their country. For a country such as the UK that has chronic medical and surgical problems with women regarding their breasts, and a country which sees mutilation (an

antithetical euphemism) of the female breast as enhancement/augmentation, and fashion accessories, it is rather rich and decadent to suggest that the women of another country do NOT have human rights (ie are sexual objects) merely because they have a dress code which may at least discourage the latter perversion. The UK/EU has a lot to learn from the Islamic countries on this score, not to suggest that there is anything unpleasant about the undress code which prevails in warm summer weather in the UK!

The UK government presses its concerns through the EU which is surely not entirely consistent. EU relations with Iran are scarcely likely to move forward without being able to address another Supranational organisation of which Iran might be a member. It does not bear mentioning too often, but the EU would scarcely make much progress either if it complained to the US government of human rights abuses in Wyoming, but by comparison it would be a step in the right direction.

#### Turkmenistan

I am glad that Turkmenistan has allowed religious freedom over the last few years. We encourage religious diversity in our own islands of the UK, and there is no reason for not commenting on religious diversity in other countries. It is seen as a fundamental human right for a government to comment on human rights abuses in other countries, but it is hardly worth doing if those rights are not observed in the querulous country.

Querying the lack of rights to import religious literature into Turkmenistan is reminiscent of the ban on Scientology literature in the UK not so long ago. Propagation of Literature is surely a vexed question in a country where literacy and language are so much more important than in a literate, even numerate state, where it may be taken very much for granted, and not structurally associated with any particular holy book. In the UK we are very much concerned with Identity legislation at the moment yet when they wish to maintain the sanctity (and exclusivity) of their religion and holy book, they are condemned for it. The ties of religion are fundamental to the identity of a great many, if not nearly all people.

#### Uzbekistan

On 18 May the foreign secretary, Rt Hon Jack Straw called on President Karimov to agree to full and immediate access to Andizhan for NGOs, international agencies, and diplomats . . . to address the root causes of the discontent, implementing urgent economic and political reform . . .

Taken through the year and observing Mr Karimov's commitment to Russia as a member of the CAC (Central Asian Community) his desire to implement political reforms at an international level cannot be doubted. Whether the EU and other Regional organisations will be able to address their remarks to CAC representatives soon can only be for other groups such as the EU/USA/AL to determine. Merely condemning each individual country for serious infringements of human rights may not be effective but encouraging them to legislate themselves and each other in to compliance with such rights should be much more so. Without the USA, the EU would not have made the first progress that it did.

The same may apply to more businesslike organisations in Central Asia . . . from the EU. Mr Straw was wise to make the comments about the Andizhan problems that he did, but they apply in a far wider perspective.

Looking at Russia's renewed interest in Central Asia and now its membership of the fledgling CAC, and the shedding of its eight East European satellite states to the EU . . . Iran, Turkmenistan, Uzbekistan, Kazakhstan too, all seem to be new partners of Russia, (not least Iran for its nuclear enrichment program promoted by Russia), not on the basis of imperial power as until 1990 but on the basis of free democratic association or union of states, the same as USA and EU25.

When I last looked at EU proceedings/standing committees in May 2005 they did NOT have a policy on Central Asia at all.

#### Russia

Quote: The EU/Russia human rights dialogue of March 2005 EU noted progress already made, encouraged Russia to strengthen cooperation with international human rights mechanisms (including UN and Council of Europe special representatives), raised continuing human rights concerns and sought assurances on access for humanitarian organisations and protection of human rights activists. The UK will take this process forward, with further consultations scheduled during our EU presidency in the second half of 2005.

Whilst this was a highly desirable development, a similar dialogue with CAC including Russia should also be mooted. Russia acts on its own in this context but may also, as a member of the CAC, act with those countries.

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 Zimbabwe

Quote: We will, with international partners, maintain support to Zimbabwe's brave civil society. International pressure through sanctions on the government and debate within international organisations will continue until the government begins to show serious commitment to positive internal reform. When it does, we will lead international efforts to repair the long-term damage done to Zimbabwe by the Mugabe regime and help build a prosperous and democratic society with real respect for human rights.

Referring to my comments about Zimbabwe last year and wondering how Mugabe can get round the impasse of a natural socialist state (!) and the new HR requirement for multi-party democracy, and seeing the extraordinarily complex voting procedure which took place in Afghanistan recently, with any number of candidates, and which the electors seemed to take seriously, it is to be wondered whether Zimbabwe could examine the possibility of a similar electoral method, a multi region, multi member democracy.

Only the individual candidate's opinion would matter and not that of any particular party. The voters would have tremendous choice, not just one party but plenty of candidates. Certainly His Excellency Mugabe has by now had time (since 1990) to get thinking back to more than one party or one candidate, but not back to a UK imposed electoral system.

To comment on the human rights issues of demolition of a shanty town in an attempt to avoid modern urban poverty and deprivation is surely to beg the question of the value of modern agriculture itself and its consequences for urban life . . . the effect of agriculture on civilisation.

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### Leaked FCO memo obtained by New Statesman

#### DETAINEES

##### *Summary*

1. An explanation of what is normally meant by "Rendition" and "Extraordinary Rendition", though these are neither legal nor precise terms. Discussion also of their legality: Rendition could be legal in certain limited circumstances; Extraordinary Rendition is almost certainly illegal. Further advice, too, on what we and the US mean when we talk of "torture" and "cruel, inhuman and degrading treatment" (CID). And to what extent knowledge of, or partial assistance in, these operations (eg permission to refuel) constitutes complicity?

2. Advice too on handling. We should try to avoid getting drawn on detail, at least until we have been able to complete the substantial research required to establish what has happened even since 1997; and to try to move the debate on, in as front foot a way as we can, underlining all the time the strong counter-terrorist rationale for close cooperation with the US, within our legal obligations. Armed with Rice's statement and the Foreign Secretary's response, we should try to situate the debate not on whether the US practices torture (and whether the UK is complicit in it): they have made clear they do not—but onto the strong US statements in Rice's text on their commitment to domestic and international instruments. A debate on whether the US test for torture/CID derives from their commitments under the US Constitution rather than international law is better ground than the principle of whether they practice torture.

##### *Detail*

3. You asked for further advice on substance and handling, following my letter of 5 December, including with a view to PMQs on 7 December.

#### SPECIFICS

##### *What do we mean by "Rendition"*

4. This is not a legally defined term. But it is normally understood to mean the transfer of a person from one jurisdiction to another, outside the normal legal processes such as extradition, deportation, removal or exclusion. It does not necessarily carry any connotation of involvement in torture.

##### *"Extraordinary Rendition"?*

5 The use of this term is even more varied. In its recent letters to Chief Constables and Ministers, Liberty has defined it as transfer from one third country to another. But it is normally used to connote the transfer of a person from one third country to another, in circumstances where there is a real risk (or even intention) that the individual will be subjected to torture or cruel, inhuman or degrading treatment (CID). Indefinite detention without legal process could be argued to constitute CID.

*Is Rendition lawful?*

6. We need to look at the facts of each case. In certain circumstances, it could be legal, if the process complied with the domestic law of both countries involved, and their international obligations. Normally, these international obligations, eg under the International Covenant on Civil and Political Rights (ICCPR) would prevent an individual from being arbitrarily detained or expelled outside the normal legal process. Council of Europe countries would also be bound by the ECHR, which has similar obligations in this sense. Against this background, even a Rendition that does not involve the possibility of torture/CID would be difficult, and likely to be confined to those countries not signed up to eg the ICCPR.

7. Rendition could therefore be legal in certain tightly defined circumstances. Rice's Statement claimed two such examples (the World Trade Centre bomber, Ramzi Yousef, and Carlos the Jackal). But such cases will be rare.

*Could Rendition ever be legal in the UK?*

8. This depends how we are using the term "rendition". In most circumstances and in most uses of the term, it will not be legal, including if it contravenes the law of the state from which the individual is transferred. In some limited circumstances, eg where there is no extant extradition procedure between the UK and a third country, transfer without formal extradition might be legal.

*Is Extraordinary Rendition legal?*

9. In the most common use of the term (ie involving real risk of torture), it could never be legal, because this is clearly prohibited under the UN Convention Against Torture (CAT). But the CAT prohibition on transfer applies to torture only, not to CID. (This may explain the emphasis on torture in Rice's statement.)

10. The US government does not use the term "Extraordinary Rendition" at all. They say that, if they are transferring an individual to a country where they believe he is likely to be tortured, they get the necessary assurances from the host government (cf Rice's Statement: "The US has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured. Where appropriate, the US seeks assurances that transferred persons will not be tortured"). (Comment: We would not want to cast doubt on the principle of such government-to-government assurances, not least given our own attempts to secure these from countries to which we wish to deport their nationals suspected of involvement in terrorism: Algeria etc).

*What about the US reservation and "understandings" with respect to the CAT?*

11. The US reservation to the CAT states that the US considers itself bound (Article 16) to prevent CID only insofar as this means the CID prohibited by the US Constitution, but not as defined in international instruments such as the ICCPR. So, for example, the US would not (logically enough) consider themselves bound by the ECHR findings in relation to UK practice in Northern Ireland in the 1970s which ruled that five types of treatment did constitute CID (eg sleep deprivation, constant exposure to loud noise).

12. An "understanding" stated by the US spells out what it understands by mental pain or suffering in the definition of torture. It is not clear whether in practice this gives the US scope to use techniques which would otherwise constitute torture.

*Would cooperating with a US Rendition operation be illegal?*

13. If the US were to act contrary to its international obligations, then cooperation with such an act would also be illegal if we knew of the circumstances. This would be the case, for example, in any cooperation over an Extraordinary Rendition without human rights assurances. Conversely cooperation with a "legal" Rendition, that met the domestic law of both of the main countries involved, and was consistent with their international obligations, would be legal. Where we have no knowledge of illegality but allegations are brought to our attention, we ought to make reasonable enquiries.

*How do we know whether those our Armed Forces have helped to capture in Iraq or Afghanistan have subsequently been sent to interrogation centres?*

14. Cabinet Office is researching this with MOD. But we understand the basic answer is that we have no mechanism for establishing this, though we would not ourselves question such detainees while they were in such facilities.

*What happened in 1998?*

15. The Security Service have so far identified two cases:

- (i) An individual, Mohammed Rashed Daoud AL-OWHALI, was suspected of involvement in bombing the US Embassy in Nairobi. The US asked on 24 August 1998 for assistance with his

return from Kenya to the USA for trial. This was originally via Prestwick, but later changed to Stansted because of the flight range of the aircraft. The request was originally for Al-Owhali and one other, who in the event did not travel. The request was agreed by the Home Secretary, Jack Straw.

- (ii) A similar request the same year was turned down, because the individual concerned was to be transported to Egypt (not yet clear what, if anything, the US said about assurances).

16. From the information we have at the moment, we are not sure in either case whether the individual's transfer from the country in which he was detained was extra-legal.

17. The papers we have unearthed so far suggest there could be more such cases. The Home Office, who lead, are urgently examining their files, as are we. But we now cannot say that we have received no such requests for the use of UK territory or air space for "Extraordinary Rendition". It does remain true that "we are not aware of the use of UK territory or air space for the purposes of 'Extraordinary Rendition'. But we think we should now try to move the debate on from the specifics of rendition, extraordinary or otherwise, and focus people instead on the Rice's clear assurance that all US activities are consistent with their domestic and international obligations and never include the use of torture.

### *Handling*

18. As far as possible, we should stick to the terms of the Foreign Secretary's Statement in response to Rice's, and his letter to EU Foreign Ministers covering her reply. We should also try to bring out the other side of the balance, in terms of the huge challenge which the threat of terrorism poses to all countries, and the need to balance the rights of the suspected terrorist against those of his potential victims.

19. More broadly, we should try to move the debate on from concentrating on whether the US practice torture, which they have clearly said they do not, and try to focus on the US's constructive reassurance that, in all respects, they have acted in a way consistent with their domestic and international legal obligations, and with the sovereignty of those countries with which they have been working.

20. I am copying this letter to Nigel Sheinwald and Margaret Aldred (Cabinet Office), Ian Forber (MOD), Emma Churchill (Home Office), (Thames House), (Vauxhall Cross), and Sir David Manning (Washington).

*Irfan Siddiq*  
Private Secretary

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### **Written evidence submitted by Dr Nazila Ghanea**

#### REFERENCES TO IRAN

1. The Human Rights Annual Report 2005 notes that there were no breakthroughs and no significant progress on human rights in Iran since the last annual report, despite the UK's continuing efforts at dialogue bilaterally and multilaterally with the EU. Regarding the EU dialogue, it notes that the EU is seeking a renewed commitment to the dialogue from the Iranian authorities as well as agreed improvements. (I have re-attached my February 2005 submission to the Foreign Affairs Select Committee regarding engagement with Iran on human rights below, as it still remains relevant.) The Foreign Office admits that human rights in Iran have deteriorated further in many areas, highlighting freedom of expression and assembly, the lack of freedom of religion and the extensive use of the death penalty.

2. The report notes the legislative and institutional shortcomings that perpetuate human rights abuses in Iran and the fact that despite promises to the contrary few, if any, actual reforms were implemented during the Khatami Presidency. I would like to take issue with this, in stating that *no* leadership within the framework of the present Iranian Constitution has been, nor will ever be, capable of upholding respect for internationally-agreed human rights standards. Whilst other governments have been optimistic about the possibility of reform of the Iranian judicial system having the potential to deliver on respect for rights, this has never been the case. Increasingly the evidence has shown that Iran has a Constitutional system that has the veneer of democracy and balance of powers, but that in reality its framework makes the very notion of the independence of the judiciary and a society built on equality of opportunity and respect for rights impossible. The Iranian legal system is inherently gender-biased, racist, and has built within it a hierarchy of discrimination based on religion or belief. Numerous ongoing violations of human rights in Iran are systemic and in harmony with its Constitution, legal system and the ideology that maintains them. This does not allow the Iranian governmental machinery, as conceived of in the Constitution, to respond to the serious failures in the administration of justice despite diplomatic assurances to the contrary. As I discussed in my February 2005 submission, I therefore fear that any encouragement by the UK and EU for Iran to commit to human rights and dialogue will, at present, prove futile. Promises of reform by Iranian diplomats have been used as a tactic to defer human rights scrutiny and deflect attention for a number of decades.

3. The FCO Annual Report notes Iran's co-operation with UN mechanisms has been patchy. It needs to be understood that this has been so for 26 years and is undoubtedly intentional. This again was discussed in more detail in my February 2005 submission (see 2.6 below). Underlying the reports of all UN mechanisms on Iran since 1979, has been their noting of perpetual discrimination and human rights abuse against large sections of Iranian society.

4. The situation for human rights has of course deteriorated yet further since the new President Ahmadinejad took office, with yet more dismal prospects for the future. With an even more extreme, ideologically-motivated administration being responsible for relations with the international community and for implementing rights domestically, there is unfortunately little to be optimistic about.

5. The Annual Human Rights Report discusses the punishment of children, lack of respect for Freedom of Expression, lack of religious freedom and discrimination against religious minorities, and the pervasive discrimination against women. The Report however fails to address early marriage, widespread self-censorship, the entrenched socio-economic and cultural apartheid against religious *and ethnic* minorities, the trafficking of women and girls and large-scale prostitution. This was acknowledged by the UN Committee on the Rights of the Child, which expressed concern in its March 2005 Concluding Observations on the Islamic Republic of Iran about the trafficking and sale of children for sexual purposes or temporary marriages. Considering the mass demonstrations, fighting, arrest and torture of ethnic minorities in a number of incidents during the year, it is surprising that the Report does not explicitly make mention of ethnic minorities.

6. The Report also tends to put a lot more emphasis on civil and political rights such as the death penalty and not the pervasive poverty, corruption and socioeconomic hardship that much of the Iranian population struggles with. It is also interesting that the Report gives more space to human rights violations against individuals rather than against groups. It needs to be remembered that these individual cases, whilst important in their own right, are merely emblematic of violations of many others besides.

7. The Report accurately notes the numerous violations against Bahá'ís—from lack of recognition as a religious minority, to intimidation and inequality in numerous spheres. I would add that Bahá'ís don't just lack "normal access to higher education" as the Report suggests, but that higher education has been totally and intentionally been denied them since 1979, despite insidious schemes for the government to try to claim the contrary. Overall, I would be more brazen than the Report's claim of "some serious problems" in relation to freedom of religion. Freedom of religion or belief (including "belief" as in the international formulation of this right) is non-existent in Iran. The calculated schema for the government-orchestrated "representation" and limited activities of *some* selected religious communities in certain approved spheres in Iran should not be given the courtesy of description as constituting any kind of freedom. The total strangulation of all matters related to religion or belief filters down even to Muslims themselves, from the repression against Sunnis to the denial to Shia Muslims of their freedom to interpret and practice Islamic laws, even in the personal sphere, according to the dictates of their own conscience. What results is the hypocrisy of an apparently uniform practice of Islam, in line with the ideology of the regime, due to sheer fear.

8. In conclusion, I believe that the annual UN Commission on Human Rights resolutions on the human rights situation in Iran adopted between 1980 and 2002, were extremely important in identifying and monitoring violations of human rights in Iran. Iran's human rights violations continue and they undoubtedly reveal a pattern of "gross violations of human rights and fundamental freedoms" as required by this public UN procedure. It would therefore be appropriate to both re-instigate this means of monitoring violations of human rights in Iran and ensure that the new UN Human Rights Council has at least equally strong measures for oversight over human rights violations. The UK Government should urge related UN special mechanisms to visit and report on the situation of human rights in Iran; and also call for the implementation of the recommendations of special mechanisms that have already visited Iran—particularly those of the UN Special Rapporteur on Religious Intolerance, Mr Abdelfattah Amor, from his 1995 visit UN document E/CN.4/1996/95/Add.2, the Working Group on Arbitrary Detention from their visit in 2003 UN document E/CN.4/2004/3/Add.2 and Corr. I, and the Special Rapporteur on Freedom of Opinion and Expression, Mr Ambeyi Ligabo, from his 2003 visit UN document E/CN.4/2004/62/Add.2. It would also be highly appropriate to encourage the re-appointment of a Special Representative on the human rights situation in the Islamic Republic of Iran, either within a UN Commission on Human Rights or General Assembly resolution on Iran, so that the international community remains sufficiently aware of the grave situation of human rights in that country, particularly considering the sharply deteriorating situation.

*Nazila Ghanea*

*November 2005*

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BY DR NAZILA GHANEA (February 2005)

1.1 Engagement with Iran on human rights is not a new phenomenon. Both the UK and other states have been “engaged” with Iran on human rights issues very actively at least since the mid-1970s, hence for the past 30 years. This long record of “engagement” is often forgotten, as is the fact that the international community was concerned with Iran’s human rights record during the regime of the Shah (1941–78) as well as that record since the Islamic Revolution (1979-present).

1.2 Forgetting this record of engagement has implications for what concessions and allowances are made for the shortcomings in Iran’s human rights record, basically the context in which these shortcomings are to be understood. It also has implications for those that are overly sensitive about critique of the Islamic Republic’s human rights record being incorrectly perceived as critique of Islam or Islamic countries, particularly in the post-September 11th international arena. Whilst diplomats may find it hard to disconnect Iran’s human rights records from the political context of Islamic defensiveness since 11 September, such a separation is absolutely necessary for an honest appraisal of Iran’s human rights record.

1.3 The grounds of engagement on human rights must be assessed in the light of human rights itself. This implies a legal dimension and a principled dimension. Human Rights engagement with Iran needs to be on the basis of legal agreements it has voluntarily entered into and in congruence with the very basis of human rights—that these are universal birthrights of each and all. If engagement is not in congruence with these two dimensions then it is not rightfully a “human rights” engagement; it may be a political, diplomatic or other engagement, but it cannot be identified as being an engagement on the basis of human rights. It would seem to me that this has to be the point of departure of engagement on human rights, but it can prove difficult for government officials to be mindful of this distinctive dimension of human rights engagement at all times. This has and continues to lead to difficulties in engagement with Iran. Whilst understanding the variety of interests states have in dictating their engagement with another country, this author believes her role in this memorandum to be to focus only on human rights engagement.

1.4 In relation specifically to the UK’s engagement with Iran, I would like to continue this logic on the basis of three problematic areas. In each case my focus will be on Iran’s human rights record, taking that to be the primary basis on which other state’s can judge their response. The main purpose will be to examine recent changes in Iran and the UK’s response to them, in order to suggest the optimal policy options now available to the UK for engagement with Iran on its human rights record. The areas of focus will be as follows:

- (i) The Record Engagement
- (ii) Giving Iran the Benefit of the Doubt
- (iii) Engagement or Dialogue—What Criteria? Engagement with Whom and on What Basis?

#### (i)—THE RECORD OF ENGAGEMENT

2.1 As suggested above, present policy options regarding engagement with Iran on human rights need to be mindful of the history of engagement with Iran on human rights, which stretches back at least three decades. The choices made about the level and methods of engagement with Iran on human rights should undoubtedly be informed by an assessment of what progress has been made in Iran on human rights and what would be realistic regarding the speed of future progress to be expected. Both of these assessments require some understanding regarding the background to this issue.

2.2 The primary human rights concerns of the international community (including the UK) with Iran’s human rights record in the 1970s related to political freedoms and freedom of expression. This was in the context of a country that clearly had many of the characteristics of a police state, a leader that had set up a one party state and coerced Iranians to vote for it under intimidation, where nation building was centralised and at the cost of any acknowledgement of Iran’s very diverse ethnic make-up and where political expression was very strongly curtailed. This curtailment of political expression included, but was not confined to, that of Islamists.

2.3 The 1979 Islamic Revolution was brought about largely as a response to the political repressions suffered under the Shah. However, time demonstrated that whilst there may have been a shift in the profile of those tortured or imprisoned, certainly there had been no improvement in the likelihood of its occurrence. To the existing list of human rights concerns—repression of political freedoms, freedom of expression and the participation of ethnic minorities—came to be added: the persecution of religious minorities, gender discrimination, the use of inhuman and degrading punishments, arbitrary executions and the widespread use of torture. Whilst the extent of these human rights violations may have changed somewhat in the years between 1979 and 2005, the occurrence of each of those violations today unfortunately remains highly evident.

2.4 For example, whilst some space for some limited debate on some political issues is now tolerated, the scope of such issues and the accepted participants in such a discussion are certainly not unlimited. And whilst there is the semblance of democracy in terms of regular public elections at various levels, recent events have made obvious the harsh curtailment of the approved candidature. What is less publicly realised is the limits

of the approved electorate. For example, only the constitutionally-recognised religious minorities—Christians, Jews and Zoroastrians—may vote amongst their own officially-sanctioned candidates and for a limited number of parliamentary seats.

2.5 Further to the serious limitations regarding democracy in Iran, there is a serious question over the relationship between democracy and human rights. It is asserted that respect for human rights should be considered as a foundational pillar to democracy. Without ensuring such a respect for human rights, emerging democratic patterns alone will not necessarily deliver on respect for rights. Human rights are a necessary correlate to democracy.

2.6 The response of the international community to the massive rise in human rights violations in the early years of the revolution was swift. In 1980, the United Nations Sub-Commission on the Promotion and Protection of Human Rights (at that time called the Sub-Commission on Prevention of Discrimination and Protection of Minorities) started its annual resolution condemning Iran for its human rights violations. These resolutions were adopted annually until 1996 when the possibility of the Sub-Commission adopting resolutions that duplicated issues on the agenda of the Commission was terminated. Similarly, the United Nations Commission on Human Rights adopted resolutions condemning Iran's human rights violations annually from 1982 to 2001 inclusive. In the years between 1984 until the failure to adopt the draft resolution in April 2002 this resolution included the further sanction of the appointment of a UN Special Representative to investigate the human rights situation in Iran first-hand and report regularly to the UN about that record. The Iranian government, however, defied this request of the international community and the mandate holder was only allowed four visits to Iran during those 18 years. The April 2002 report of the Special Representative on the Human Rights Situation in Iran was certainly not positive about the human rights situation in Iran, and the record since then has definitely deteriorated in almost every area. Despite that deterioration, and the expectation that there will be an even sharper downward spiral after the June 2005 Presidential elections in Iran, the international community's engagement with Iran has been piecemeal and inconsistent since it halted its condemnation of Iran's human rights record through the UN in April 2002. This author is of the opinion that the UK's responsibilities of engagement with Iran on human rights should be judged and assessed in the context of this reality.

(ii)—GIVING IRAN THE BENEFIT OF THE DOUBT

3.1 There is a long, and disappointing, recent history of giving Iran “the benefit of the doubt” regarding her human rights record. In fact, even as a country under condemnation by the international community for its human rights record, Iran was adept at dictating terms and conditions under which she was allegedly prepared to improve her human rights situation. She has continuously argued that international condemnation of her human rights record is detrimental to domestic efforts to improve that record, without convincing arguments being put forward as to why this may actually be the case.

3.2 Since the 1980s her argument was that her co-operation with the UN Special Representative on the Human Rights Situation in Iran was dependent on the UN dropping its reference to “the human rights situation of religious minorities, including the Baha'is. After the death of Ayatollah Khomeini, there was a lot of hope that the apparently moderate new President Rafsanjani would bring about positive human rights change in Iran. The UN Commission resolutions of 1990 and 1991 reflected this optimism as they were adopted by consensus rather than roll-call vote. In the late 1990s, numerous dignitaries including the UN Secretary-General and the UN High Commissioner on Human Rights were invited to attend high profile events in Iran, which reflected well on the regime, but the UN Special Representative with his mandate to investigate the human rights situation was forbidden access after his short 6 day visit in 1996. Despite this obvious Iranian ploy to defy the international community and not allow first-hand UN reporting of her human rights record, there was again much optimism around after the partially-democratic popular elections that brought President Khatami to power in 1997. Since then, the record on some human rights issues did temporarily improve, particularly press freedoms and the rights of women. These were welcomed profusely by the international community, even though each step forward was partial and, in many instances, followed promptly by reversals. Finally, in the years leading to the dropping of the Commission resolution in April 2002, Iran continuously claimed that her human rights situation was improving. Whilst admitting that there were areas of concern, she claimed that the record was not bad enough to merit a resolution of condemnation. Since then, of course, the situation has deteriorated yet further.

3.3 Despite disappointments following every bout of optimism since the late 1980s, that Iran would once and for all reverse its grave human rights situation and follow the path of gradual but continual improvements in that situation, there seems to be an irreversible trend of optimism, even now, that Iran must be given the benefit of the doubt. It is questionable why this benefit of the doubt needs to continuously be given *despite* Iran's actual human rights situation? Is this just condemnation-fatigue or is it acclimatisation to Iran's human rights violations?

3.4 This author is not at all convinced that Iran's present human rights record merits a “hands off” approach by the international community, combined with blind optimism that the human rights record is on the path of improvement. It is beyond doubt to any impartial assessor that the situation of human rights in Iran has deteriorated in the years following the ending of international condemnation of Iran's human rights record at the United Nations. And it is, unfortunately, beyond reason to expect that there will be any

reversal in the fortunes of this record in the near future. The Presidential elections of June 2005 are, by all accounts, going to strengthen the hand of the more conservative elements of the regime, and a further deterioration in the human rights record has, regrettably, to be expected.

3.5 Whilst Iran's argument that international condemnation of her human rights record has been detrimental to the domestic addressing of that record is decades long, my research over the past decade suggests precisely the opposite. Iran has long demonstrated her sensitivity to her international reputation. My doctoral research focused on the most unrelenting of Iran's human rights issues, that of the situation of the Baha'is in Iran. Even on that issue, my findings suggested that international condemnation had, at the very least, contributed to the stabilisation of their situation and, in certain ways, to partial ameliorations in their persecution. On that basis alone I would recommend that strong reasons, consistent with international human rights standards, are required before such condemnation is halted, and other countries are thereby seen to be condoning Iran's human rights record.

3.6 Further to that, one has to be cognizant of Iran's diplomatic unpredictability regarding human rights. Even a sketchy consideration reveals a yawning gap between Iran's promises and subsequent practice in the field of human rights. Going by official UN records alone, my own research was able to find numerous examples of such inconsistency. After all, Iran has persistently promised an improvement in its human rights situation, at least over the past fifteen years, and all of that to little avail. One would be hard pressed to point to one arena in which her human rights record had consistently and reliably improved over that time. All in all, then, I would suggest that the "benefit of that doubt" method has proven of little benefit with regard to external engagement with Iran's human rights record, and consideration should be given to the grounds for its continued practice.

(iii)—ENGAGEMENT OR DIALOGUE—WHAT CRITERIA? ENGAGEMENT WITH WHOM AND ON WHAT BASIS?

4.1 The UK's diplomatic record with Iran stretches back centuries and has a much longer history than most, if not all, of the other EU countries. This alone would imply her special role in proposing appropriate EU policy with Iran. The EU policy on Iran's human rights record has taken the shape of an official human rights dialogue over the past two years. This is on the basis of the December 2001 EU Guidelines on Human Rights dialogues. The desirability of following up the work of the UN Commission on Human Rights and Third Committee of the General Assembly is suggested in the Guidelines. In the case of Iran, therefore, it would seem that the dialogue should take heed of the human rights violations the international community had highlighted in Iran's record from 1980 to 2002.

4.2 The initiation of an EU human rights dialogue rests, as the Guidelines note, on an assessment that the government is willing to improve the human rights situation, the commitment it has shown regarding compliance with human rights treaties, its readiness to co-operate with UN human rights procedures and mechanisms and its attitude to civil society. It is surprising to note how a positive assessment may have been made on the basis of any of these criteria in 2002, and even more so in 2004 when it was decided that there had been "added value" provided by the dialogue—hence its continuation. It is not apparent which civil society actors, and from where, were involved in this assessment exercise, as required by point 10 of the Guidelines, especially since the finer details of the benchmarks set by the Union have not been made known to them.

4.3 There may be an incongruence between "adding value" to the actual enjoyment of human rights within the target state, in this case Iran, and the EU's aim of "strengthening human rights co-operation" as outlined in point 10 of the Guidelines. As the EU rightly points out in the Guidelines, strengthening human rights co-operation demands a focus "on those areas in which cooperation could be further improved". This requires a pragmatic assessment of where the target state herself indicates interest in making token or actual changes. Important though they may be in their own right, these may not be the areas where most deep-seated or widespread violations are actually being suffered and, it seems, little scope is offered to the EU to require the pursuit of other avenues. Human rights dialogue certainly does seem ultimately to be perilously dependent on the key condition of the target government's willingness to improve her human rights situation, and her continued good faith in this regard.

4.4 Furthermore, the UK is "engaged" with Iran on its human rights record as one of the four areas of concern of the EU-Iran Trade and Co-operation Agreement which was restarted on 12 January 2005. The EU is Iran's main trading partner, accounting for around 30% of her total trade. Considering the immense unemployment and underemployment in Iran, the economic importance of the EU relationship with Iran can scarcely be underestimated. However, it is disappointing that the tremendous opportunities offered by both the EU-Iran dialogue and EU-Iran Trade and Co-operation Agreement have not been harnessed by the EU towards pushing adequately for human rights.

4.5 In this vein, the EU's assessment of improvements in Iran's human rights record, which has been necessary to the continuation of both the dialogue and the agreement, frankly beggars belief. How modest exactly were the expectations that "improvements" have been noted? Were these consistent with the expectations of the international community of Iran's human rights record over the past 26 years? If not, what is the human rights benefit of diluting internationally agreed legal standards in light of the current

Iranian context? These EU processes are not transparent and open to civil society scrutiny within Europe, even though the dialogue itself is supposed to concomitantly rest upon the condition of encouraging a vibrant civil society in Iran.

4.6 Furthermore, where exactly is it expected that genuine improvements in Iran's human rights record will stem from, and which governmental mechanisms will actualise them? Iran's complex governmental machinery has demonstrated its reliance on an arresting system of checks and balances. Domestic attempts to bring about positive change on some human rights issues have faced numerous hurdles within this system. There are a number of cases where discrete attempts were made to initiate human rights improvements, stemming from the initiatives of the previous (Sixth) Majlis/Parliament and from President Khatami. Whether with regard to ratifying the UN Convention Against Torture or the UN Convention on the Elimination of Discrimination Against Women, banning torture, or giving some scope for women in seeking divorce or custody, in all these instances the human rights-friendly initiative has either been blocked or narrowed significantly in scope as a result of the proposed legislation having to be approved by the Guardian Council as being in line with Islamic precepts. At a minimum, therefore, three arms of government need to approve any positive legislative change with regard to human rights (Presidency, Parliament and the Guardian Council). Even at the most "optimal" moment of the most pro-human rights Iranian governmental machinery yet, which perhaps can be found to be the 1999–2002 years; it meant that the more reform-oriented elements of government could be blocked by the more conservative elements of the Guardian Council—where the 50% of the clerics appointed by the Supreme Leader can veto any legislation that they deem to be un-Islamic. Only the opinion of these six members, of the 12 member body, is valid when it comes to deciding on the compatibility of legislation with Islamic provisions.

4.7 To this author, these initiatives themselves were disappointingly limited, framed as they were within the Iranian Constitutional framework. That same Constitution leaves many serious human rights issues beyond even the scope of political imagination. Even in the apparent heyday of human rights possibilities in Iran around the turn of the century, for example, the only unchanged piece of human-rights promoting legislation that was adopted unchanged was the 2002 Blood Money law. This was a law which itself started from an extremely discriminatory premise. Even in that case, the passage of the adoption of the law was not smooth. The Guardian Council blocked the legislation and the Supreme Leader himself intervened to call upon them to reconsider its adoption. The adopted law equalised the blood money payable on the death of a Jew, Christian or Zoroastrian man to that of a Muslim man. This may be all very well, except for the fact that they had been valued at half of a Muslim man for the previous 23 years. Furthermore, the question of a penalty for a Muslim, Jewish, Zoroastrian or Christian woman being raised to an equal value to that of the men was beyond the scope of discussion, and the question of why Baha'is, whether man or woman, were worthless in this estimation, again was beyond the pale.

4.8 With both the Majlis losing its reformist majority through the electoral machinations of the February 2004 elections and the Presidency being on the verge of becoming less reformist in orientation as a result of the forthcoming June 2005 elections, I fail to understand where the EU is looking for human rights change to stem from. If the source of such change cannot even be imagined, then does this not just amount to blind optimism? An honest appraisal of prospects for change need to be assessed by the EU, so that the EU can better assess whether it can continue its dialogue and, if so, what areas the debate on human rights it needs to highlight and which actors in Iran it needs to focus on.

#### THE MAIN POINTS IN SUMMARY

1. Engagement with Iran on human rights needs to be understood and assessed within a historical context of at least the past three decades.
2. Shortcomings in Iran's human rights record today need to be assessed in the light of this record.
3. Concern with Iran's human rights record is not new to the post-September 11 world. It does not imply a critique of Islam or Islamic countries per se.
4. A genuine human rights engagement allows little room for diplomatic flexibility, as its terms must be mindful of both the legal underpinnings of human rights and ideological congruence with the universality of rights. Engagement which is not respectful of these criteria cannot correctly be labelled a human rights engagement.
5. This memorandum focuses only on human rights engagement with Iran.
6. In the 1970s the international community, including the UK, were vocal regarding their concerns with the lack of political freedoms and freedom of expression in Iran.
7. After the 1979 revolution, to this list of human rights concerns was added the persecution of religious minorities, gender discrimination, the use of inhuman and degrading punishments, arbitrary executions and the widespread use of torture.
8. The extent of some of these violations may have altered somewhat during the past twenty-six years, but serious violations remain in all of these areas.
9. The international community was swift and consistent in its condemnation of Iran's human rights record between 1980 and 2002.

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10. Despite serious outstanding concerns, and further deterioration in human rights, the international community's engagement with Iran has been piecemeal and inconsistent since 2002.

11. The UK's responsibilities of engagement with Iran on human rights should be judged and assessed in the context of this reality.

12. There is a very long record of the international community choosing to give Iran "the benefit of the doubt" regarding its genuineness in intending to improve its human rights record.

13. Iran has long argued that it would be able to more effectively bring about positive human rights change domestically if international condemnation was halted. There is no evidence that this has been the case, in fact the evidence suggests the contrary.

14. The human rights record since the 1997 coming to power of President Khatami did temporarily improve in a couple of areas, notably press freedoms and the rights of women. However, even these steps were partial and followed by reversals. The record in other areas was largely untouched, in some areas there have also been reversals in Iran's human rights record.

15. The "benefit of the doubt" approach to Iran has failed. It seems to indicate mere condemnation-fatigue or acclimatisation to Iran's human rights violations.

16. Iran's persistent promises that it is improving its human rights situation fly in the face of reality.

17. Iran has long demonstrated her sensitivity to her international reputation and has made relative improvements in her human rights record as the result of such condemnation. Strong reasons, consistent with international human rights standards, are therefore required before condemnation is halted in favour of other policies.

18. Condemnation where condemnation is due plays a necessary role in the promotion of human rights where massive violations continue. Iran is a case in point.

19. The UK has a long diplomatic record with Iran, hence she has a special responsibility in ensuring EU human rights policies with Iran are appropriate.

20. The EU-Iran dialogue should be honestly monitored in the light of the human rights violations occurring in Iran.

21. Mindful of the EU Guidelines on Human Rights dialogue, it is not apparent how Iran fulfilled the criteria for the initiation and continuation of EU dialogue. Civil society was not, or at least not adequately and transparently, involved in this assessment.

22. The EU Guidelines themselves reveal some inconsistencies regarding aims and means.

23. The EU is critical to Iran as a trading partner, but it has seriously underplayed its hand at effecting human rights changes in Iran through this means. It has condoned Iran's human rights record by noting positive change where, at best, these have been horrendously tokenistic.

24. EU human rights dialogue and trade agreement is ostensibly dependent on the willingness of the Iranian government to effect positive human rights change, but where can such positive change stem from?

25. The EU's appraisal of prospects for human rights change in Iran needs to at least imagine the means by which such change can emerge. The record suggests that it is questionable whether there is actually the means to effect such change within the Iranian governmental machinery. The means for human rights change suffered a setback in the February 2004 Majlis elections and will suffer another setback in the June 2005 Presidential elections.

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*February 2005*

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