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The Foreign Affairs Committee

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Conclusions and recommendations

1. We conclude that the new allocation of Ministerial responsibilities within the FCO is to be welcomed and that it will allow the Government to pursue its human rights agenda more effectively. We further conclude that the Human Rights Annual Report 2007 is an improvement on its predecessors in its accessibility. (Paragraph 8)
2. We recommend that the Government should ensure that the key issues of women's rights, children's rights and the promotion of democracy are given greater prominence in next year's edition of the FCO report. We further recommend that the report should set out clearly how these three issues have been factored in to the Government's overall strategy towards individual countries of concern. We also recommend that it should bring out the important role of free trade unions and a free media in the promotion of democracy. (Paragraph 12)
3. We conclude that the Government has demonstrated commendable commitment to the Human Rights Council. We welcome its decision to stand for re-election, and its success in achieving this. We recommend that, in its response to this Report, the Government should set out its priorities for strengthening the work of the Council. (Paragraph 19)
4. We conclude that the Government has played a leading role in building support for an Arms Trade Treaty. We recommend that the Government should continue its efforts with vigour and determination, in particular by aiming to convince sceptical states that the treaty will be most effective if it includes all conventional arms. (Paragraph 23)
5. We conclude that the Government's eventual support for the prohibition of all current cluster munitions is very welcome. We recommend that, in its response to this Report, the Government should set out its strategy for obtaining the support of the US Government and other non-signatories to a ban on cluster munitions, and the implications of the Convention for future military co-operation with such states. (Paragraph 30)
6. We conclude that the Government has made a good start to its work on corporate social responsibility. (Paragraph 35)
7. We conclude that the progress made by the International Criminal Court is to be welcomed. However, international criminal law will only be effective in preventing human rights abuses if applied in a systematic and consistent way. We recommend that the Government should continue to urge the next President and Congress of the United States to accede to the Rome Statute of the ICC. We further recommend that the Government should seek to extend the ambit of the role of the ICC so that any individual who clearly and deliberately commits gross life-taking and life-threatening violations of human rights can be brought before it. (Paragraph 41)
8. We conclude that the Government has a moral and legal obligation to ensure that flights that enter UK airspace or land at UK airports are not part of the "rendition

circuit”, even if they do not have a detainee on board during the time they are in UK territory. We recommend that the Government should immediately raise questions about such flights with the US authorities in order to ascertain the full scale of the rendition problem, and inform the Committee of the replies it receives in its response to this Report. (Paragraph 47)

9. We conclude that the Foreign Secretary’s view that water-boarding is an instrument of torture is to be welcomed. However, given the recent practice of water-boarding by the US, there are serious implications arising from the Foreign Secretary’s stated position. We conclude that, given the clear differences in definition, the UK can no longer rely on US assurances that it does not use torture, and we recommend that the Government does not rely on such assurances in the future. We also recommend that the Government should immediately carry out an exhaustive analysis of current US interrogation techniques on the basis of such information as is publicly available or which can be supplied by the US. We further recommend that, once its analysis is completed, the Government should inform this Committee and Parliament as to its view on whether there are any other interrogation techniques that may be approved for use by the US Administration which it considers to constitute torture. (Paragraph 53)
10. We conclude that it is extremely important that the veracity of allegations that the Government has “outsourced” interrogation techniques involving the torture of British nationals by Pakistani authorities should be investigated. Irrespective of these allegations, we recommend that the FCO should immediately seek full consular access in all cases where it is aware of mono- or dual-national British citizens being detained by the Pakistani authorities, and in particular by the Inter-Services Intelligence agency. We conclude that it is not acceptable for the Government to use an individual’s dual nationality as an excuse to leave him or her vulnerable to the prospect of possible torture. (Paragraph 62)
11. We recommend that, in its response to this Report, the Government should explicitly state whether UK officials met any of the four dual nationals to discuss non-consular matters and should also state why non-consular access was granted to one UK national, but not consular access. We also recommend that the Government should further tell us whether it was aware of all six individuals at the time of their detention, and whether intelligence or evidence gained by the Pakistani authorities in its interrogation of any of these men led in whole, or in part, to further investigations or charges in the UK. We further recommend that the Government should describe its collaboration with the Inter-Services Intelligence agency, and its human rights concerns about this organisation, in its response to this Report. (Paragraph 63)
12. We conclude that, in the case of *Saadi v. Italy*, the Government clearly attempted to water down its anti-torture commitments. We also conclude that it is disturbing and surprising that such arguments were made in the name of the United Kingdom and we believe this gives cause for serious concern. (Paragraph 72)
13. We conclude that the European Union can and must do more to help the United States in bringing about the overdue closure of the detention facilities at Guantánamo Bay. We welcome the Government’s representations on behalf of the

five British residents in Guantanamo Bay. Given its decision to intervene in their cases, we recommend that the Government should express particular concern over the prospective trial of Binyam Mohamed under the Military Commissions Act and lobby strongly against any use of the death penalty if he is found guilty. We recommend that the Government should continue to press for the return of Binyam Mohamed and Shaker Aamer to the UK. (Paragraph 77)

14. We conclude that the Minister's commitment to introducing regulation for private security companies is to be welcomed. We further conclude that the delay in introducing regulation has been unacceptable. We are disappointed that there was no mention of legislation on private security companies in the Prime Minister's Draft Legislative Programme 2008-09, and we recommend that the Government should announce its intention to introduce the relevant legislation in the forthcoming Queen's Speech. We further recommend that such legislation should impose strict regulation on private security companies, and ensures that these companies can be prosecuted in British courts for serious human rights abuses committed abroad. (Paragraph 82)
15. We conclude that the overall human rights situation in Afghanistan is difficult and in some areas appears to be worse than at any point since the fall of the Taliban. The failure of transitional justice, backsliding on women's rights, and the deteriorating security situation are of particular concern. We recommend that the Government should devote greater attention to the peace, reconciliation and justice action plan in Afghanistan, and be more open about the failures of the Afghan authorities. We further recommend that next year's report should include a specific section on the action being taken by the British Government to stop poppy cultivation, on which the UK has lead responsibility in Afghanistan, and an analysis of how good governance is being undermined by the most prominent warlords in the country. (Paragraph 88)
16. We conclude that the human rights record of the Burmese junta, evidenced by its response to pro-democracy protests and the devastation of Cyclone Nargis, is reprehensible. We strongly support the Government's efforts to promote human rights in Burma, and we praise its generous donation for the victims of the storm. We recommend that the Government should put in place very strict measures to ensure that its aid cannot be misused by the regime, and inform us of these measures in its response to this Report. We further recommend that, in principle, the Government should not rule out invoking the "responsibility to protect" in situations such as Burma, but that this should be guided by a practical assessment of the situation on the ground, and the likely wider consequences of such intervention. (Paragraph 96)
17. We conclude that there continues to be little evidence that the Government's Human Rights Dialogue with China is achieving significant results. We conclude that, as at the time of our agreeing this Report, the Prime Minister is correct to attend the Olympic Games. However, the Olympics represent a unique opportunity to advance the cause of human rights in China. We conclude that there is mounting evidence that the Chinese authorities are taking repressive measures to prevent any of their citizens from expressing visible dissent in the run up to or during the Games. We

recommend that the Government makes immediate public and very strong condemnation of this. We further recommend that the Government should be ready to discontinue the UK-China Human Rights Dialogue if substantial progress is not made in the coming year. (Paragraph 103)

18. We conclude that China's policies towards Tibet have fostered a culture of repression. We condemn the use of violence either by Tibetans or the Chinese Government during the recent disturbances. We welcome the British Government's calls for restraint and dialogue between the two parties. We recommend that the British Government should press the Chinese authorities to allow an independent and international investigation to take place in Tibet, and to impress on the Chinese Government that they should recognise that there is currently a significant window of opportunity to make progress in resolving the dispute over Tibet based on the demand by the Dalai Lama for "genuine autonomy", not independence. (Paragraph 112)
19. We conclude that the human rights situation in Colombia is serious and shows little sign of improvement. We further conclude that allegations of extra-judicial executions by the Colombian military, and the continued targeting of trade unionists, cannot be ignored. We therefore believe it is inappropriate for the Government to provide military aid to Colombia without any reference to human rights improvements. Noting recent moves by the US Congress to freeze some aid to Colombia on human rights grounds, we recommend that the Government should request the Colombian military to demonstrate measurable and verifiable human rights improvements in exchange for future assistance. We further recommend that in its response to this Report, the Government should set out a range of possible measures that could be used for this purpose. (Paragraph 117)
20. We conclude that Iran's human rights record remains shocking and appears to be deteriorating. We welcome the Government's recognition that treating human rights in Iran as an issue of secondary concern would be counter-productive. We recommend that, in its response to this Report, the Government should set out where it believes progress can realistically be made in advancing human rights in Iran and the further action that the Government itself is taking to achieve such progress. (Paragraph 122)
21. We conclude that despite improvements in security, the human rights situation in Iraq remains very difficult. We believe that the deteriorating human rights situation faced by women in many parts of Iraq is unacceptable, and we recommend that the Government should use all its leverage to press the Iraqi Government to ensure women are afforded security and the legal equality provided for in the Iraqi constitution. (Paragraph 128)
22. We conclude that the Government and the international community must do much more to help Iraqi refugees in neighbouring countries. We recommend that the Government should provide bilateral financial assistance to help Syria and Jordan cope with their refugee burden. We welcome the Government's resettlement programme for some of its Iraqi employees, but we are concerned that former employees and their families perversely need to face the dangers involved in leaving

Iraq to become refugees in neighbouring countries before being able to apply for the Gateway programme. We recommend that the Government should allow its eligible former employees to apply for relocation to the United Kingdom without first having to register as a refugee. (Paragraph 132)

23. We agree with the Minister that some of Israel's actions against the Palestinians have been disproportionate and we conclude that Israeli policies towards the population of the Gaza Strip as a whole have been a form of collective punishment. We recommend that the Government should urge Israel in the strongest possible terms to desist from activities that violate international law. We further conclude that the Government is absolutely correct to condemn all forms of violence committed by Palestinians against the Israeli population. We recommend that, in its response to this Report, the Government should provide an assessment as to what policy options are available to prevent the indiscriminate firing of rockets into Israel. We repeat our condemnation of violence between Palestinians, and we welcome the Government's provision of significant financial support to the Palestinian Authority. (Paragraph 144)
24. We conclude that the human rights situation in North Korea is extremely grave. We will consider the country's human rights abuses, and the response of the British Government, in detail in our Report on Global Security: Japan and Korea. (Paragraph 148)
25. We conclude that there are serious and wide-ranging human rights abuses in Pakistan. We further conclude that the FCO report should have been more critical of the imposition of the state of emergency, in particular by considering whether it was introduced to prevent the judiciary from considering the validity of President Musharraf's re-election. We unreservedly condemn the assassination of Benazir Bhutto and we welcome the relatively free parliamentary elections in February 2008. We recommend that, in its response to this Report, the Government should set out more clearly what steps it is taking to support women's rights and other international human rights norms in Pakistan. (Paragraph 155)
26. We conclude that the Russian parliamentary and Presidential elections demonstrated democratic deficiencies and were a missed opportunity for the advancement of democracy in Russia. We recommend that the Government, both bilaterally and using the mechanisms of the EU, OSCE and the Council of Europe, should continue to emphasise to Russia that its media and NGO restrictions are steps in the wrong direction. We further recommend that the Government should encourage President Medvedev to honour the pledges he has made to uphold the rule of law. (Paragraph 160)
27. We conclude that the human rights situation in Saudi Arabia is one of the worst in the world. The Government's stated policy of assisting with gradual reform is simply not adequate in the face of the dramatically increased use of the death penalty and the continued repression of women's rights. We accept there is a balance to be struck in any relationship with a strategic ally, but we do not see how the Government's current policies are presenting sufficient incentives to the Saudi regime to curtail its most severe abuses. We recommend that the "Two Kingdoms Dialogue" should

explicitly address issues such as the death penalty, and, as last year, we recommend that this dialogue should have measurable and time-limited objectives. We understand the Government's reasoning in not making such objectives public knowledge. However, we recommend that if the Government believes that these objectives should be kept private, the Foreign Secretary should write to us in confidence when he responds to this Report to outline what progress has been made. (Paragraph 167)

28. We conclude that the FCO's report fails to pay sufficient attention to the severe human rights crisis in Somalia. We are particularly concerned by the absence of any mention of alleged abuses carried out by Ethiopian troops in the country. Strong denials by the Ethiopian Government are not sufficient cause for omitting these allegations. We recommend that the Government should ensure human rights are central to its approach in Somalia, and we further recommend that it is included as a major country of concern in next year's report. (Paragraph 174)
29. We conclude that the human rights situation in Sudan remains of paramount concern. We are disappointed that the UN-African Union hybrid peacekeeping force for Darfur has yet to fully deploy. We welcome the Government's support for a political solution in Darfur and its financial assistance to the peacekeeping mission. We recommend that the Government should consider again whether it has any spare capacity to meet the need for helicopters or other equipment. We further recommend that the Government should provide the necessary diplomatic assistance to NGOs in their efforts to gain access into Sudan. (Paragraph 180)
30. We conclude that the repression of civil liberties in Syria continues to give cause for concern. We recommend that the Government should ensure that human rights remains central to its, and the EU's, approach towards Damascus. We further recommend that the international community does not relax the pressure on Syria to improve its human rights record even if progress is achieved on other political and foreign policy fronts. (Paragraph 185)
31. We conclude that Robert Mugabe's human rights record is utterly appalling. The first round of the Presidential election in March 2008 was deeply flawed, and the delay in announcing the results was unacceptable. We are concerned that South Africa appears to have maintained its patently ineffectual policy of "quiet diplomacy" with Zimbabwe, but we are encouraged that other regional states such as Zambia are beginning to speak out more forcefully against the brutality of the Mugabe regime. We conclude that the decision to remove Robert Mugabe's honorary knighthood was correct. We recommend that the Government should continue to urge regional states to take the diplomatic lead against Zimbabwe, and should not recognise any regime led by Mugabe. We further recommend that the Government should set out in its response to this Report what action is being taken against British businesses whose presence in Zimbabwe is helping to prop up the regime. (Paragraph 197)

1 Introduction

1. It is now ten years since the Foreign and Commonwealth Office (FCO) first published its annual report on human rights. This year also marks the sixtieth anniversary of the Universal Declaration of Human Rights, the pioneering document that has played such an important role in challenging states around the world to meet the aspirations of their populations. We agree with the Foreign Secretary, Rt Hon David Miliband MP, when he noted in his speech at the launch of this year's report that human rights have moved "from the margins to the mainstream". Given this, it has become ever more important for this Committee and others to scrutinise the Government's record on human rights.¹

2. Each year, we take evidence, and present our conclusions and recommendations, on the Government's latest human rights report. We are grateful to Tom Porteous, the London Director of Human Rights Watch, Kate Allen, the Director of Amnesty International UK, and Lord Malloch-Brown, the Minister of State responsible for human rights at the FCO, for giving oral evidence to the Committee. We were particularly pleased to take evidence on this inquiry from His Holiness the Dalai Lama during his recent visit to the United Kingdom. We also thank all those who sent in written submissions on human rights.

3. In this chapter, we present our general views on the FCO's evolving approach to human rights. In the next chapter, we focus on the Government's efforts to promote human rights at a multilateral level, both through the United Nations and through other international agreements. We then turn to questions surrounding the work of the Government and its allies on counter-terrorism. The final chapter considers a number of countries in which we feel human rights issues are of particular concern.

The FCO and Human Rights

4. The FCO's Human Rights Annual Reports present a valuable opportunity for this Committee and others to assess the Government's record on human rights. Amnesty International UK praises the report as "comprehensive", providing a "thorough overview of the Government's work to protect and promote human rights worldwide".² Human Rights Watch notes that the report sets a "useful standard" that groups such as itself can use in assessing how the Government addresses human rights abuses around the world.³ Although both these organisations expressed serious concerns about specific aspects of the Government's approach to human rights, concerns that we often share, we agree with them that the FCO should be praised for its achievement in producing useful and insightful reports year after year.

¹ Ev 1

² Ev 1

³ Ev 21

5. This year's report from the FCO, published on 26 March 2008, represents an advance on previous efforts.⁴ It is more concise and easier to use. The terms of reference of the report have also been changed so that it covers, and will continue to cover in future editions, a full calendar year. In our report last year, we recommended to the Government that work in support of human rights should be fully integrated into its then ten foreign policy strategic priorities.⁵ The Government has since developed the FCO's strategy, leading to the publication of four new policy goals. They are:

- Counter terrorism, weapons proliferation and their causes;
- Promote a low-carbon, high-growth global economy;
- Prevent and resolve conflict; and
- Develop effective international institutions.

This year's report contains a substantial section that explores how human rights concerns interact with, and in many cases are integral to the advancement of, these four goals.⁶ We welcome this.

6. The promotion of human rights is only one amongst several of the Government's international aims: it is not the only agenda item when Ministers meet with their counterparts abroad. The Government's objectives are bound, from time to time, to come into conflict. Human Rights Watch notes that the FCO report "helpfully highlights some of the dilemmas" faced by Ministers when seeking to promote human rights. It encourages the Government to be more explicit about when such circumstances arise, for instance when human rights policy may conflict with energy security or commercial relations. It argues: "Many of these dilemmas are real. But it is only by setting out them out clearly that one can deal with them and devise strategies to align interests more closely with ethics".⁷ We wholeheartedly agree.

7. In previous years, we have noted our concern that the Minister responsible for human rights at the FCO also held responsibilities for trade. We argued that these two roles would "sometimes stand in sharp contradiction". However, our criticisms were rejected by the Government.⁸ In appointing a number of new Ministers to his Government in June 2007, the Prime Minister, Rt Hon Gordon Brown MP, altered the responsibilities of a range of Ministerial positions. Lord Malloch-Brown, the former Deputy Secretary-General of the United Nations, became a Minister of State at the FCO, with responsibility for, *inter alia*, Africa, Asia, the United Nations and human rights. Lord Jones of Birmingham, the former head of the Confederation of Business Industry, was appointed Minister of State for Trade and Investment at both the FCO and the Department for Business, Enterprise, and

⁴ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008

⁵ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 11

⁶ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 10-80

⁷ Ev 21

⁸ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 8

Regulatory Reform, thus ensuring that different Ministers took responsibility for human rights and trade.⁹ We welcome this change.

8. We conclude that the new allocation of Ministerial responsibilities within the FCO is to be welcomed and that it will allow the Government to pursue its human rights agenda more effectively. We further conclude that the Human Rights Annual Report 2007 is an improvement on its predecessors in its accessibility.

Key Human Rights Themes

9. The FCO report includes a section on its work promoting women's rights. It argues that the "promotion and protection of women's rights is mainstreamed throughout UK government policy", and notes that the Government's work is guided by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁰ It refers to work that is being carried out, including the development of indicators on violence against women. It also notes the role of the FCO's Global Opportunities Fund in supporting projects aimed at tackling violations of the rights of women, including in Colombia, Turkey and the Ukraine. However, in its submission to this inquiry, Amnesty International UK expressed concern at "the absence of a serious and integrated approach to gender issues in both the policy goals and the report; a separate section on women's rights is insufficient."¹¹ We asked Kate Allen, the Director of the organisation, about this when she appeared before us. She argued:

We do not see a comprehensive approach to tackling women's human rights by the Foreign and Commonwealth Office. We know that that happens in some projects and in some embassies, but it does not happen consistently and it is not included in country strategies or in policy generally. [...] Gender issues need to be mainstreamed within foreign policy [...].¹²

The FCO stated that "the promotion of all human rights – including women's rights – and good governance are, and will remain a vital part of this Government's international agenda. The new policy goals do not downgrade their importance".¹³

10. The protection of children's rights is also of paramount concern. Violations of the rights of children can range from forced labour to being recruited as child soldiers or suffering genital mutilation. The increased use of the Internet has also left children more vulnerable to sexual abuse. Amnesty International's submission notes violations of children's rights in various countries, including Saudi Arabia, Afghanistan and Colombia.¹⁴

⁹ www.fco.gov.uk

¹⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 97

¹¹ Ev 1

¹² Q 16

¹³ Ev 66

¹⁴ Ev 13-20

The FCO notes that it “developed a strategy on child rights” in September 2007. This strategy is designed to “take action on specific issues of violence against children, including the worst forms of child labour, children in conflict with the law and children affected by armed conflict”. It will “guide posts on activities they can take to achieve FCO objectives on child rights”. The report provides some examples of the FCO’s work on child rights issues, for instance by monitoring the implementation of the Convention on the Rights of the Child in Brazil.¹⁵

11. The FCO report sets out in some detail the work of the Government in promoting democracy around the world. It refers to action taken to advance freedom of expression, freedom of religion and the role of human rights defenders in various key countries. For instance, the FCO has supported a project in Nigeria aimed at supporting the adoption of a Freedom of Information Bill. With regards to human rights defenders, the FCO notes its raising of the case of Chen Guangcheng with the Chinese authorities. He was sentenced for four years and three months for “obstructing traffic and deliberately damaging public property”.¹⁶ In its submission, Human Rights Watch argues that when considering the relationship between the Government’s development assistance programmes and democracy, the FCO report should “address the dilemmas” that are faced when providing financial aid to regimes that practice human rights abuses.¹⁷ In its section on democracy, the FCO does not refer to the important role that free trade unions and a free media can play in the process of democratic advancement.

12. We recommend that the Government should ensure that the key issues of women’s rights, children’s rights and the promotion of democracy are given greater prominence in next year’s edition of the FCO report. We further recommend that the report should set out clearly how these three issues have been factored in to the Government’s overall strategy towards individual countries of concern. We also recommend that it should bring out the important role of free trade unions and a free media in the promotion of democracy.

¹⁵ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 97

¹⁶ *Ibid*, pp 100–115

¹⁷ Ev 24

2 The International Framework

The United Nations

13. The United Nations remains the bedrock of international efforts to promote human rights. In recent years, human rights have been considered in a number of different UN institutions, increasingly including the Security Council. Most significantly, the General Assembly established a Human Rights Council in 2006 to replace the Commission on Human Rights, which had been much criticised for failing to take sufficient action against prominent human rights violators. In our report last year, we welcomed this move and expressed our hope that the Council would be more effective than its predecessor at dealing with states that have committed serious human rights abuses.¹⁸

14. The Government's report outlines the challenges facing the new Council. It argues that, in its early months, the Council had a "disproportionate and unbalanced focus" on the situation in the Middle East.¹⁹ Tom Porteous, London Director of Human Rights Watch, told us that if the Council focuses too heavily on Israel and the Occupied Palestinian Territories, "there is a big problem". He added that unless it considered human rights crises elsewhere, "it will not have the credibility that it needs to make a better impression than that of its predecessor".²⁰ In its submission, the National Secular Society argues that the majority of members of the Council were failing to protect, or "actively impeding" the right to freedom of expression.²¹

15. Lord Malloch-Brown argued that the Council's "voting record is more balanced and better than the general public commentary might suggest", pointing to a resolution on Darfur.²² However, in our report last year, we recommended that the Government should publish a table showing how key states voted on certain resolutions.²³ The Government accepted this recommendation. Out of the ten key resolutions provided in this year's report, it is revealing to note that the UK Government voted against the resolution seven times, abstained three times, and did not vote in favour of any. An indication of the political direction of these resolutions comes from the fact that Saudi Arabia and Cuba voted in favour of each one.²⁴ It appears, therefore, that there is some way to go in ensuring the Council passes significant resolutions that the Government feels able to endorse.

¹⁸ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, paras 12–19

¹⁹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 46

²⁰ Q 1

²¹ Ev 107

²² Q 49

²³ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 19

²⁴ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 55

16. An innovation of the Human Rights Council has been the ‘Universal Periodic Review’. This process involves a peer review of all member states of the UN once every four years on their human rights practices.²⁵ This is followed by the adoption of a document by the Council considering to what extent each state is meeting its obligations under relevant international human rights law and any other voluntary commitments that have been made. Kate Allen argued that the process was “a good one”. She added that the UK was one of the first countries to go through the review.²⁶ However, Tom Porteous said Human Rights Watch was “disappointed” by the “timidity” of Governments in criticising Algeria and Tunisia, whereas he felt the UK and the Czech Republic “came in for some pretty heavy criticism”.²⁷

17. Lord Malloch-Brown informed the Committee that the UK has sufficient faith in the potential of the Council “to be engaged in a very tough, competitive election at the moment to get re-elected as a member”. A country can only be a member for two consecutive terms, and he revealed that the Government had considered stepping down at the end of its first term. However, he argued that because the Council was “weak and needs help”, the Government decided to stand for re-election.²⁸ This has been strongly welcomed by Human Rights Watch. Tom Porteous said the UK “has played an excellent role” at the Council, working hard to “fight off efforts” by other Governments who are seeking to water down its institutions.²⁹ The UK’s re-election bid succeeded in May 2008.

18. The United States is not a member of the Council. Lord Malloch-Brown expressed hope that it would soon join, and stated that it has been a goal of the Government “to keep the US engaged, informed and involved so that the bureaucracy is on board to come back once there is an Administration willing to do so”. However, he noted that the Council has been subject to significant criticism by much of the American media and many of its NGOs.³⁰

19. We conclude that the Government has demonstrated commendable commitment to the Human Rights Council. We welcome its decision to stand for re-election, and its success in achieving this. We recommend that, in its response to this Report, the Government should set out its priorities for strengthening the work of the Council.

The Arms Trade Treaty

20. In previous reports, we have welcomed the Government’s leading role in pushing for an Arms Trade Treaty (ATT).³¹ The FCO’s report sets out the progress made towards such

²⁵ Q 1

²⁶ Q 2

²⁷ Q 1

²⁸ Q 49

²⁹ Q 1

³⁰ Q 50

³¹ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 24

a treaty, which it hopes will establish “globally agreed high standards of international regulation of the trade in all conventional arms”. The scope of the treaty is being discussed at the United Nations, and the report notes that an “unprecedented” number of countries have submitted their views to the Secretary-General. A group of government experts will meet throughout 2008 to consider these papers, and the UK will be represented by the British Ambassador to the Conference on Disarmament in Geneva.³²

21. Amnesty International praises the Government’s approach towards the Arms Trade Treaty, stating that “the Government has been at the forefront of support for the ATT initiative.”³³ When she appeared before the Committee, Kate Allen discussed the Government’s role further, adding:

I think that there are some dangers, such as complacency and a feeling that the arms trade treaty has been done and has been through the General Assembly as an issue, so the danger is that it might now get lost. Our call from Amnesty is very much to maintain the UK Government’s concentration on the Arms Trade Treaty. There is a long way yet to go in devising the detail of the treaty and in ensuring that it is strong and effective.

She also noted another danger, namely that sceptical countries like India, Pakistan, Russia, Egypt and China were on the group of government experts and may seek to water down any eventual treaty.³⁴ As we noted in our report last year, the US opposes the treaty as it believes it already has sufficient export controls in place.³⁵

22. Amnesty International’s submission calls for any future treaty to be “as comprehensive in scope as possible”, applying to “all conventional arms, including their components, manufacturing technology, production equipment and relevant dual-use goods”.³⁶ We agree that a failure to consider these relevant categories could lead to loopholes in the treaty. In its written submission, Saferworld argues that the Government should make the ATT a “foreign policy priority”. It commends the Government for generating “considerable momentum” for the initiative, but it warns that the Government needs to lobby both supportive and less supportive states to ensure the process is not derailed.³⁷

23. We conclude that the Government has played a leading role in building support for an Arms Trade Treaty. We recommend that the Government should continue its efforts with vigour and determination, in particular by aiming to convince sceptical states that the treaty will be most effective if it includes all conventional arms.

³² Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 18–19

³³ Ev 5

³⁴ Q 5

³⁵ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 25

³⁶ Ev 5

³⁷ Ev 103

Cluster Munitions

24. A cluster munition is an “air-carried or ground-launched disperser, containing numerous sub-munitions, which is designed to eject those sub-munitions over a pre-defined target area”.³⁸ In our 2006 human rights report, and our report into *Global Security: The Middle East*, we raised strong concerns about the humanitarian impact of cluster munitions, and questioned the Government’s justification for continuing to stock them.³⁹

25. This year’s FCO report highlights the “hazardous legacy” faced by civilian populations following a conflict in which cluster munitions are used. It notes two mechanisms seeking to implement international regulation of cluster munitions – the UN Convention on Certain Conventional Weapons (CCW) and the Oslo process.⁴⁰ In our report last year, we noted how the Government appeared to shift focus from working through the slower CCW process to the Oslo initiative by signing a strongly-worded declaration calling for a legally binding instrument that would prohibit the use, transfer or stockpiling of cluster munitions that “cause unacceptable harm to civilians”.⁴¹

26. We took oral evidence from Lord Malloch-Brown before the final Dublin meeting of the Oslo process. He told us that “the definition of what range of cluster munitions should be banned” was an outstanding issue, with the Government pushing for a “narrower definition” than the whole category of cluster munitions, as it was “reluctant” to give up its arsenal of weapons, including the M85 sub-munition.⁴² Kate Allen argued to us that it was “inconsistent to look for those exemptions” from any eventual cluster munitions treaty, and urged the Government to sign up to a “complete ban”.⁴³

27. As the Dublin Diplomatic Conference unfolded, the media reported tensions within the Government over its negotiations regarding the scope of the ban, with the Ministry of Defence seeking a narrower definition, and the Department for International Development and the FCO seeking a more comprehensive prohibition on the weapons. It was reported that, with the support of the Prime Minister, the Government was moving towards a position of agreeing to a complete ban on cluster munitions.⁴⁴ An agreement between delegates from the 110 states involved in the process was eventually reached to ban current designs of cluster munitions on 28 May 2008, with the Prime Minister arguing that it was “in line with British interests and values, and makes the world a safer place.”⁴⁵ He later told the House: “I was pleased that the United Kingdom was able to break the deadlock in the

³⁸ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 29

³⁹ Foreign Affairs Committee, Eighth Report of Session 2006-07, *Global Security: The Middle East*, HC 363, para 106

⁴⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 17

⁴¹ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 34

⁴² Q 53

⁴³ Q 7

⁴⁴ “UK ready to scrap killer cluster bombs”, *The Guardian*, 28 May 2008

⁴⁵ “Cluster bomb ban treaty approved”, *BBC News Online*, 28 May 2008, news.bbc.co.uk

negotiations that were taking place and pleased that other countries followed us in making their decision that they too would ban cluster bombs”.⁴⁶ The FCO told us that the UK “has withdrawn from service all its cluster munitions.”⁴⁷

28. In its report, the FCO praised the CCW process as it would “have the advantage of including the major users and producers of cluster munitions”.⁴⁸ A number of key states, such as the United States, have not signed up to the new Oslo-inspired Convention on Cluster Munitions. The US Department of Defence put out a statement rejecting the Convention, arguing that “cluster munitions have demonstrated military utility, and their elimination from US stockpiles would put the lives of our soldiers and those of our coalition partners at risk”. Other countries that are major users or producers of the weapon, but not included in the Oslo process, include China, Russia and Israel.⁴⁹ The Prime Minister told the House that such countries have to be “brought in” and stated his “intention to talk to all those countries to see that we can have a global treaty”.⁵⁰

29. Another issue of concern is that of inter-operability, where countries that have not acceded to the Convention conduct joint military operations with countries that have (for instance, the US and the UK). Tom Porteous argued to us that the US was putting pressure on the UK to “include this exemption in the treaty”.⁵¹ This exemption was agreed to in the Convention. Amnesty International said that this was “controversial” and “disappointing”.⁵²

30. We conclude that the Government’s eventual support for the prohibition of all current cluster munitions is very welcome. We recommend that, in its response to this Report, the Government should set out its strategy for obtaining the support of the US Government and other non-signatories to a ban on cluster munitions, and the implications of the Convention for future military co-operation with such states.

Corporate Social Responsibility

31. The FCO’s report claims that the Government is taking “increasing account of the rising power of business in world affairs”. It adds that “more than ever”, the Government has “sought partnership with companies in order to influence global change and meet our human rights obligations”. One way of promoting corporate social responsibility has been through supporting the work of John Ruggie, who has been appointed as the UN Secretary-General’s Special Representative on Human Rights and Transnational

⁴⁶ HC Deb, 4 June 2008, col 769

⁴⁷ Ev 68

⁴⁸ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 17

⁴⁹ “Cluster bomb ban treaty approved”, *BBC News Online*, 28 May 2008, news.bbc.co.uk

⁵⁰ HC Deb, 4 June 2008, col 769

⁵¹ Q 7

⁵² Amnesty International, “Cluster Munitions Treaty Agreed in Dublin”, 30 May 2008, www.amnesty.org

Corporations, tasked with exploring the range of voluntary and mandatory measures that multinational companies take into account and suggesting how these might be improved.⁵³

32. The FCO published its “first ever strategy on international corporate social responsibility” in February 2007. The report claims it has “prompted a step change” in the FCO’s engagement with business. In its submission, Amnesty International congratulates the Government for developing its strategy, but notes that the strategy document makes reference to the implementation of the [then] Department of Trade and Industry’s “International Strategic Framework for Corporate Social Responsibility”. This, according to Amnesty, raises questions as to whether the Government has two strategies and over which Department should take the lead on this.⁵⁴ Kate Allen argued to us that, in both these strategies, the role of the Department for International Development has been “ignored a bit”.⁵⁵

33. An issue of debate is whether corporate social responsibility is best achieved through voluntary or mandatory mechanisms. Tom Porteous told us that the “plethora” of voluntary agreements were welcome but that Human Rights Watch, along with a growing number of businesses, believes that “without regulation, you will not get very far. The voluntary principles are fine and have got us some way, but they will be only partly effective.” Expanding his answer, he noted:

The reason why businesses are coming to the conclusion that regulation might be necessary is that the smaller businesses that can get under the radar are able to continue engaging in abusive practices. It is the big companies that suffer, because they are the ones with the reputations. They want to have a completely level playing field. With the growing influence of China, Malaysia and countries in parts of the world like Africa, big business is beginning to realise that, if a regulatory framework can create that level playing field, it will be to their advantage.⁵⁶

Kate Allen told us that she agreed with this position, adding that:

Professor John Ruggie clearly points out that this is one of the governance gaps following globalisation-it is a total anomaly that a parent company and its subsidiaries continue to be treated as distinct entities and that the parent company has no responsibility for the actions of its subsidiaries. These are issues that, in a globalised world, have just got to be challenged.⁵⁷

34. We wrote to the FCO asking whether it agreed with this assessment. It replied:

⁵³ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 22

⁵⁴ Ev 7

⁵⁵ Q 14

⁵⁶ Q 13

⁵⁷ Q 14

The UK does not support the introduction of specific mandatory mechanisms to ensure businesses protect human rights. We believe that, at present, voluntary mechanisms and other non-legal approaches have more to offer in this field. States have an obligation to protect their populations from human rights abuses, which is why HMG is keen to mobilise international opinion to support practical political initiatives and encourage private sector good practice.⁵⁸

35. We conclude that the Government has made a good start to its work on corporate social responsibility.

International Criminal Law

36. The promotion of human rights around the world is fundamentally linked to advances in international criminal law. This has not always been the case. The classical approach to international law focused on the rights of sovereign nation states and diplomatic immunity, not on the individual. However, ever since the Nuremberg trials that followed the Second World War, there has been a growing recognition that the international framework has a role to play in ensuring accountability for severe human rights abuses, even when carried out by agents of a state against its own population.

37. One manifestation of international criminal law has been the establishment of a number of international criminal tribunals, most notably for crimes committed in the former Yugoslavia and Rwanda. On a more institutional level, the International Criminal Court (ICC) has been created. The FCO report states that the UK has provided “strong support” to these tribunals, and argues that they “continue to make significant advances in the fight against impunity”.

38. The FCO report notes that the ICC will proceed with its first trial in 2008. Thomas Lubanga Dyilo is accused of war crimes allegedly committed in the Democratic Republic of Congo. There are currently four ongoing investigations at the Court, with Darfur, Uganda and now the Central African Republic also coming under its scrutiny. The International Criminal Tribunal for the former Yugoslavia continues with its work, but three indictees remain at large, including Radovan Karadzic and Ratko Mladic, wanted for genocide, crimes against humanity and war crimes, including in relation to the massacre at Srebrenica in 1995. The International Criminal Tribunal for Rwanda is making “good progress”, and the Government is in active discussions at the UN to ensure it will receive the resources required to complete its work. Finally, the Special Court for Sierra Leone commenced the trial of former Liberian President Charles Taylor in June 2007, which the report describes as a “major landmark in international justice”. The UK has made a commitment to imprison Mr Taylor should he be found guilty.⁵⁹

⁵⁸ Ev 67

⁵⁹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 56-58

39. The continued failure to bring Messrs Karadzic and Mladic to justice represents a weakness in the international criminal system, namely its ability in securing the detention of those accused of gross human rights abuses. In Uganda, indicted members of the Lord's Resistance Army have asked its Government to request a deferral of ICC warrants and establish national mechanisms to try those accused of war crimes, perhaps with a view to seeking more lenient judgment. The FCO has stated that it is "vital" that those who have committed crimes in Uganda are held to account, and places the onus on the Ugandan Government to demonstrate that national courts could do so.⁶⁰

40. A further impediment to international justice is the continued opposition of major countries to the principles behind the ICC. Out of the permanent five members of the UN Security Council, only the UK and France are State parties to the Rome Statute of the ICC, with the United States, Russia and China remaining outside the system.⁶¹ Given the particular role afforded to the Security Council by the Rome Statute (it has the power to refer crimes committed in states that have not ratified the Rome Statute to the Prosecutor of the ICC⁶²), the lack of support by these key countries can only hamper the advancement of international justice. Whilst the Security Council did, exceptionally, refer the situation in Darfur to the ICC, it does not look likely that it will do so in the equally disturbing cases of Burma or Zimbabwe. Without this support, there is little that can be done in international criminal law to hold President Robert Mugabe or the Burmese junta to account. The mechanisms are in place, but the political will is not.

41. We conclude that the progress made by the International Criminal Court is to be welcomed. However, international criminal law will only be effective in preventing human rights abuses if applied in a systematic and consistent way. We recommend that the Government should continue to urge the next President and Congress of the United States to accede to the Rome Statute of the ICC. We further recommend that the Government should seek to extend the ambit of the role of the ICC so that any individual who clearly and deliberately commits gross life-taking and life-threatening violations of human rights can be brought before it.

⁶⁰ HC Deb, 18 March 2008, col 1036W

⁶¹ International Criminal Court, "The State Parties to the Rome Statute", www.icc-cpi.int

⁶² International Criminal Court, *Rome Statute of the International Criminal Court*, 17 July 1998, article 13(b), p 11

3 Terrorism

Rendition

42. The FCO report notes that the terms ‘rendition’ and ‘extraordinary rendition’ have yet to “attain a universally accepted meaning, other than a transfer of an individual between jurisdictions outside normal legal processes”. It adds that many commentators understand the term ‘extraordinary rendition’ to refer to the extra-judicial transfer of persons from one jurisdiction to another “specifically for the purposes of detention and interrogation”, giving rise to an increased risk of torture. The Government sets out its policy on extraordinary rendition, stating: “We have not approved and will not approve a policy of facilitating the transfer of individuals through the UK to places where there are substantial grounds to believe they would face a real risk of torture.”⁶³

43. We have followed the issue of US Government policy and the use of extraordinary rendition closely in recent years, as part of our annual human rights reports, our discontinued series into the *Foreign Policy Aspects of the War against Terrorism* and as part of our recent report into *Overseas Territories*. This latter report sets out the Government’s repeated acceptance in recent years of US assurances that UK territory had not been used for the purposes of rendition since 1998. We then noted:

On 21 February 2008, the current Foreign Secretary, Rt Hon David Miliband MP, reported to the House that the US had now informed him, contrary to its previous assurances, that on two occasions in 2002 Diego Garcia had been used for renditions flights. In both cases a US plane “with a single detainee refuelled at the US facility” on the island. Neither detainee was a British national or British resident. One was currently in Guantánamo Bay and the other had been released.⁶⁴

In the human rights report, the FCO expresses “concern and disappointment” that UK territory was used for the purposes of rendition without the permission of the Government.⁶⁵ In our report, we deplored the fact that US assurances “have turned out to be false”.⁶⁶

44. There has been a question in recent years over the Government’s obligations with regard to flights that use UK airspace or land on UK territory on the way to, or back from, a rendition operation but without a detainee on board. Amnesty International has claimed that it has evidence to prove that flights on the “rendition circuit” have used UK airports. We asked Kate Allen for her assessment of the Government’s legal obligation with regard to allowing such flights to use UK facilities. She replied:

⁶³ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 15

⁶⁴ Foreign Affairs Committee, Seventh Report of Session 2007–08, *Overseas Territories*, HC 147-I, para 55

⁶⁵ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 16

⁶⁶ Foreign Affairs Committee, Seventh Report of Session 2007–08, *Overseas Territories*, HC 147-I, para 70

Very clear: if the British Government know what the flights are used for, they have legal responsibility to challenge [...] We have never said that we have known that people were on those flights, but we have said that we know that those flights either picked somebody up and delivered them and have been returning, or have been involved in that rendition circuit. It is very clear that the UK Government have legal responsibility, because they know what those planes have been involved in.⁶⁷

45. Lord Malloch-Brown told us that the Government was to:

submit a list of all flights about which there were suspicions - that is, any flights whose details were given to us by Amnesty, Human Rights Watch and others - to the US and [...] ask them to give us an assurance that there was not any such activity around any of those flights.⁶⁸

As part of our *Overseas Territories* inquiry, we asked the Foreign Secretary if this list included flights that may have been on the way to or from a rendition, but without a detainee on board. He told us that the Government's purpose was "to identify whether rendition through UK territory or airspace in fact occurred" and that the Government did "not consider that an empty flight transiting through our territory falls into this category."⁶⁹ We asked Lord Malloch-Brown whether it was "more or less okay" for the US to use UK territory if a flight was empty. His reply appeared to differ from the Foreign Secretary, focusing more on practical issues rather than any question of principle:

I do not think that it is more or less okay, but there is a limit to what we can do effectively to monitor empty planes, whose purposes it is not really reasonable for us to investigate. If an American military flight requests refuelling or access and is empty of any passengers, I am not sure that it is possible for us to demand what it might be doing on its return flight.⁷⁰

We asked the FCO whether it had taken any legal advice with regard to its obligations in these cases. It replied that "legal advice given to the Government is confidential and we are therefore unable to disclose the contents of any such advice".⁷¹ On 3 July 2008, the Foreign Secretary told the House in a written statement that the US had received the list and replied to the FCO, stating that there have been no other US intelligence flights "with a detainee on board" landing in the UK, Overseas Territories or Crown Dependencies since 9/11. We note that this assurance does not address the issue of flights without detainees on board.⁷²

⁶⁷ Q 17

⁶⁸ Q 60

⁶⁹ Foreign Affairs Committee, Seventh Report of Session 2007–08, *Overseas Territories*, HC 147-II, Ev 346

⁷⁰ Q 59

⁷¹ Ev 67

⁷² HC Deb, 3 July 2008, col 58WS

46. In its submission, REDRESS argues that the UK is under a “positive duty” to ensure that it has an effective framework in place to prevent extraordinary renditions. It argues that “an overhaul of the current laws and policies on aviation is urgently required”. It notes that the former Foreign Secretary, Rt Hon Margaret Beckett MP, has already acknowledged the deficiencies in record keeping which she conceded are “not all that marvellous, frankly”, and argues that this may have contributed to failures to detect renditions in the past.⁷³ Human Rights Watch adds that “the key question [...] is not just does the UK approve of renditions to torture. It is whether the UK does anything meaningful to stop such renditions from taking place.”⁷⁴ REDRESS, Amnesty International, and Human Rights Watch all call in their submissions for the Government to hold a full public inquiry into the use of renditions in UK territory.⁷⁵

47. We conclude that the Government has a moral and legal obligation to ensure that flights that enter UK airspace or land at UK airports are not part of the “rendition circuit”, even if they do not have a detainee on board during the time they are in UK territory. We recommend that the Government should immediately raise questions about such flights with the US authorities in order to ascertain the full scale of the rendition problem, and inform the Committee of the replies it receives in its response to this Report.

The US and Torture

48. This is the last of our human rights reports to be published during the course of the George W Bush Presidency in the United States. We and our predecessor Committees have considered various aspects of the Bush Presidency over the past eight years, in particular through the series of reports on *Foreign Policy Aspects of the War against Terrorism* and our report on *Guantánamo Bay*. One of the most important issues that we have addressed is that of alleged mistreatment of detainees by the US Government.

49. In 2005, President Bush said that “we do not torture”.⁷⁶ The FCO report welcomes “US government statements that have made clear its opposition to torture, and the cruel, inhuman and degrading treatment of terrorist suspects”.⁷⁷ This welcome is one example of the Government’s apparent trust in the US on this issue, and its willingness to take these remarks at face value. The FCO has previously relied on US statements to deflect questions from this Committee and others. In its response to our human rights report last year (in which we sought clarification over rendition policy), the Government provided a further very clear example of how it uses the statements of US officials in this way when it said:

⁷³ Ev 99–102

⁷⁴ Ev 23

⁷⁵ Ev 5

⁷⁶ “US does not torture, Bush insists”, *BBC News Online*, 7 November 2005, news.bbc.co.uk

⁷⁷ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 12–13

In her statement of 5 September 2006, the US Secretary of State, Condoleezza Rice said, referring to allegations of rendition flights:

“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 using 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 persons will not be tortured.”

In these circumstances, the Government does not consider that seeking a further clarification from the US administration of its policy is necessary.⁷⁸

50. There is one exception to this general approach, which is the attitude of the British Government to the practice known as “water-boarding”, during which a prisoner is bound to a board with feet raised, and cellophane is wrapped round his head. Water is then poured onto his face, which is said to produce a fear of drowning. This leads to a “rapid demand for the suffering to end”.⁷⁹ The Central Intelligence Agency (CIA) of the US Government has admitted using water-boarding against detainees in recent years. In February 2008, the US Director of National Intelligence Michael McConnell told a Senate intelligence committee that:

The question is, is waterboarding a legal technique? And everything I know, based on the appropriate authority to make that judgment, it is a legal technique used in a specific set of circumstances. You have to know the circumstances to be able to make the judgment.⁸⁰

As Andrew Tyrie MP pointed out in a letter to us, on 8 March 2008, “President Bush vetoed a bill that would have outlawed the use of ‘waterboarding’ and other ‘enhanced’ interrogation techniques.”⁸¹

51. David Miliband, the Foreign Secretary, has said: “I consider that water-boarding amounts to torture”.⁸² Lord Malloch-Brown told us that there is “no ambiguity” about the Government’s view.⁸³ We asked him if he was aware of any other practices carried out by the US Government that the UK would consider torture. An official replied that the

⁷⁸ Foreign and Commonwealth Office, *Annual Report on Human Rights 2006: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Cm 7127, June 2007, p 9

⁷⁹ “Defining torture in a new world war”, *BBC News Online*, 8 December 2005, news.bbc.co.uk

⁸⁰ “Hearing of the Senate Select Committee on Intelligence”, 5 February 2008, www.dni.gov

⁸¹ Ev 111

⁸² HC Deb, 21 April 2008, col 1726W

⁸³ Q 62

Government was aware “of the variety of techniques that have been discussed in the US”, but Lord Malloch-Brown said he was not aware of any other methods that would be viewed as torture. He added that Congress is currently considering the matter.⁸⁴ Writing to us at a later date, he said: “We have not conducted an exhaustive analysis of current US interrogation techniques but we expect all countries to comply with their international obligations”.⁸⁵ We note that this expectation does not specifically answer our question.

52. There appears to be a striking inconsistency in the Government’s approach to this matter. As noted above, it has relied on assurances by the US Government that it does not use torture. However, it is evident that, in the case of water-boarding and perhaps other techniques, what the UK considers to be torture is viewed as a legal interrogation technique by the US Administration. With the divergence in definitions, it is difficult to see how the UK can rely on US assurances that it does not torture. As Amnesty International argues, “what the USA considers torture does not match international law”.⁸⁶ Human Rights Watch adds that “President Bush’s statements on torture need to be considered in the light of the memoranda from his legal advisers that re-defined torture so narrowly as to make the prohibition virtually meaningless.”⁸⁷

53. We conclude that the Foreign Secretary’s view that water-boarding is an instrument of torture is to be welcomed. However, given the recent practice of water-boarding by the US, there are serious implications arising from the Foreign Secretary’s stated position. We conclude that, given the clear differences in definition, the UK can no longer rely on US assurances that it does not use torture, and we recommend that the Government does not rely on such assurances in the future. We also recommend that the Government should immediately carry out an exhaustive analysis of current US interrogation techniques on the basis of such information as is publicly available or which can be supplied by the US. We further recommend that, once its analysis is completed, the Government should inform this Committee and Parliament as to its view on whether there are any other interrogation techniques that may be approved for use by the US Administration which it considers to constitute torture.

UK Officials and Torture

54. The FCO report emphasises that “torture is one of the most abhorrent violations of human rights and human dignity, and its use is absolutely prohibited under international law”. Accordingly, the Government never uses it for “any purpose”, its use is “unreservedly condemned” and the UK seeks “its eradication”. However, the report notes comments made by this Committee and others over the ethical dilemma of using intelligence that may have been gained from the use of torture to prevent future terrorist activity. Where

⁸⁴ Q 63

⁸⁵ Ev 65

⁸⁶ Ev 4

⁸⁷ Ev 22

“intelligence bears on threats to life”, the report argues that it would be “irresponsible to reject it out of hand”, however it was obtained.⁸⁸

55. In April 2008, *The Guardian* reported a number of very serious allegations relating to torture and the conduct of UK officials in Pakistan. A number of British citizens claim to have been detained and tortured by the Pakistani Inter-Services Intelligence (ISI) agency. Whilst in detention, they claim that they were interrogated by British intelligence officers. Some of these men were later flown back to the UK and have faced trial on terrorism related charges. The newspaper summed up the charge against MI5 as being one of “outsourcing” torture to the ISI.⁸⁹

56. Human Rights Watch comments on this issue in its submission to our inquiry. It is important to note that this submission was made before *The Guardian* published its report. The organisation states that the FCO report “remains notably silent on the hundreds of disappearances of terrorism suspects in Pakistan” and suggests that the “UK has itself been complicit in the illegal detention, forcible transfer to the UK and [...] torture of some terrorism suspects”.⁹⁰

57. We asked Tom Porteous for more information when he appeared before us. He told us that it was “pretty clear” that the UK and US have been relying “rather heavily” on the ISI for intelligence. For the UK in particular, intelligence was useful for the counter-terrorism effort at home because of the large number of British nationals of Pakistan origin. He argued that the ISI was “one of the most brutal intelligence agencies in the world” and initially behind the Taliban regime in Afghanistan. He said that there was “good evidence”, including medical evidence, that a number of the British men had been “brutally treated” over long periods by the ISI. Commenting on the meetings of the British nationals with UK officials, he argued:

It is incredible that British agents would not be aware of the kind of treatment these men could expect at the hands of the Pakistani intelligence agency. Either way, the circumstances seem to amount to complicity and collusion in the mistreatment of these men.⁹¹

58. We took the opportunity to raise this issue with Lord Malloch-Brown. We asked him for his assessment on whether the ISI practices torture. His reply was oblique:

Let me put it this way, we think that the return of civilian government and hopefully the strengthening of civilian control over the ISI, which we hope will give a lot more transparency to its methods, is an extremely good development in Pakistan.⁹²

⁸⁸ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 12

⁸⁹ “MI5 accused of colluding in torture of terrorist suspects”, *The Guardian*, 29 May 2008

⁹⁰ Ev 30

⁹¹ Q 40

⁹² Q 72

Following further questioning, he said he did not know whether he was “prepared” to go further by stating that the ISI was guilty of practicing torture. He said: “we are extremely concerned. We have certainly not run frontly into evidence of torture, but we think that the ISI’s methods could do with a lot of opening up and a lot of transparency.”⁹³ Referring to the allegations that have been made, he stated: “we absolutely deny the charge that we have in any way outsourced torture to Inter-Services Intelligence as a way of extracting information, either for court use or for use in counter-terrorism.”⁹⁴

59. Lord Malloch-Brown said that the Government is “aware of six cases of British or dual British/Pakistani nationals having been detained on suspicion of terrorist offences in Pakistan”.⁹⁵ He told us that the FCO gained consular access to two dual national individuals, and one UK national.⁹⁶ Consular access was not sought in all six case as the Pakistani authorities “are under no obligation to inform us of the detention of a dual Pakistani-British national nor to allow consular access”.⁹⁷ As he argued, the “bar for demanding access” is higher in such cases.⁹⁸ However, as *The Guardian* notes, the FCO “does act on behalf of the more than 200 young people of dual nationality forced into marriage in Pakistan each year. It has five people working full-time on such cases.” Ali Dayan Hasan, the South Asia researcher for Human Rights Watch, said: “I find it worrying that the British High Commission has sought refuge behind the dual citizenship clause when it knows that the detainee’s life may be in danger and that the detention is illegal under Pakistani, British and international law”.⁹⁹

60. In his letter, Lord Malloch-Brown states that “British officials sought and were granted access to the two mono-British nationals”.¹⁰⁰ However, as cited in the previous paragraph, only one mono-British national received consular access. This indicates that access to the other mono-British national was on a non-consular basis, which could mean access by intelligence officials. We know from a written answer to Parliament that consular access was sought in this individual’s case.¹⁰¹ It is interesting to note that other British officials were granted access to this individual, whilst consular officials were not.

61. Four of the six individuals have alleged to UK officials that they were mistreated by the Pakistani authorities.¹⁰² Lord Malloch-Brown told us that the three individuals that were met on a consular basis only complained of their mistreatment once they were released from Pakistani detention. In the case of one British citizen who complained of

⁹³ Q 74

⁹⁴ Q 71

⁹⁵ Ev 65

⁹⁶ Q 65

⁹⁷ Ev 65

⁹⁸ Q 67

⁹⁹ “Revealed: torture centre linked to MI5”, *The Guardian*, 12 May 2008

¹⁰⁰ Ev 65

¹⁰¹ HC Deb, 16 May 2008, col 1815W

¹⁰² HC Deb, 4 June 2008, col 1006W

mistreatment, Lord Malloch-Brown told us that the Government raised these allegations with the Pakistani authorities.¹⁰³ He added that “our position is that we do not know of any cases of torture”.¹⁰⁴ We note that a number of the cases relating to particular individuals are *sub judice* and we are therefore unable to comment on them further at this point.

62. We conclude that it is extremely important that the veracity of allegations that the Government has “outsourced” interrogation techniques involving the torture of British nationals by Pakistani authorities should be investigated. Irrespective of these allegations, we recommend that the FCO should immediately seek full consular access in all cases where it is aware of mono- or dual-national British citizens being detained by the Pakistani authorities, and in particular by the Inter-Services Intelligence agency. We conclude that it is not acceptable for the Government to use an individual’s dual nationality as an excuse to leave him or her vulnerable to the prospect of possible torture.

63. We recommend that, in its response to this Report, the Government should explicitly state whether UK officials met any of the four dual nationals to discuss non-consular matters and should also state why non-consular access was granted to one UK national, but not consular access. We also recommend that the Government should further tell us whether it was aware of all six individuals at the time of their detention, and whether intelligence or evidence gained by the Pakistani authorities in its interrogation of any of these men led in whole, or in part, to further investigations or charges in the UK. We further recommend that the Government should describe its collaboration with the Inter-Services Intelligence agency, and its human rights concerns about this organisation, in its response to this Report.

Diplomatic Assurances

64. The Government has signed Memoranda of Understanding, containing “diplomatic assurances”, with states including Jordan, Libya and Lebanon that govern the deportation of foreign national terrorist suspects from the UK to their country of origin. It has also established a more informal arrangement with Algeria. Article 3 of the UN Convention Against Torture states that “no party shall expel, return 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”. This is known as the *non-refoulement* obligation.

65. As the FCO report notes, the agreements that it has signed with other states aim to put in place arrangements that “provide general assurances of the treatment of individuals upon return,” whilst also allowing the Government to seek more specific personal assurances depending on individual circumstances.¹⁰⁵ In our report last year, we said we

¹⁰³ Q 66

¹⁰⁴ Q 65

¹⁰⁵ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 14

would “continue to monitor the situation” with regard to the implementation of these assurances.¹⁰⁶

66. As we have noted in previous years, these diplomatic assurances have proved controversial. Tom Porteous claimed to us that the Government is “acting with total disregard for the safety of those detainees when it pushes for deportations under diplomatic assurances”. Kate Allen provided the central argument against this mechanism:

[D]iplomatic assurances are not worth the paper they are written on. Those assurances are sought from Governments who routinely use torture, who have signed the UN convention against torture and who, therefore, routinely break international law. It is hugely undermining to the British Government's work against torture around the world that they are, and continue to be, engaged in this attempt to remove people to countries where they might be tortured.¹⁰⁷

Manfred Nowak, the UN's special rapporteur on torture, has said that “the plan of the United Kingdom to request diplomatic assurances for the purpose of expelling persons in spite of a risk of torture reflects a tendency in Europe to circumvent” international obligations.¹⁰⁸ It is somewhat bizarre that this year's FCO report includes a large photo of Mr Nowak on the very page on which it discusses diplomatic assurances without noting his opposition to their use.

67. In April 2008, the Court of Appeal ruled against the Government in two important cases involving diplomatic assurances. One related to the preacher Abu Qatada, who won an appeal against his forcible return to Jordan, where he has been convicted of terrorism-related charges. Lord Justice Buxton, giving the ruling, said that the Special Immigration Appeals Commission (SIAC) had misdirected itself in law because of the issue of evidence obtained by torture in Jordan. In the second ruling, two Libyan men won their appeals against deportation. SIAC had previously found that the diplomatic assurance with Libya did not remove the risk of the men being tortured, and this decision was upheld by the Court of Appeal.¹⁰⁹

68. We asked our witnesses what the implications of the rulings were. Kate Allen told us that they tell the Government that it is going “in the wrong direction” and leave it in the “position where they will have to argue for diplomatic assurances country by country, case by case”. Tom Porteous argued that the rulings left the Government in an “awkward position”. However, he noted that none of the judgements so far “rule that diplomatic assurances cannot work. They have not ruled them out yet, although we would like them to do so as we think that diplomatic assurances cannot work in principle”. He added that a recent case in the European Court of Human Rights, *Ismoilov v. Russia*, provided the “best

¹⁰⁶ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, para 67

¹⁰⁷ Q 19

¹⁰⁸ “Ministers accused of sidestepping torture ban”, *The Guardian*, 2 November 2006

¹⁰⁹ “Preacher Abu Qatada wins appeal”, *BBC News Online*, 9 April 2008, news.bbc.co.uk

articulation” as to why diplomatic assurances were not reliable. He said it was “an important judgment and it shows that if any of these cases get to the European Court of Human Rights, the UK will lose.”¹¹⁰

69. Lord Molloch-Brown responded to criticism of Government policy:

Those Court of Appeal cases were obviously setbacks, but they were very case-specific. The assurances were thought not to be adequate in those countries at this time. We still have other cases that are moving ahead, so I do not think that the policy is dead. We do think that the courts have set the bar high, and frankly that is probably a good thing.¹¹¹

With some of the deportee cases, accepting that individuals who have done-or incited people to do-terrible things here in the UK are on our hands indefinitely is not a reasonable Government policy. There will be cases where we will prevail, but we are a country of laws and courts. The fact that we lose a couple of cases shows the strength of the procedures, rather than invalidating them all.¹¹²

He later wrote to us to inform us that the Home Secretary has sought leave direct from the House of Lords to appeal in the case of Abu Qatada. “After careful consideration”, a decision was made not to appeal the two Libyan cases, and “deportation action in those cases and in a further ten Libyan cases has been discontinued”.¹¹³ Kate Allen argued that, in responding to these cases, it would be better if:

the British Government stopped pursuing diplomatic assurances, recognised that the ban on torture is an absolute and that there are no exceptions, and ceased going down this route. They would then regain their moral authority in the world in terms of challenging torture wherever it happens.¹¹⁴

70. Both Amnesty International and Human Rights Watch have been vocal in their concern over the Government’s overall commitment to the *non-refoulement* principle set out above. Amnesty claims that the Government was attempting to “balance” the risk of torture and ill-treatment with national security concerns, particularly when it intervened in a number of cases (most notably *Saadi v. Italy*) before the European Court of Human Rights “in an effort to change the law in this area”. The court ruled Italy could not deport Saadi, and “explicitly rejected UK and Italian arguments that the risk of harm faced by the individual should be balanced against any danger posed by the individual”.¹¹⁵ Tom Porteous claimed that:

¹¹⁰ Q 19

¹¹¹ Q 75

¹¹² Q 76

¹¹³ Ev 65

¹¹⁴ Q 19

¹¹⁵ Ev 3

the UK has gone to every forum it can possibly go to aggressively to pursue the weakening of the international *non-refoulement* obligations. It has gone to the European Court of Human Rights, the Council of Europe and the EU, and done so in the knowledge that its actions will undermine the global ban on torture. We feel that that is a serious cause for concern.¹¹⁶

71. We asked the FCO if the Government accepted that there should never be a balancing exercise with national security where there is a risk of torture. In its reply, it stated that “no other considerations can be taken into account” if there are “substantial grounds” for believing an individual may be “in danger of being subjected to torture”. It added that whether or not there are “substantial grounds” was a “judgement that has to be made on the basis of the circumstances of the individual case”. However, this meaning behind this statement is only illuminated when we consider the Government’s approach to the Saadi case. We can demonstrate this by quoting directly from the judgement of the Court:

[T]he United Kingdom argued that, in cases concerning the threat created by international terrorism, the approach followed by the Court [...] had to be altered and clarified. In the first place, the threat presented by the person to be deported must be a factor to be assessed in relation to the possibility and the nature of the potential ill-treatment. That would make it possible to take into consideration all the particular circumstances of each case and weigh the rights secured to the applicant by Article 3 of the Convention [Against Torture] against those secured to all other members of the community by Article 2.

Secondly, national-security considerations must influence the standard of proof required from the applicant. In other words, if the respondent State adduced evidence that there was a threat to national security, stronger evidence had to be adduced to prove that the applicant would be at risk of ill-treatment in the receiving country. In particular, the individual concerned must prove that it was “more likely than not” that he would be subjected to treatment prohibited by Article 3.¹¹⁷

The last sentence is key. In its letter to us, the Government said “substantial grounds” would be required for believing an individual would be at risk of torture. According to the Government’s argument in this instance, it would only need to be shown in the case of certain individuals that it was “more likely than not” that they would be tortured upon their return. As noted above, the Court rejected the Government’s argument, saying the commitment to prevent torture had an “absolute nature”.

72. We conclude that, in the case of Saadi v. Italy, the Government clearly attempted to water down its anti-torture commitments. We also conclude that it is disturbing and

¹¹⁶ Q 19

¹¹⁷ European Court of Human Rights, *Case of Saadi v Italy: Judgement*, 28 February 2008, para 122

surprising that such arguments were made in the name of the United Kingdom and we believe this gives cause for serious concern.

Guantánamo Bay

73. In September 2006, a number of us became the first members of a committee of a national Parliament outside the United States to visit the detention facilities at Guantánamo Bay. Following this visit, we published a report that said that the international community needed to do more to help the United States in relocating detainees that posed no danger to the public, and in assisting with the closure of the detention facility at Guantánamo Bay.¹¹⁸

74. The FCO report states that it is the Government's position that the circumstances in which detainees are held indefinitely are "unacceptable" and that it firmly believes the detention facility "should close". It welcomes "President Bush's commitment to close the detention facility as soon as practicable".¹¹⁹ However, Human Rights Watch's submission notes that "in fact, President Bush has now stated that he will not do so, and that he will leave Guantánamo for the next President to deal with".¹²⁰ The FCO report notes some outstanding concerns with the US Military Commissions Act 2006 (which aims to bring about the trial of some of the detainees), particularly relating to *habeas corpus* and the treatment of those acquitted.¹²¹ In what was seen as a coded criticism of the United States, the Foreign Secretary commented in February 2008 that "it's very, very important that we always assert that our system of values is different from those who attacked the US" on 9/11.¹²²

75. The FCO report notes that, in August 2007, the Government decided to request the return of five former British residents who had been granted refugee status, indefinite leave or exceptional leave to remain before their detention. This, argues the report, "was an appropriate way to take action to help expedite the closure of Guantánamo". Three of the five were returned to the UK on 19 December, but two (Shaker Aamer and Binyam Mohamed) remain held at the camp.¹²³ In June 2008, US military prosecutors announced that they have charged Mr Mohamed with war crimes. Lawyers representing him claim that evidence was obtained through the use of torture in Morocco. If convicted of conspiring to commit terrorism, he could face the death penalty.¹²⁴ The Intelligence and Security Committee held an inquiry into Rendition, during which it considered the case of Mr Mohamed. It concluded that there was a "reasonable probability" that intelligence passed on by the UK to the US was used in subsequent "interrogation" and it further

¹¹⁸ Foreign Affairs Committee, Second Report of Session 2006–07, *Visit to Guantanamo Bay*, HC 44, para 116

¹¹⁹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 12

¹²⁰ Ev 22

¹²¹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 13

¹²² "Miliband 'concerned' by Guantanamo trial", *The Independent*, 13 February 2008

¹²³ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 12–13

¹²⁴ "UK man charged at Guantanamo Bay", *BBC News Online*, 4 June 2008, news.bbc.co.uk

concluded that “it is regrettable that assurances regarding proper treatment of detainees were not sought from the Americans in this case.”¹²⁵

76. Tom Porteous told us that Human Rights Watch has documented evidence of people being returned to Russia and Tunisia, and being seriously mistreated in both cases. He also highlighted the number of Uighurs, from Xinjiang province in China, who cannot be returned to their country of origin (in fact, some have been taken in by Albania). He argued that the UK and its EU allies “could play a very helpful role in aiding whoever succeeds President Bush in closing that facility” by taking on those cleared for release but who are unable to be sent back to their country of origin.¹²⁶ We raised this with Lord Malloch-Brown, who told us that the Government has “been talking to other European countries about the possibility of taking other non-citizens”.¹²⁷ Writing to us at a later date, he said such discussions were “sensitive” and that “it would not be appropriate to name specific countries”.¹²⁸

77. We conclude that the European Union can and must do more to help the United States in bringing about the overdue closure of the detention facilities at Guantánamo Bay. We welcome the Government’s representations on behalf of the five British residents in Guantánamo Bay. Given its decision to intervene in their cases, we recommend that the Government should express particular concern over the prospective trial of Binyam Mohamed under the Military Commissions Act and lobby strongly against any use of the death penalty if he is found guilty. We recommend that the Government should continue to press for the return of Binyam Mohamed and Shaker Aamer to the UK.

Private Security Companies

78. In February 2002, the Government published a Green Paper into regulating private security companies, borne in part from an inquiry by the Foreign Affairs Committee into the conduct of Sandline, a British-based security firm operating in Sierra Leone. Our predecessor Committee published a report later in 2002 considering the Government’s Green Paper, and expressed its hope that it would lead “to the establishment of sound legislation, to ensure that the dangerous, embarrassing and wholly unacceptable events that became known as the Sandline affair are never repeated.”¹²⁹ Our calls for regulation were supported by the Defence Committee. In its 2005 report on *Iraq: An Initial Assessment of Post-Conflict Operations*, it concluded that the Government should “urgently” bring forward proposals for such regulation.¹³⁰

¹²⁵ Intelligence and Security Committee, *Rendition*, Cm 7171, July 2007, p 34

¹²⁶ Q 20

¹²⁷ Q 86

¹²⁸ Ev 65

¹²⁹ Foreign Affairs Committee, Ninth Report of Session 2001-02, *Private Military Companies*, HC 922, para 2

¹³⁰ Defence Committee, Sixth Report of Session 2004-05, *Iraq: An Initial Assessment of Post-Conflict Operations*, HC 65-I, para 211

79. Six years have now passed since the Government's Green Paper. In the intervening period, the war in Iraq has led to a proliferation of the use of private security firms by the Government and its allies – a report by the campaigning organisation War on Want in October 2006 estimated that there were three British private security guards to every British soldier deployed in Iraq at that time.¹³¹ On 16 October 2007, employees of the American company Blackwater, contracted by the US Government to protect State Department officials, shot and killed at least 17 Iraqi civilians in Baghdad. Both Kate Allen and Tom Porteous expressed strong concern over the lack of regulation or oversight for private security firms, especially in Iraq. Ms Allen said it was “completely unacceptable” that “not one allegation has been heard in a court”. Mr Porteous noted that “these companies tend to operate in places of weak governance and conflict where, if they or their employees commit abuses, they can get away with impunity”.¹³²

80. According to Kate Allen, 70–85% of private security companies are based in the UK or the US.¹³³ However, there is still no sign of forthcoming Government legislation to regulate these firms. Answering oral questions in October 2007, the Defence Secretary, Rt Hon Des Browne MP, referred to a review that was carried out by the FCO in 2005 and said it “raised a number of complex issues that officials are considering in detail”.¹³⁴ We put our concerns to Lord Malloch-Brown who told us:

[T]he delay has not been acceptable, and we are hoping that on our watch David Miliband and I will solve this persistent irritant. I have to say that I do not think that the delay has been because of any aberrant desire to prevent regulation. It has had more to do with the fact that regulation is quite tricky for an international business where most activities take place offshore. There is concern about how we can develop a regulatory structure that is credible and effective enough without just driving companies, if you like, offshore to register somewhere else.

He added that the Government was “now in the late stages of trying to get agreement across Whitehall on a way forward on this, so I hope that relief is in sight”.¹³⁵ However, it is important to note that there was no mention of private security companies in the Draft Legislative Programme for 2008-09 that was presented by the Prime Minister to the House of Commons in May 2008.¹³⁶

81. Lord Malloch-Brown told us there were a number of options available in regulating private security companies. These are “self-regulation through a trade association, national regulation based on export control and national regulation based on a kind of company

¹³¹ “Fears over huge growth in Iraq's unregulated private armies”, *The Guardian*, 31 October 2006

¹³² Q 25

¹³³ *Ibid*

¹³⁴ HC Deb, 22 October 2007, col 2

¹³⁵ Q 89

¹³⁶ HC Deb, 14 May 2008, col 1385

licensing system.” He also stated his belief that the Government should consider international regulation.¹³⁷ Amnesty International argues that a key feature of any legislation should be to enable “private military and security contractors to be brought to justice in the UK for serious crimes committed abroad”.¹³⁸ In its 2002 report, our predecessor Committee concluded that a voluntary code would be “insufficient” as it would not provide the Government with the means of preventing the activity of disreputable companies.¹³⁹

82. We conclude that the Minister’s commitment to introducing regulation for private security companies is to be welcomed. We further conclude that the delay in introducing regulation has been unacceptable. We are disappointed that there was no mention of legislation on private security companies in the Prime Minister’s Draft Legislative Programme 2008-09, and we recommend that the Government should announce its intention to introduce the relevant legislation in the forthcoming Queen’s Speech. We further recommend that such legislation should impose strict regulation on private security companies, and ensures that these companies can be prosecuted in British courts for serious human rights abuses committed abroad.

¹³⁷ Q 89

¹³⁸ Ev 10

¹³⁹ Foreign Affairs Committee, Ninth Report of Session 2001–02, *Private Military Companies*, HC 922, para 137

4 Countries of Concern

Afghanistan

83. The overthrow of the brutal Taliban regime in Afghanistan in 2001 was a significant advance for human rights in the country. Any consideration of the situation in Afghanistan in recent years must be placed in the context of the dark shadow cast by the Taliban's record. The FCO report acknowledges that the country currently faces "difficult security, development and human rights challenges", a consequence in part of "decades of turmoil and conflict".

84. The FCO argues that good governance is "key" to safeguarding human rights, and notes that "central government influence" is slowly being felt outside the capital city Kabul. The report comments on setbacks in the fight against transitional justice with the passage of the "Amnesty Bill", and the re-emergence of the death penalty through the execution by firing squad of a number of prisoners in Kabul.¹⁴⁰

85. Both Amnesty International and Human Rights Watch take issue with various aspects of the FCO's account of developments in Afghanistan. Amnesty argues that the report "fails to reflect the severity of the security situation in Afghanistan." It claims that the "conflict in the south and east has grown in intensity and had a detrimental impact on governance in other parts of the country." Amnesty estimates that in 2007, "around 1,500 civilians were killed and thousands were forced to flee their homes because of conflict and drought".¹⁴¹ Human Rights Watch notes that 2007 was the most violent year in Afghanistan since the toppling of the Taliban, and criticises the FCO for not analysing the cause of this violence beyond noting the targeting of civilians by insurgents. It also criticises the report for failing to mention "the fact that UK forces are involved in an armed conflict in the country". Human Rights Watch claims that NATO and US led forces were responsible for at least 300 civilian deaths in Afghanistan in 2007, although the "real figure is likely much higher".¹⁴² When we asked Lord Malloch-Brown why this information had not been included in the report, neither he nor his officials were able to answer, although he later stated that the FCO was "extremely concerned in general about civilian casualties in Afghanistan as a result of ISAF or other US military actions".¹⁴³ Writing to us at a later date, the Minister commented:

No reference is made to the number of civilian casualties caused by International Security Assistance Force (ISAF) and international forces due to the lack of verifiable data of these incidents. Taleban accounts should not be taken at face value, as they deliberately aim to mislead.

¹⁴⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 125–6

¹⁴¹ Ev 11

¹⁴² Ev 27

¹⁴³ Q 94

He added he was confident that international forces were “doing everything possible to minimise civilian casualties”.¹⁴⁴ By noting that the real figure is likely to be higher than 300, Human Rights Watch appears to be presenting a conservative estimate as to the fatalities caused by international forces. Given that the Minister told us he was “extremely concerned” about this issue, its omission from the report is a serious oversight, even if the lack of verifiable data prevents the FCO from placing an exact figure on the number of civilian casualties.

86. We noted above that the FCO was concerned by the “Amnesty Bill” passed by Afghanistan’s legislature, which may provide impunity for those accused of war crimes. Human Rights Watch again accuses the Government of underplaying the seriousness of the situation. It claims that many warlords and criminals responsible for “egregious crimes” in the past continue to exert “power and influence over the parliament and government and continue to protect their position through intimidation and violence”. It criticises the report for failing to discuss the “nexus between human rights abuses, warlordism and opium cultivation” (there is only a single mention of the crucial issue of narcotics in the whole of this section).¹⁴⁵ We asked Tom Porteous how best to tackle the issue of impunity in Afghanistan. He replied:

There is already a road map to deal with impunity called the peace, reconciliation and justice action plan. It was initiated in December 2005 and is a three-year plan. I believe that it is in five stages; we are not even at stage one. There has been no pressure from the international community on the Afghan Government to implement the plan. [...] The problem is that many of the international community’s strategies in Afghanistan up until now, far from marginalising the warlords, have actually empowered them.¹⁴⁶

When we raised the failure to achieve progress on the action plan with Lord Malloch-Brown, he said he was not sure how it would fit in with the amnesty law.¹⁴⁷

87. The FCO states that there is “much still to be done” in the fight for women’s rights, whilst affirming a significant improvement since the Taliban era with girls comprising one third of all children in schools (two million girls receive primary education).¹⁴⁸ Amnesty International argues that women and girls remain at “exceptional risk” in Afghanistan, with schools and teachers targeted, widespread discrimination, forced abduction and rape, and trafficking being some of the major problems. It states that women victims have “little recourse to justice” and notes a rise in honour killings and self-immolation.¹⁴⁹ Human

¹⁴⁴ Ev 65

¹⁴⁵ Ev 27

¹⁴⁶ Q 28

¹⁴⁷ Q 94

¹⁴⁸ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 125–6

¹⁴⁹ Ev 11

Rights Watch notes that in some districts in the south, no girls are registered for primary school education at all.¹⁵⁰ Kate Allen told us that the human rights climate for women was “bleaker than it has been for many years”.¹⁵¹ The FCO report states that the British Embassy is spending £1 million on projects to support women in Afghanistan, and that DFID is funding a five-year Women’s Empowerment Programme implemented by the NGO Womankind.¹⁵²

88. We conclude that the overall human rights situation in Afghanistan is difficult and in some areas appears to be worse than at any point since the fall of the Taliban. The failure of transitional justice, backsliding on women’s rights, and the deteriorating security situation are of particular concern. We recommend that the Government should devote greater attention to the peace, reconciliation and justice action plan in Afghanistan, and be more open about the failures of the Afghan authorities. We further recommend that next year’s report should include a specific section on the action being taken by the British Government to stop poppy cultivation, on which the UK has lead responsibility in Afghanistan, and an analysis of how good governance is being undermined by the most prominent warlords in the country.

Burma (Myanmar)

89. The military Government in Burma has a long established record of serious human rights abuses. The FCO’s report rightly argues that the regime’s persistent violations of human rights is “at the heart of Burma’s political, economic and social problems.”¹⁵³ The stark reality of this situation was made clear on two occasions in the past year, namely the Buddhist-led uprising in the autumn of 2007, and the response to Cyclone Nargis in May 2008.

90. The immediate spark for the protests in August and September 2007 was the decision of the regime to increase the price of compressed natural gas by 500%, placing a severe burden on the country’s population. The resulting protests grew rapidly in size following the arrest of key opposition activists. The FCO report states, “on 26 September, the regime responded with characteristic brutality” with live rounds fired into crowds of unarmed demonstrators. The official death toll was placed at ten, but the report notes that the actual figure “is likely to be greater”. Several thousand people were subsequently arrested in raids.¹⁵⁴ In April 2008, Kate Allen told us at least 700 of these people remained in prison, and 80 individuals had disappeared.¹⁵⁵

¹⁵⁰ Ev 28

¹⁵¹ Q 29

¹⁵² Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 126

¹⁵³ *Ibid*, p 130

¹⁵⁴ *Ibid*, pp 130–132

¹⁵⁵ Q 31

91. At the time, the Prime Minister said: “I deeply deplore the [...] violent suppression of peaceful demonstrations.”¹⁵⁶ The FCO report says that the British Embassy in Rangoon “played a key role in the international response” to the crisis, by ensuring that accurate information reached the outside world, and facilitating access to information for groups inside Burma.¹⁵⁷ The UK “pushed for and secured the first ever action on Burma at the UN Security Council”, with all members agreeing to a Presidential statement denouncing the regime’s actions. This is particularly significant given that a previous move by the UK to discuss Burma at the Security Council was vetoed by China and Russia.¹⁵⁸ Christian Solidarity Worldwide “warmly welcomes” the increased attention paid to Burma by senior Government Ministers in September 2007, but argues that this came about through public and Parliamentary pressure and that the Government’s initial response had been “surprisingly slow”.¹⁵⁹ Kate Allen told us that the FCO’s report on Burma was “a good one” and she recognised the work of the Government, in particular the strong statements by the Prime Minister.¹⁶⁰

92. On the weekend between our evidence sessions with the human rights organisations and with Lord Malloch-Brown, Burma was struck by Cyclone Nargis. As the extent of the damage became clear, the Foreign Secretary estimated that the storm had cost at least 100,000 lives.¹⁶¹ In the aftermath of the natural disaster, it became clear that there would also be a man-made disaster as the Burmese junta initially refused to let any aid enter the country. Giving evidence four days after the cyclone hit Burma, Lord Malloch-Brown told us that “even members of the initial UN assessment team have not been granted visas to enter the country”. He said that the Burmese Government wanted to be provided with aid to distribute itself, but he argued that it did not have the capability, let alone the will, to do so.¹⁶² The United Nations estimated that 2 million people were “severely affected” and in need of aid. Given the absence of this aid, the Foreign Secretary characterised the regime’s response as one of “malign neglect”.¹⁶³ By 16 May, the FCO said that British officials were working on the basis of an estimated 217,000 dead or unaccounted for.¹⁶⁴

93. Given the reluctance of the Burmese regime to allow aid and humanitarian personnel to enter the country, the international community soon entered into a debate regarding the best way to ensure those in need received help. A strongly favoured plan was for Asian-led aid to minimise the risk of the junta rejecting it as a “Western imposition”. As Lord Malloch-Brown argued, “they’re not going to agree to a lot of British and American aid workers fanning out across the delta”. However, if this plan failed, the Prime Minister

¹⁵⁶ Ev 81

¹⁵⁷ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 103

¹⁵⁸ *Ibid*, p 133

¹⁵⁹ Ev 90

¹⁶⁰ Q 31

¹⁶¹ “Ministers attack Burma response”, *BBC News Online*, 11 May 2008, news.bbc.co.uk

¹⁶² Q 95

¹⁶³ “Oxfam and UK government expect ‘significant’ rise in Burma death toll”, *The Guardian*, 11 May 2008

¹⁶⁴ “Myanmar cyclone death toll will hit 200,000, say British”, *The Telegraph*, 16 May 2008

discussed the possibility of dropping aid unilaterally onto the affected areas. He told the BBC: “As far as air drops are concerned we rule nothing out, and the reason we rule nothing out, is that we want to get the aid directly to the people”. Lord Malloch-Brown said that this would involve invoking the UN principle of the “responsibility to protect”, and said that the trigger for such an intervention could be the outbreak of disease or secondary deaths. The Government sent *HMS Westminster* to the region, where she was joined by the French ship *Le Mistral* and the American *USS Essex*, with all three ships offering to provide aid.¹⁶⁵ Oxfam vocally opposed air drops, arguing that without an aid operation on the ground to distribute provisions fairly, they are often ineffective and sometimes counter-productive.¹⁶⁶

94. The UK has been a generous donor to the victims of the disaster. By 15 May, the Government had pledged £17 million pounds in aid, with some funds going to the UN Flash Appeal and other funds going to NGOs.¹⁶⁷ By early June, the UK donation had risen to £27.5 million, making the UK the largest single donor. The Secretary of State for International Development, Rt Hon Douglas Alexander MP, told the House on 3 June that there had been some “improvements” in humanitarian access, although “significant concerns” remained on a range of issues.¹⁶⁸

95. Tom Porteous told us that the Burmese junta was preparing to hold a referendum on a new constitution. He argued that it was a “total sham” and “should not be given any credibility whatsoever”.¹⁶⁹ Astonishingly, the regime decided to go ahead with this referendum just six days after the cyclone. Lord Malloch-Brown said that the British Ambassador in Rangoon wrote to senior Burmese politicians urging them to “put the referendum process to one side and mobilise all efforts on the urgent relief effort”. He added that it was “incomprehensible in the current circumstances that the regime went ahead with the referendum”.¹⁷⁰ The referendum was postponed in areas hit by the cyclone, but the results for the rest of the country indicated a 92.4% yes vote, on a claimed 99% turnout. The International Development Secretary said the “official results lack all credibility” and he also criticised the regime for extending the detention of the pro-democracy leader Aung San Suu Kyi.¹⁷¹

96. We conclude that the human rights record of the Burmese junta, evidenced by its response to pro-democracy protests and the devastation of Cyclone Nargis, is reprehensible. We strongly support the Government’s efforts to promote human rights in Burma, and we praise its generous donation for the victims of the storm. We recommend that the Government should put in place very strict measures to ensure

¹⁶⁵ “Britain to back air drops to deliver aid to Burmese cyclone victims”, *The Times*, 19 May 2008

¹⁶⁶ Oxfam International, “To Air-Drop Aid in Myanmar or Not?”, 13 May 2008, www.oxfam.org.uk

¹⁶⁷ “UK Gives £12m more aid to Burma”, *BBC News Online*, 15 May 2008, news.bbc.co.uk

¹⁶⁸ HC Deb, 3 June 2008, col 57WS

¹⁶⁹ Q 32

¹⁷⁰ HL Deb, 21 May 2008, col WA191

¹⁷¹ HC Deb, 3 June 2008, col 57WS

that its aid cannot be misused by the regime, and inform us of these measures in its response to this Report. We further recommend that, in principle, the Government should not rule out invoking the “responsibility to protect” in situations such as Burma, but that this should be guided by a practical assessment of the situation on the ground, and the likely wider consequences of such intervention.

China

97. The rise of the People’s Republic of China in global politics and economics has been a very significant development in recent years. In 2008, China is aiming to demonstrate its confidence on the world stage through its hosting of the Olympic Games in Beijing. However, in parallel to this celebration of human achievement, and despite the recent advances made in the fight against poverty, China’s human rights record continues to disturb many. Amongst other abuses, particular attention has been paid this year to the situation in Tibet. As part of this inquiry, we took the opportunity to take evidence on human rights in Tibet from His Holiness the Dalai Lama, the spiritual and political leader of the Tibetan people. At the same time, the Chinese Government’s response to the tragedy of the dreadful Sichuan earthquake in May 2008 has been commended by many, including the Foreign Secretary.¹⁷²

98. The FCO report states that “violations of basic human rights continue to overshadow China’s otherwise remarkable development”. The number of executions in China is believed to be “very high” and “much higher than in any other country”. China has yet to announce a timetable for the ratification of the International Convention on Civil and Political Rights, which it signed in 1998. Large numbers of individuals continue to be detained without judicial process, and China’s restrictive internet policies have opened up another front in its clampdown on freedom of expression. The report also expresses its concern that counter-terrorism measures are sometimes being used as “a means of curtailing the legitimate rights” of the Uighur community in Xinjiang.¹⁷³

99. Amnesty International argues that the forthcoming Olympic Games have led to a deterioration rather than an improvement in China’s human rights record. It claims:

Human rights activists, and others who have publicly criticised official government policy, have been targeted in the official pre-Olympics ‘clean up’, in an apparent attempt to portray a ‘stable’ or ‘harmonious’ image to the world.

It lists Yang Chunlin as being amongst those targeted. He was sentenced in March 2008 to five years in prison for “inciting subversion” after spearheading a campaign under the banner “We don’t want the Olympic Games, we want human rights”. It also argues that the Chinese Government has backtracked from promises of “complete media freedom” in

¹⁷² Foreign and Commonwealth Office, “Statement on Chinese Earthquake”, 12 May 2008, www.fco.gov.uk

¹⁷³ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 134–136

China, noting continued obstruction for foreign journalists on sensitive human rights issues.¹⁷⁴ Lord Malloch-Brown rejected this argument when he appeared before us:

It is a bit more complicated, and you have to weigh the pros and cons. Yes, there have evidently been clearances to allow Olympic facilities to be established, and goodness knows whether community rights were as well respected as they might have been. There were no hearings of the sort that will no doubt surround the development of Olympic infrastructure here in London. However, I see it as a net gain for openness because it led to a situation in which press access was at least temporarily granted to the whole country. We will have to see whether it is now provided to Tibet. We are assured that it will be. I think that China felt that it was on its best behaviour to impress the world. In general, the Olympics was a key stepping stone in the process of engaging China in the world [...] I think that it has been a win for human rights, but I recognise that there are negative arguments as well.¹⁷⁵

100. The FCO's report sets out in detail the Government's work on promoting human rights in China. It distinguishes between "high-level messages to encourage progress in policy and project work to deliver more immediate work on the ground". It discusses the bilateral UK-China Human Rights Dialogue, with the most recent round held in January 2008. We have repeatedly expressed our concerns over the Dialogue and in our previous Report, we argued that it is "failing to make substantive progress" and we recommended that the Government should include a timeframe for the completion of certain objectives. In its response, the Government acknowledged that progress had been "incremental" but said there had been significant improvements in the Dialogue since it began in 1997. It rejected our call for timeframes, although it did not provide any justification for doing so.¹⁷⁶ During this year's inquiry, Kate Allen told us that it was difficult to see the benefits of the Dialogue, arguing that "it almost feels as though the ironic result of that Dialogue – all that it has achieved – is to silence public criticism of the record of the Chinese Government."¹⁷⁷

101. The Prime Minister has announced that he will attend the closing ceremony of the Olympic Games. Both Amnesty International and Human Rights Watch have been critical of the UK Government's approach to the Olympic Games. Kate Allen told us that it felt as though the Government was:

more interested at the moment in the legacy of the Olympics for the London Olympics than in their legacy for the human rights situation of the Chinese people. We absolutely want to see that changed. We are not calling for a boycott of the Olympics - we have never called for that. What we want is to see our Government

¹⁷⁴ Ev 12

¹⁷⁵ Q 96

¹⁷⁶ Foreign and Commonwealth Office, *Annual Report on Human Rights 2006: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Cm 7127, June 2007, p 11

¹⁷⁷ Q 33

speaking out really loudly, really clearly and very publicly about their expectations of human rights in the period of the Olympics.

Tom Porteous added:

We think that the Olympics represent a brilliant opportunity to draw attention to the human rights situation in China. [...] [T]he Beijing games risk tainting the London games, unless the British Government dissociate the two. We think that it is very important that the UK stands up at this point and makes it very clear that Gordon Brown, in particular, should not go to the ceremonies – neither the opening nor the closing ceremonies – unless the Chinese Government honour, or go some way to honouring, the pledges that they made on human rights when bidding for the Olympic Games.¹⁷⁸

However, as we note below, the Dalai Lama is opposed to a boycott of the Olympic Games.¹⁷⁹

102. Lord Malloch-Brown rejected the idea of placing conditions on the Prime Minister's attendance at the Games. He argued that he was not sure whether "suddenly saying that the Prime Minister will not go unless there is an agreement on Tibet or unless the death sentence is removed as a penalty" would be helpful or constructive, adding that "we have the right mixture of pressure and continued commitment to China coming out into the world, which is best able to achieve results".¹⁸⁰

103. We conclude that there continues to be little evidence that the Government's Human Rights Dialogue with China is achieving significant results. We conclude that, as at the time of our agreeing this Report, the Prime Minister is correct to attend the Olympic Games. However, the Olympics represent a unique opportunity to advance the cause of human rights in China. We conclude that there is mounting evidence that the Chinese authorities are taking repressive measures to prevent any of their citizens from expressing visible dissent in the run up to or during the Games. We recommend that the Government makes immediate public and very strong condemnation of this. We further recommend that the Government should be ready to discontinue the UK-China Human Rights Dialogue if substantial progress is not made in the coming year.

Tibet

104. When we took evidence for our inquiry into *East Asia*, the Chinese Embassy told us that "China's sovereignty to Tibet allows no doubt. The Chinese Central Government has been exercising sovereignty over Tibet since the 13th century [...] Tibet has never been an independent country, and there is no country in the world that recognizes Tibet as an

¹⁷⁸ Q 33

¹⁷⁹ See para 108 below

¹⁸⁰ Q 98

independent country”. The FCO told the Committee that “successive British Governments have regarded Tibet as autonomous whilst recognising the special position of the Chinese authorities there”.¹⁸¹

105. China’s policy towards Tibet has been the source of long-standing tension with the region’s ethnic Tibetan population. The FCO report notes that “violations of human rights continue”. It cites interference by the Chinese Government in religious affairs, and the impact of inward migration by the ethnic majority Han Chinese into Tibet.¹⁸² In March 2008, the situation in Tibet deteriorated dramatically following the emergence of protests against Chinese rule and the subsequent Government response.

106. The Dalai Lama is the Nobel peace prize winning spiritual and political leader of many Tibetans, and lives in exile in Dharamsala in India, where he heads a Government-in-Exile. He told us that after 10 March 2008 (the 59th anniversary of a failed uprising against the Chinese), “there were initially genuinely peaceful demonstrations” by Tibetans against Chinese policies. These protests were not confined to the autonomous region of Tibet, but spread to four neighbouring Chinese provinces (where a number of ethnic Tibetans reside). He claimed that the cause of the protests was the Chinese “rule of terror” in Tibet, arguing that a “cultural genocide” is taking place with the influx of immigrants.¹⁸³ He acknowledged that “in some individual cases”, the emotions of the protesters became “out of control” and “some unfortunate things happened”.¹⁸⁴ Amnesty International notes that some protesters attacked individuals because they were believed to be Han Chinese, and that some of these attacks are “reported to have resulted in death, injury and damage to property”.

107. China responded to the protests by introducing troops into Tibet. Amnesty International notes its concern that “in restoring order, the Chinese authorities have resorted to measures which violate international human rights law and standards.” Chinese abuses “reportedly included unnecessary and excessive use of force, including lethal force, arbitrary detentions and intimidation.” It adds that the estimated number of people detained by the Chinese ranges from 1,200 to 2000.¹⁸⁵ The Dalai Lama expressed his concern to us regarding those detained, claiming of the Chinese: “when they arrest, they torture severely before asking questions”.¹⁸⁶ During the protests, the Prime Minister told the House that the Government urged “restraint where there has been violence.”¹⁸⁷

¹⁸¹ Foreign Affairs Committee, Seventh Report of Session 2005–06, *East Asia*, HC 860–I, para 363

¹⁸² Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 136

¹⁸³ Qq 110, 122

¹⁸⁴ Q 119

¹⁸⁵ Amnesty International, “People’s Republic of China: The Olympics countdown – crackdown on Tibetan protesters”, 1 April 2008, www.amnesty.org

¹⁸⁶ Q 111

¹⁸⁷ HC Deb, 26 March 2008, col 186

108. The Dalai Lama has called for an international investigation into the circumstances surrounding the recent events in Tibet. He noted that it is “very difficult to get clear information” as to what exactly happened. He suggested that an international investigation would also establish whether the accusation of the Chinese Premier that the Tibetan Government-in-Exile was behind the protests was accurate or not.¹⁸⁸ A call for an international investigation has been strongly supported by other organisations. Tom Porteous believed that the Prime Minister should make China’s agreement for an international investigation a condition for his attendance at the Olympic Games, adding that there was “virtually nil chance” of the Chinese agreeing to such an investigation.¹⁸⁹ In a written answer, the FCO Minister Kim Howells addressed the issue of an independent investigation:

We believe that the Chinese government should lift restrictions on access to the region which would aid an independent assessment of the situation. My right hon. Friend the Prime Minister raised the issue of access to Tibet in his telephone call to Chinese Premier Wen on 19 March. We continue to encourage China to issue an open invitation to all UN Special Rapporteurs to visit China, including the UN Special Rapporteur on Freedom of Religion or Belief.¹⁹⁰

However, there has been no enthusiasm by the Government to link the call for an independent assessment of the situation with its approach towards the Games. The Dalai Lama himself told us “Tibetan issues and the Olympics are two separate things. I fully supported the Olympics from the beginning.”¹⁹¹

109. China has held intermittent talks with the Dalai Lama’s representatives since 2002, and Lord Malloch-Brown told us that the Government has been “extremely clear” in its messages to China that these talks should resume. China’s pre-conditions for talks have been that the Dalai Lama commits to non-violence and calls for greater autonomy for Tibet, not independence – conditions that he clearly meets (he told us he is calling for “genuine autonomy”).¹⁹² The dialogue between the Dalai Lama and China has achieved little by way of results. The two parties met for the first time after the disturbances in Shenzhen province in early May 2008.¹⁹³ Lord Malloch-Brown said the Government “should not ease up on the Chinese” now that talks have resumed and stated that the UK would press the Chinese to come to “some kind of accommodation” with the Dalai Lama.¹⁹⁴ When we asked the Dalai Lama if the British Government was doing enough on

¹⁸⁸ Q 112

¹⁸⁹ Q 33

¹⁹⁰ HC Deb, 9 May 2008, col 1249W

¹⁹¹ Q 129

¹⁹² Q 116

¹⁹³ HC Deb, 14 May 2008, col 1593W

¹⁹⁴ Q 98

Tibet, he replied “not enough”, but added, “how much can they do? That is another big question. There are limits, even for the European Union and the United States.”¹⁹⁵

110. The Dalai Lama gave evidence to us as part of a larger visit to the United Kingdom. On this visit, he met the Prime Minister, despite opposition from the Chinese Government. However, the Prime Minister chose to meet the Dalai Lama at the home of the Archbishop of Canterbury, Lambeth Palace, rather than 10 Downing Street. A Downing Street spokesperson told *The Times* that this was because the Dalai Lama was “a spiritual representative”, but added that the Prime Minister would have a “substantive conversation” with him. Critics suggested that the Prime Minister’s decision not to meet the Dalai Lama in 10 Downing Street was made to placate China, and noted that both Tony Blair and John Major had received him there. President Bush also hosted the Dalai Lama at the White House when he received the Congressional Gold Medal last year.¹⁹⁶ The Dalai Lama played down the significance of the location, telling us that “the venue does not matter”.¹⁹⁷

111. The official Chinese news agency Xinhua reported that the Chinese National People’s Congress Foreign Affairs Committee condemned our evidence session with the Dalai Lama. It said in a statement: “We express our strong indignation and opposition to such an act that forms an arrogant interference in China’s domestic affairs and hurts Chinese people’s feelings,” adding that “the irresponsible act is an irony to democracy, freedom and human rights”.¹⁹⁸ The Chinese Ambassador to the UK, Her Excellency Fu Ying, also wrote to us, stating that “the Chinese public seem quite upset by the fact that Britain should choose to hurt China at such a difficult moment.”¹⁹⁹ Lord Malloch-Brown had warned us that there was “genuine Chinese public indignation” on Tibet, and so this reaction was not surprising.²⁰⁰ Nonetheless, we look forward to continuing our scrutiny of democracy, freedom and human rights in China and elsewhere in the coming years.

112. We conclude that China’s policies towards Tibet have fostered a culture of repression. We condemn the use of violence either by Tibetans or the Chinese Government during the recent disturbances. We welcome the British Government’s calls for restraint and dialogue between the two parties. We recommend that the British Government should press the Chinese authorities to allow an independent and international investigation to take place in Tibet, and to impress on the Chinese Government that they should recognise that there is currently a significant window of opportunity to make progress in resolving the dispute over Tibet based on the demand by the Dalai Lama for “genuine autonomy”, not independence.

¹⁹⁵ Q 131

¹⁹⁶ “Gordon Brown appeases Chinese by barring Dalai Lama from No 10”, *The Times*, 12 May 2008

¹⁹⁷ Q 130

¹⁹⁸ “China slams UK for inviting Dalai to parliament hearing on human rights”, *Xinhua*, 28 May 2008

¹⁹⁹ Ev 123

²⁰⁰ Q 51

Colombia

113. Colombia is the only country in Latin America to be included in the FCO's list of "major countries of concern" on human rights. Colombia plays host to a large illegal drugs trade, which, in the assessment of the report, has been a "major driver of the decades-long internal armed conflict". Amongst other concerns, the report notes that Colombia is a "dangerous" place for trade unionists, who remain the targets of forced displacement and even murder. Equally worryingly, the UN High Commissioner for Human Rights estimates that approximately 3 million people (in particular indigenous and Afro-Colombian communities) have been internally displaced by the conflict. Colombia also now tops the world league table for victims of antipersonnel mines, with 1,102 deaths or injuries as a result of landmines in 2005.²⁰¹

114. Amnesty International argues that the report fails "accurately to reflect the seriousness of the human rights situation". It claims that paramilitary groups continue to operate in areas where they were supposed to have demilitarised under the Justice and Peace Law, stating that these groups were responsible for over 200 deaths in 2007. Amnesty International also notes increased reports of extrajudicial executions by the security forces, with the victims mostly peasant farmers. Its submission provides detail not included in the Government's report, highlighting the death of 39 trade unionists and the displacement of an estimated 305,000 civilians in 2007 alone.²⁰²

115. Saferworld's submission notes that the UK provided military export licenses worth £2 million to Colombia in 2007.²⁰³ Both Amnesty International and Human Rights Watch strongly criticise the Government's military aid to Colombia. Amnesty International states that UK aid continues to flow to "units implicated in serious human rights abuses, such as the High Mountain Brigades".²⁰⁴ Human Rights Watch argues that "in light of the high rate of extrajudicial executions by the military, the UK should either suspend military assistance to Colombia or attach strong human rights conditions to it".²⁰⁵ Tom Porteous commented:

The problem is that the military aid the British Government grant to Colombia is unconditional with regard to any kind of human rights improvements. We think that that sends a bad message. The military in Colombia will go on getting these military goodies without having to do anything in return with respect to human rights. So we would very much like the British Government to make its aid conditional on an improvement.

He added that,

²⁰¹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 139–140

²⁰² Ev 14

²⁰³ Ev 104

²⁰⁴ Ev 14

²⁰⁵ Ev 29

the UK seems to be being saddled with a policy that even the American Government have moved beyond. After the Democrats took control of Congress last year, they froze some military aid to Colombia on human rights grounds. We think that the UK should at least get back into step with the policy of the Americans.²⁰⁶

116. Lord Malloch-Brown has said that “the only training that we have provided to individuals in the High Mountain Battalions has been human rights and demining training”. He added:

We do not divulge details of the support that we provide to our Colombian partners because to do so could not only endanger the effectiveness of the support but play into the hands of ruthless and powerful drugs-trafficking cartels. The Parliamentary Ombudsman has upheld this decision.²⁰⁷

The ruling of the Ombudsman focuses on the dangers to national security and international relations were the information to be divulged.²⁰⁸ However, it appears to us that the issue of examining the detail of how UK military aid is deployed in Colombia is somewhat distinct from the issue of whether UK aid is being leveraged to extract the maximum human rights benefits in the country, with the latter being the more important question.

117. We conclude that the human rights situation in Colombia is serious and shows little sign of improvement. We further conclude that allegations of extra-judicial executions by the Colombian military, and the continued targeting of trade unionists, cannot be ignored. We therefore believe it is inappropriate for the Government to provide military aid to Colombia without any reference to human rights improvements. Noting recent moves by the US Congress to freeze some aid to Colombia on human rights grounds, we recommend that the Government should request the Colombian military to demonstrate measurable and verifiable human rights improvements in exchange for future assistance. We further recommend that in its response to this Report, the Government should set out a range of possible measures that could be used for this purpose.

Iran

118. The FCO report states that the overall human rights situation in Iran has “remained poor”. It adds that “serious human rights violations have continued”, with a “significant deterioration in some of our main areas of concern”. This includes a “rapid increase” in the rate of executions, with Iran second only to China in absolute terms. A man was stoned to death in Qazvin province for adultery in July 2007, the first confirmed report of a stoning

²⁰⁶ Q 46

²⁰⁷ HL Deb, 21 Apr 2008, col 226WA

²⁰⁸ Parliamentary and Health Service Ombudsman, *Refusal to supply information about the provision of military training assistance to Columbia*, A.3/05, www.ombudsman.org.uk

sentence being carried out since Iran announced a moratorium on the practice in 2002. The report argues that Iran continues to deny its people the right to express their opinions freely, and that there has been “an alarming clampdown on any form of organised protest”.²⁰⁹ Kate Allen noted:

there is a campaign for equality, which women in Iran are very bravely pursuing. The aim is to collect 1 million signatures calling for an end to legalised discrimination against women, and many of the women involved in that have been arrested and imprisoned. It is a bleak situation.²¹⁰

119. In March 2008, we published a Report into *Global Security: Iran* after having visited the country. We considered the human rights situation in Iran as part of this inquiry. We stated:

During our visit, we had a robust exchange with Dr Mohammad Javad Larijani, the head of human rights in Iran's judiciary, and raised our concerns with a number of other interlocutors. We were seriously concerned by the way in which senior figures within the Iranian regime used their religious and ideological beliefs to justify severe abuses of human rights in their country.²¹¹

In our Report, we noted the widespread discrimination faced by members of religious minority groups, in particular the Bahá'í community. Domestic violence remains a problem in Iran, and we cited a claim by Reporters Sans Frontiers that Iran has imprisoned more journalists than anywhere else in the Middle East. We noted that same-sex relations remained illegal in Iran (and could carry the death penalty).²¹²

120. In our Report, we highlighted arguments made by Human Rights Watch and others that the EU was prioritising diplomatic negotiations over Iran's nuclear programme at the expense of pressing Tehran on human rights. The FCO rejected this charge. We concluded that Iran's human rights record was “shocking” and we recommended that the Government ensured “human rights are not treated as a secondary concern to the nuclear issue”. We also recommended that the Government should underline “to Iran that its poor record in responding to human rights concerns makes it more difficult for the international community to trust its intentions in other fields”.²¹³

121. In its response, the Government agreed with our assessment on Iran's human rights record. It also agreed “that treating human rights as a secondary concern to other issues would be counter-productive.” It noted that Iran claims international concern over its human rights record is a tactic used to undermine the regime, rather than a response to its

²⁰⁹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 151–2

²¹⁰ Q 46

²¹¹ GS: Iran, para 99

²¹² GS: Iran, para 100

²¹³ GS: Iran, para 103

failure to meet basic human rights obligations, and welcomed our findings in this context.²¹⁴

122. We conclude that Iran’s human rights record remains shocking and appears to be deteriorating. We welcome the Government’s recognition that treating human rights in Iran as an issue of secondary concern would be counter-productive. We recommend that, in its response to this Report, the Government should set out where it believes progress can realistically be made in advancing human rights in Iran and the further action that the Government itself is taking to achieve such progress.

Iraq

123. In our report last year, we concluded that there had been a “further grave deterioration” in the human rights situation in Iraq, “in large part caused by the worsening security situation”. Human Rights Watch had criticised the Government’s report for painting a “wildly optimistic” view of the situation in the country, and accused the UK and US of “propping up a government that is deeply implicated in escalating sectarian violence, massacres and torture”.²¹⁵ In this year’s report, the Government emphasises once more the brutality of Saddam Hussein’s regime and argues that “the foundations are being laid for a society based on respect for human rights”. The report sets out a range of human rights concerns, and Amnesty International comments that “compared to previous entries”, it takes “a more balanced approach”.²¹⁶

124. The Government’s report highlights security as a key condition for human rights to prosper, and identifies sectarian violence as a key driver of insecurity. The report states that violence against civilians and security forces continues, and notes an “increase in violence against minority communities over the last year”.²¹⁷ Amnesty International notes that despite the US military ‘surge’ in Iraq, violence has continued, “albeit less intensively than in recent years”. It notes that hundreds of people are being killed every month, with all sides having committed gross human rights abuses.²¹⁸ Human Rights Watch notes that 2007 saw the biggest single attack on civilians in Iraq, with nearly 500 fatalities amongst the minority Yazidi community in one episode in August.²¹⁹

125. The FCO’s report states that over the past four years, the Government has helped to train over 13,000 Iraqi troops. However, it acknowledges candidly that the “culture of abuse and repression within the Iraqi security services remains”. The report praises the UK’s handover of security responsibility of Basra province in December 2007, and states

²¹⁴ Foreign and Commonwealth Office, *Global Security: Iran: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Cm 7361, May 2008, p 11

²¹⁵ Foreign Affairs Committee, Third Report of Session 2006-07, *Human Rights Annual Report 2006*, HC 269, paras 81–92

²¹⁶ Ev 14

²¹⁷ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 155

²¹⁸ Ev 14

²¹⁹ Human Rights Watch, *World Report 2008*, pp 478–480

that “reports show the security situation in the region to be largely stable”.²²⁰ However, in March 2008, there were numerous violent clashes in Basra, with the Iraqi army engaging in combat with the ‘Mehdi army’ of Moqtada al-Sadr.²²¹ Human Rights Watch claims that the report “ignores the degree to which security forces in Basra, generally established under the supervision of British forces, have been infiltrated by militias and other armed elements which are themselves reported to have committed abuses”.²²²

126. Human Rights Watch notes that the US ‘surge’ has “led to a sharp increase in the number of detainees”. The US military said in October 2007 that its detainee population has grown by about two-thirds from the year before, to about 25,000.²²³ The FCO’s report notes “significant reductions” in the number of detainees held by the UK, with six held in the Divisional Internment Facility in Basra at the end of 2007. It states that reductions have been achieved through “negotiations with local leaders”.²²⁴

127. The FCO report states that “women face particular risks from militias,” with continued reports of honour crimes, particularly in northern Iraq.²²⁵ Amnesty International argues that the report “fails to reflect the extent of the impact of violence on women in Iraq. Violence against women and girls has increased dramatically in the past five years.” It notes that provisions in the Iraqi Penal Code set out lenient punishments for honour killings.²²⁶ Lord Malloch-Brown told us it would be a “terrible consequence” if women’s rights were set back following the invasion of Iraq, but it appears as though this consequence has come about. He noted an “upsurge of honour killings” in Basra, with provocative dress cited as a reason for the punishment. He said that British officials were raising this issue regularly with Iraqi counterparts.²²⁷ He added:

We hope that it is not a long-term phenomenon and that it can be contained by these statements by the police and their efforts to address it. We hope that this is not going to grow into a major issue and we will do everything we can to stop that happening.²²⁸

Tom Porteous of Human Rights Watch believed that the UK and the US should bear some of the responsibility for the deterioration of women’s rights in Iraq in recent years. Kate Allen said that “promises” made by the coalition to Iraqi women had not been kept.²²⁹

²²⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 155

²²¹ “Stalled assault on Basra exposes the Iraqi government’s shaky authority”, *The Independent*, 28 March 2008

²²² Ev 29

²²³ Human Rights Watch, *World Report 2008*, p 478

²²⁴ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 156

²²⁵ *Ibid*, p 155

²²⁶ Ev 15

²²⁷ Q 91

²²⁸ Q 92

²²⁹ Q 27

128. We conclude that despite improvements in security, the human rights situation in Iraq remains very difficult. We believe that the deteriorating human rights situation faced by women in many parts of Iraq is unacceptable, and we recommend that the Government should use all its leverage to press the Iraqi Government to ensure women are afforded security and the legal equality provided for in the Iraqi constitution.

129. The FCO report cites UN estimates that up to 2 million Iraqis are displaced internally, with 2 million more living as refugees in nearby countries. It notes that the UK has contributed over £125 million since 2003 to work with vulnerable Iraqis.²³⁰ Human Rights Watch argues this is a “small sum” compared to the billions spent on military operations, and claims the Government paints “too rosy” a picture of its efforts to help Iraqi refugees.²³¹ We raised the issue of Iraqi refugees in our report on *Global Security: The Middle East*, which was published in August 2007. We concluded that the refugee crisis required “urgent attention” and we recommended that the Government should provide financial assistance to Syria and Jordan, the two countries hosting the most Iraqi refugees, to help them cope with the burden. The Government rejected our call for bilateral aid, stating that it preferred to work through international organisations.²³²

130. For the current inquiry, Lord Malloch-Brown admitted that refugees were “a major burden on both countries”. He again repeated the Government’s policy of working through intermediaries, but added: “I think that we need to keep this under review, because, frankly, I think that the world as a whole needs to be more generous to the refugees in those two countries than it has been so far.”²³³ The FCO later wrote to us with details of UK assistance to Iraqi refugees. It stated that the DFID Iraq programme contributed £3 million to the United Nations High Commissioner for Refugees’ (UNHCR) 2007 Iraq Situation Supplementary Appeal, covering Iraq, Syria, Jordan and other countries hosting Iraqi refugees. Another £3 million has been contributed in 2008. No direct contribution was made in 2006.²³⁴ Tom Porteous set out what he considered were both moral and strategic reasons for the Government to do much more to assist Iraqi refugees across the region.²³⁵

131. In our report on *Global Security: The Middle East*, we welcomed the Government’s proposal to resettle a small number of very vulnerable Iraqis in the UK.²³⁶ In October 2007, the Foreign Secretary set out details of how resettlement would work, focusing on “that sub-set of [Iraqi] staff who have had the closest and most sustained association with us, in circumstances which we judge to be uniquely difficult”. There were separate eligibility

²³⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 155

²³¹ Ev 29

²³² Foreign and Commonwealth Office, *Global Security: The Middle East: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Cm 7212, October 2007, p 31

²³³ Q 90

²³⁴ Ev 67

²³⁵ Q 27

²³⁶ Foreign Affairs Committee, Eighth Report of Session 2006–07, *Global Security: The Middle East*, HC 363, para 189

requirements for current and former staff. Current staff that had attained more than 12 months continuous service were able to choose between applying for a one-off financial package, indefinite leave to remain in the UK, and the opportunity for resettlement through the Gateway programme. Former staff with more than 12 months service since January 2005 could apply for the Gateway programme or a financial package, but not indefinite leave. However, to qualify for the Gateway programme, individuals would need to “qualify as refugees under the 1951 Convention in a third country” – i.e. they would have to leave Iraq before being considered.²³⁷ Tom Porteous told us that the policy:

has not been properly implemented, and a lot of former employees of the British Army who have put their lives on the line on behalf of the British in Iraq are still falling between the cracks and at great risk, both inside Iraq and in neighbouring countries.²³⁸

In June 2008, *The Times* reported that some Iraqi interpreters and their families that had chosen to relocate to the UK were being housed in “squalid tower blocks” in Glasgow, were living amongst “drunks and drug addicts”, and had faced verbal and physical abuse.²³⁹

132. We conclude that the Government and the international community must do much more to help Iraqi refugees in neighbouring countries. We recommend that the Government should provide bilateral financial assistance to help Syria and Jordan cope with their refugee burden. We welcome the Government’s resettlement programme for some of its Iraqi employees, but we are concerned that former employees and their families perversely need to face the dangers involved in leaving Iraq to become refugees in neighbouring countries before being able to apply for the Gateway programme. We recommend that the Government should allow its eligible former employees to apply for relocation to the United Kingdom without first having to register as a refugee.

Israel and the Occupied Palestinian Territories

133. We visited Israel and the Occupied Palestinian Territories as part of our inquiry into *Global Security: The Middle East* in 2007. In the report that followed, we set out a wide range of concerns surrounding the human rights record of both the Israeli Government and the Palestinian factions. We also criticised the response of the international community.

134. The section on Israel and the Occupied Palestinian Territories is the most substantial amongst the FCO’s list of “major countries of concern”. The Government lists a range of human rights abuses from all sides in recent months. For the Israelis, the first concern it lists is “use of force”. It states: “we have concerns over whether Israel’s use of lethal force has always been justifiable”. It goes further by claiming that, in the course of Israeli Defence

²³⁷ HC Deb, 30 Oct 2007, col 30WS

²³⁸ Q 29

²³⁹ “Britain shamed as Iraqi interpreters are resettled in squalid tower blocks”, *The Times*, 13 June 2008

Force operations, “too little effort has been made to avoid civilian casualties”. The Government states that, where appropriate, it has made its concerns known to the Israeli Government, for instance following the death of 22 Palestinian civilians in Beit Hanoun in the Gaza Strip in November 2006.²⁴⁰ Amnesty International notes that in a two-week period in May 2007, 50 Palestinians were killed and 200 injured in the Gaza Strip by Israeli air strikes and other attacks. It argues that the Government should “unreservedly condemn Israel’s disproportionate use of force”.²⁴¹

135. Another cause for concern for the Government is the implementation of the 2005 Agreement on Movement and Access. The report states that the ability of Palestinians to move freely in the West Bank has “deteriorated” due to the continued use of checkpoints, roadblocks and the barrier. It cites UN figures that 563 obstacles were present in the West Bank in September 2007, an increase of 187, or 49%, over the baseline figure of August 2005. The Government states that there has been a “disturbing increase” in the number of delays to and denials of ambulance access at checkpoints.

136. The Government states that the “ Hamas takeover of Gaza in June 2007 resulted in a breakdown in Israeli-Palestinian co-ordination mechanisms at the crossing points into Gaza”. It adds that the continued closure of crossing points has had a “devastating impact” on the Gazan economy. The report notes that the Government is “extremely concerned” about the humanitarian situation in Gaza, particularly with regard to the access of its population to essential supplies.²⁴² Tom Porteous told us that the situation in Gaza is “particularly bad”, and argued that the British Government should “call it what it is: collective punishment”. He claimed that, in a private conversation, an FCO official agreed with this assessment but said that “for political reasons it was impossible” for the Government to adopt publicly this position.²⁴³ Human Rights Watch’s submission also argues that the report should have stated that the Israeli-led blockade of Gaza “had in fact been imposed earlier” than June 2007, namely following the Hamas electoral victory in 2006. It adds that this policy was initially “tacitly or openly supported by the UK” and other allies of Israel.²⁴⁴

137. Lord Malloch-Brown told us that Israel’s actions were “deeply damaging”.²⁴⁵ He said the Government had, on a number of issues, “declared Israeli action to be excessive, disproportionate and against international law”. We pressed him on whether Israel’s actions could be subject to legal proceedings. He said that “we have no intention of sponsoring any effort to take Israel to any international court” as it would damage efforts to build trust between the two sides.²⁴⁶ He later sent us a letter, in which he stated: “In the

²⁴⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 158

²⁴¹ Ev 16

²⁴² Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 158–9

²⁴³ Q 42

²⁴⁴ Ev 29

²⁴⁵ Q 106

²⁴⁶ Q 107

case of individual criminal liability by any individuals for grave breaches of the Geneva Conventions then national courts may have jurisdiction.”²⁴⁷

138. The various Palestinian factions have also been guilty in the past year of very serious human rights violations. In our report on *Global Security: The Middle East*, we condemned both Hamas and Fatah for the egregious abuses that formed part of the bitter internal conflict in the first half of 2007.²⁴⁸ The expulsion of Hamas from the Palestinian Authority following its coup in the Gaza Strip in June 2007 has complicated the picture, in the sense that a number of current human rights violations are carried out by non-Governmental actors. As in the case of Israel, the FCO report sets out its current concerns regarding the Palestinian Authority. It notes that the UK “condemns all acts of violence against Israel’s population” and it calls upon the Palestinian Authority to work effectively to end “all kinds of terrorist violence”. Indiscriminate rocket attacks from the Gaza Strip into Israel are particularly singled out.²⁴⁹ Both Tom Porteous and Kate Allen condemned these attacks.²⁵⁰

139. The FCO report cites UN figures that in 2007, more Palestinians were killed as a result of inter-Palestinian violence than as a result of clashes with Israeli security forces. During the Hamas takeover of Gaza in June 2007, 188 individuals died in the Gaza Strip and 5 in the West Bank. The Government stresses that the “Palestinian Authority Security Forces are the only legitimate security forces in the Occupied Palestinian Territories”.²⁵¹ Tom Porteous told us that factional violence was “getting worse”. He noted that the EU was providing support through a project called EU COPPS – the EU Co-ordinating Office for Palestinian Police Support – and he recommended that “human rights should be put at the heart of that support effort”.²⁵²

140. According to the FCO report, the Government has made £31.6 million available in support to the Occupied Palestinian Territories for 2007/08. £12 million was provided through the Temporary International Mechanism in 2006/07.²⁵³ This support is welcome, but as we noted in our report on *Global Security: The Middle East*, the only sustainable solution to the humanitarian needs of the Palestinian people will be the restoration of full economic activity brought about by *inter alia* increased freedom of movement and access.²⁵⁴

141. Amnesty International notes that the focus on the Gaza Strip has detracted attention from human rights abuses carried out in the West Bank by the Palestinian Authority and armed groups linked to Fatah. It states that “the Palestinian Authority security forces

²⁴⁷ Ev 66

²⁴⁸ Foreign Affairs Committee, Eighth Report of Session 2006–07, *Global Security: The Middle East*, HC 363, para 50

²⁴⁹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 161

²⁵⁰ Q 42

²⁵¹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 161

²⁵² Q 43

²⁵³ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 162

²⁵⁴ Foreign Affairs Committee, Eighth Report of Session 2006–07, *Global Security: The Middle East*, HC 363, para 83

continue to detain Hamas supporters and there have been reports of torture and other ill treatment in detention.” It urges the Government to press President Mahmoud Abbas to investigate all unlawful killings in the territory.²⁵⁵

142. In our *Global Security: The Middle East* report, we recommended that the Government should find ways of engaging with moderate elements within the Hamas movement in a bid to encourage them to comply with international agreements and renounce violence. Our recommendation was rejected by the Government, but appeared to gain some support from Lord Malloch-Brown, who told the House of Lords that “over time” contacts with Hamas “must grow into full political contacts because, ultimately, Hamas must be a party to a settlement”.²⁵⁶ Two days later, in a written statement, he clarified his remarks, stating: “Our policy on Hamas has not changed. We do not have a political dialogue with Hamas”.²⁵⁷

143. Tom Porteous commented on the challenges facing the international community in promoting human rights to the Palestinians. He argued that “there is not much that the UK, the EU or the US can do to exercise any sort of influence over Hamas, because they do not talk to Hamas. At least, there is no political, diplomatic leverage”. He noted, however, that the UK has “considerable” influence over Fatah and that it should use this leverage to improve the human rights situation.²⁵⁸ This report is not the place for an in-depth discussion of the political dynamics of the various Palestinian factions, but we maintain that, were the Government to follow the recommendation we made last year, it would be able to apply more effective pressure on Hamas to stop abusing human rights.

144. We agree with the Minister that some of Israel’s actions against the Palestinians have been disproportionate and we conclude that Israeli policies towards the population of the Gaza Strip as a whole have been a form of collective punishment. We recommend that the Government should urge Israel in the strongest possible terms to desist from activities that violate international law. We further conclude that the Government is absolutely correct to condemn all forms of violence committed by Palestinians against the Israeli population. We recommend that, in its response to this Report, the Government should provide an assessment as to what policy options are available to prevent the indiscriminate firing of rockets into Israel. We repeat our condemnation of violence between Palestinians, and we welcome the Government’s provision of significant financial support to the Palestinian Authority.

²⁵⁵ Ev 17

²⁵⁶ HL Deb, 23 October 2007, col 1068

²⁵⁷ HL Deb, 25 October 2007, col WS80

²⁵⁸ Q 43

North Korea

145. The FCO notes that North Korea (officially known as the Democratic People's Republic of Korea) is "widely considered to have one of the worst human rights records in the world". The serious abuses that have been alleged include:

abductions and disappearances; arbitrary detention and imprisonment for up to three generations of the same family; regular use of the death penalty (including political and extra-judicial and public executions); routine use of torture and inhumane treatment; forced abortions; political prison camps and labour rehabilitation camps; extreme religious persecution; and chemical experimentation.²⁵⁹

146. The FCO writes that large numbers of North Koreans cross the border with China for "economic and political reasons". The FCO puts estimates of the numbers involved at between "10,000 and 100,000 [...] in China's border provinces at any one time." With the Chinese considering these people illegal economic migrants, the FCO says that they "risk detention and forcible repatriation to North Korea if caught by the Chinese authorities". We are currently conducting an inquiry into *Global Security: Japan and Korea*, in connection with which we visited Seoul in May 2008. What we learnt there about China's repatriation policy and the grave dangers that those sent back to North Korea face upon their return gave us particular cause for concern.

147. As part of our *Global Security: Japan and Korea* inquiry, we took evidence from Norma Kang Muico, an East Asia researcher for Amnesty International. We asked her for her assessment of the British Government's approach to human rights in North Korea. She argued:

I have worked with the British Government on this matter for almost four years and it has been a very productive relationship [...]. It is very difficult to work on human rights in North Korea [...] but as a Government [...] they can open up the country by continuing with their educational programmes, their exchanges and anything that will open the society and the country to other ways of thinking. [...] The UK Government should continue that and continue their tradition of dialoguing with North Korea. They should never close the door because they can provide a venue for us to speak.²⁶⁰

148. We conclude that the human rights situation in North Korea is extremely grave. We will consider the country's human rights abuses, and the response of the British Government, in detail in our Report on *Global Security: Japan and Korea*.

²⁵⁹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 148

²⁶⁰ Oral evidence taken before the Foreign Affairs Committee on 2 April 2008, HC 449-ii (2007-08), Q 57

Pakistan

149. We considered allegations of UK complicity in the torture of detainees in Pakistan in a previous chapter of this report. This section considers human rights in Pakistan more generally. In our report last year, we recommended that the “serious nature of human rights abuses in Pakistan” meant that the country warranted inclusion as a major country of concern in the FCO’s 2007 report.²⁶¹ The FCO accepted this recommendation.

150. The report notes that “recent changes in the political landscape” and the period surrounding the state of emergency declared by President Pervez Musharraf on 3 November 2007 have brought a number of human rights issues in Pakistan “to the fore”. However, it does not expand on the human rights violations committed under the emergency, and does not criticise President Musharraf (although it notes that the UK did call on him to honour his commitment to step down as Chief of Army Staff).²⁶² As Amnesty International notes, there were “widespread arrests and incommunicado detention of lawyers, judges, journalists and human rights defenders as well as the violent suppression of peaceful protests.”²⁶³ Human Rights Watch criticises the report for failing to mention that “the deposed Chief Justice Iftikhar Mohammad Chaudhry was held in illegal detention for almost five months along with his family, including his children - a teenage daughter and a seven-year-old son.”²⁶⁴ The report also fails to mention why the state of emergency was introduced. It is widely believed to have been linked to a forthcoming Supreme Court judicial ruling that would have found President Musharraf’s re-election to be illegal. At the time, US Secretary of State Condoleezza Rice called the declaration “highly regrettable” and the Commonwealth decided to suspend Pakistan as a member [it has since been reinstated].²⁶⁵

151. The Pakistani opposition leader Benazir Bhutto was assassinated in December 2007 whilst campaigning in parliamentary elections. It is believed that Islamist militants were behind her murder. The Government “condemned in the strongest terms” this “shocking assassination”. The report also notes that Pakistan has been making “important moves in its democratic transition”.²⁶⁶ Although this is an odd statement to make about the Presidential election of 2007 and the state of emergency, the relatively stable and fair parliamentary elections held in February 2008, which saw the ebbing of support from President Musharraf, are an encouraging sign.²⁶⁷

²⁶¹ Foreign Affairs Committee, Third Report of Session 2006–07, *Human Rights Annual Report 2006*, HC 269, para 154

²⁶² Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 166

²⁶³ Ev 18

²⁶⁴ Ev 30

²⁶⁵ “Musharraf imposes emergency rule”, *BBC News Online*, 3 November 2007, news.bbc.co.uk

²⁶⁶ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 166–7

²⁶⁷ “Press upbeat on Pakistan election”, *BBC News Online*, 19 February 2008, news.bbc.co.uk

152. The FCO report refers to Pakistan's counter-terrorist efforts, noting that it is one of the UK's "most important partners". It seems to refer implicitly to human rights abuses in the border regions with Afghanistan by noting that the Government continues "to urge that any military action in the area should take place within the parameters of international norms".²⁶⁸ Human Rights Watch notes that the "report remains notably silent on the hundreds of disappearances of terrorism suspects in Pakistan".²⁶⁹ Amnesty International notes that "hundreds of suspects are known to have been handed over to US authorities outside the legal extradition process" and states that it has "received reports of extrajudicial execution, house demolition, arbitrary detention and harassment by the Pakistani security forces".²⁷⁰

153. Aside from counter-terrorism and the political crisis, the FCO notes a range of other human rights abuses in Pakistan. The "situation of religious and other minority groups continues to be of concern" and the Pakistani Government continues to use the death penalty. The FCO continues to combat "honour crimes" in Pakistan, and is working to encourage progress on women's rights.²⁷¹ Amnesty International remains "deeply concerned" about women's rights in Pakistan, noting that they continue to be discriminated against in law.²⁷²

154. Kate Allen argued to us that, overall, the entry on Pakistan in the report is "very disappointing". She added that it is "hugely uncritical", barely mentioning the human rights impact of the state of emergency. She claimed that the entry was "an example of a lack of consistency of approach by the FCO. Friend or foe, there should be a consistent approach when tackling human rights and not a pretence that issues do not exist".²⁷³

155. We conclude that there are serious and wide-ranging human rights abuses in Pakistan. We further conclude that the FCO report should have been more critical of the imposition of the state of emergency, in particular by considering whether it was introduced to prevent the judiciary from considering the validity of President Musharraf's re-election. We unreservedly condemn the assassination of Benazir Bhutto and we welcome the relatively free parliamentary elections in February 2008. We recommend that, in its response to this Report, the Government should set out more clearly what steps it is taking to support women's rights and other international human rights norms in Pakistan.

²⁶⁸ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 166

²⁶⁹ Ev 30

²⁷⁰ Ev 18

²⁷¹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 168

²⁷² Ev 19

²⁷³ Q 41

Russia

156. In its report, the Government outlines a number of human rights concerns in Russia. It argues that there has been a “shrinking of the democratic space” in the past 18 months, most noticeably through recent NGO and anti-extremism laws. The report states that it is “deeply disappointing” that Russia prevented the Organisation for Security and Co-operation in Europe’s (OSCE’s) Office for Democratic Institutions and Human Rights from observing the December 2007 parliamentary elections.²⁷⁴ Dmitry Medvedev won a landslide victory in Russia’s Presidential elections on 2 March 2008, taking 70.3 per cent of the vote. In a letter to the Chairman of our Committee, the Foreign Secretary said the UK “questioned the degree of democracy exhibited throughout the election period”, highlighting the “unacceptable conditions” placed on international observers.²⁷⁵

157. In its written submission, Amnesty International claimed that torture was used in police custody in Russia, noting that the UN Special Rapporteur on Torture has not yet been able to visit the Federation. It particularly noted that Russian counter-terrorism operations in the north Caucasus had led to reports of abductions, arbitrary detention and extrajudicial executions. Amnesty also stated that it shared the concerns of the FCO around growing xenophobia in Russia.²⁷⁶ Tom Porteous of Human Rights Watch raised with us the issue of a “quiet but rather lethal” restriction of the media in Russia alongside a “repression of freedom of expression”.²⁷⁷

158. In November 2007, we published a report into *Global Security: Russia*. As part of this report, we considered the UK’s policy response to Russia’s human rights record. We recommended that the Government should continue to press the Russian authorities on democracy and human rights standards, but we suggested that it emphasise to a greater degree the fact that the issues at stake are not Western, but international and often voluntarily agreed to by Russia itself.²⁷⁸ In its response to the Committee, the Government stated:

We agree with the Committee’s recommendation that improved standards of human rights be framed in terms of an international, rather than ‘Western’ framework, and have long pointed to Russia’s international human rights obligations. Russia’s active participation at the UN, and in the Human Rights Council, as well as in the Council of Europe, should leave it in no doubt that the key human rights standards are internationally agreed.²⁷⁹

²⁷⁴ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 169

²⁷⁵ Ev 127

²⁷⁶ Ev 19

²⁷⁷ Q 47

²⁷⁸ Foreign Affairs Committee, Second Report of Session 2006–07, *Global Security: Russia*, HC 51, para 70

²⁷⁹ Foreign and Commonwealth Office, *Global Security: Russia: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Cm 7305, February 2008, p 5

159. Tom Porteous told us that:

There is one flicker of light, which is that the [then] President-elect, Dmitry Medvedev, has pledged to uphold the rule of law, but, unfortunately, if you look at his history and the history of his career, he has been a very close associate of Putin and closely connected to Putin's policies over the last few years [...] However, the pledges have been made and the EU should build on those and insist that those pledges should be honoured.²⁸⁰

We will consider issues relating to the treatment of employees of the British Council and BBC World Service in Russia in our report on the FCO's Annual Report 2007–08.

160. We conclude that the Russian parliamentary and Presidential elections demonstrated democratic deficiencies and were a missed opportunity for the advancement of democracy in Russia. We recommend that the Government, both bilaterally and using the mechanisms of the EU, OSCE and the Council of Europe, should continue to emphasise to Russia that its media and NGO restrictions are steps in the wrong direction. We further recommend that the Government should encourage President Medvedev to honour the pledges he has made to uphold the rule of law.

Saudi Arabia

161. Saudi Arabia is a member of the UN Human Rights Council, but conditions within the country fall far short of standards recognised as internationally acceptable. The FCO report notes women continue to face “severe restrictions”, for instance by not being allowed to drive. Apostasy is punishable by death and press freedom restricted.²⁸¹ In our report last year, we noted that Saudi Arabia executed 92 people in 2005, an almost 200% increase on the year before.²⁸² The FCO now states that 158 people were executed in the Kingdom in 2007.²⁸³ Amnesty International notes that most executions were carried out in public and that amongst those executed was a 15 year old, who was beheaded. Some were executed for witchcraft.²⁸⁴ The overall trend is not an encouraging one.

162. Corporal punishment is heavily used, with floggings and amputations on the statute books. In a notorious case, a Saudi female was gang raped in 2006, and subsequently sentenced to 90 lashes for violating laws on segregation of the sexes. In November 2007, the victim's appeal was rejected and her sentence increased to 200 lashes. The report states that

²⁸⁰ Q 47

²⁸¹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 172

²⁸² Foreign Affairs Committee, Third Report of Session 2006–07, *Human Rights Annual Report 2006*, HC 269, para 162

²⁸³ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 172

²⁸⁴ Ev 20

the UK “raised this case with the Saudi authorities” and following EU lobbying, King Abdullah granted a royal pardon to the victim in December 2007.²⁸⁵

163. Despite the rapidly increasing rate of executions in Saudi Arabia, the FCO’s report points to “limited progress” in other areas. The Saudi Arabian National Society on Human Rights published its first report in May 2007, highlighting concerns such as prisoners’ rights. Reforms were made to the judiciary that should improve access to the system. Some female citizens were given identification cards, which “opens the way for women to interact directly with parts of both the private and public sectors”.²⁸⁶ Lord Malloch-Brown called these “modest steps” but nonetheless “improvements”.²⁸⁷

164. The FCO report states that the pace of reform in Saudi Arabia “will need to be acceptable to the Saudi government, its citizens and powerful religious leaders”.²⁸⁸ This was criticised by Human Rights Watch. It argued:

This is tantamount to saying that reform must be at the pace of the most repressive and conservative elements of Saudi society. Would the UK government declare that change in Zimbabwe has to come at a pace that is acceptable to Zanu-PF?²⁸⁹

We put this to Lord Malloch-Brown, who rejected the criticism. He said:

[T]he way to secure improvements is not by finger-wagging alone, but by working with the grain of changes in such countries to build up their human rights capacity in a way that Governments who enjoy absolute power gain sufficient confidence to let go of it and create space for independent human rights institutions [...] This is a process of critical engagement, not of blind adulation and flattery. We have to ensure that such issues are raised, but we have made the judgment that out-and-out opposition will not do it.²⁹⁰

The FCO report notes that in 2008, the UK will fund projects including a workshop to develop the capacity of women in business.²⁹¹

165. Tom Porteous told us that the Government was unwilling to criticise the Kingdom’s human rights record because of “strategic, counter-terrorism, commercial and energy security interests”. He acknowledged that it was important for the UK to engage with Saudi Arabia on these issues, but added that this should not prevent engagement on human

²⁸⁵ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 172

²⁸⁶ *Ibid*, p 172

²⁸⁷ Q 109

²⁸⁸ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 173

²⁸⁹ Ev 31

²⁹⁰ Q 109

²⁹¹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 173

rights.²⁹² Amnesty International criticises the “extreme brevity” of the section in the FCO report on Saudi Arabia.²⁹³ Indeed, the section outlining UK Action is merely 37 words long, compared to up to two pages for some other major countries of concern.

166. Where the report does consider UK action over the past year, for instance by holding the “Two Kingdoms Dialogue” in October 2007 (featuring a State visit by King Abdullah), it is unclear how the discussion, which focused on “education, youth welfare, culture and the media” dealt with the most pressing human rights concerns in Saudi Arabia.²⁹⁴ At this dialogue, the Minister for the Middle East, Dr Kim Howells MP, attracted ire for claiming the UK and Saudi Arabia had “shared values”.²⁹⁵ Human Rights Watch argued human rights were swept “under the carpet” at the event.²⁹⁶ Kate Allen said that “when they have no set ambitions,” such talks “go on and on and become an excuse for a lack of public debate and accountability for Governments who treat their people in such an appalling way”.²⁹⁷ In our report last year, we recommended that the Government set measurable and time-limited targets for human rights improvements as part of the “Two Kingdoms Dialogue”. The Government rejected this, saying that “publicly announcing what we wish to achieve could be counterproductive”.²⁹⁸

167. We conclude that the human rights situation in Saudi Arabia is one of the worst in the world. The Government’s stated policy of assisting with gradual reform is simply not adequate in the face of the dramatically increased use of the death penalty and the continued repression of women’s rights. We accept there is a balance to be struck in any relationship with a strategic ally, but we do not see how the Government’s current policies are presenting sufficient incentives to the Saudi regime to curtail its most severe abuses. We recommend that the “Two Kingdoms Dialogue” should explicitly address issues such as the death penalty, and, as last year, we recommend that this dialogue should have measurable and time-limited objectives. We understand the Government’s reasoning in not making such objectives public knowledge. However, we recommend that if the Government believes that these objectives should be kept private, the Foreign Secretary should write to us in confidence when he responds to this Report to outline what progress has been made.

Somalia/Ethiopia

168. We noted our concerns over the human rights situation in Somalia by including a section on it in our report last year. We commented at the time that the FCO had not

²⁹² Q 44

²⁹³ Ev 20

²⁹⁴ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 173

²⁹⁵ “Minister says UK and Saudi Arabia have ‘shared values’”, *The Independent*, 30 October 2007

²⁹⁶ Ev 31

²⁹⁷ Q 44

²⁹⁸ Foreign and Commonwealth Office, *Annual Report on Human Rights 2006: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Cm 7127, June 2007, p 16

included it as a major country of concern. This omission has carried over into the 2007 report. The civil war in Somalia shows no sign of abating. At the current time, Islamist militants are fighting against a recently established Transitional Federal Government, which has received the support of the international community. The militants had taken control of the capital city Mogadishu, until they were forced out by Ethiopia's military intervention into the country in January 2007.²⁹⁹ The UN's head of humanitarian affairs in Somalia recently said the situation had escalated into a "massive, massive crisis" following the civil war and droughts, with 2.5 million people needing assistance or food.³⁰⁰

169. Mention of Somalia in the FCO's 2007 report is relegated to three paragraphs in a chapter on conflict prevention. This section lists a number of human rights concerns in the country. The report notes that "since April 2007, there have been a number of allegations" that parties to the conflict "have breached international humanitarian law". The report claims there is an "urgent need" for a "political solution" in Somalia. It notes that the "ripples of conflict" have spread to the Somali region of Ethiopia (Ogaden), and the Government "strongly condemns those terrorist groups operating in this region" and "fully recognises Ethiopia's need to counter the threat" posed by these groups.³⁰¹

170. Human Rights Watch claims that the report's assessment is "misleading and inaccurate". It says there has been a "serious escalation" of the conflict in 2007, and states that the report "does not even mention the intervention of Ethiopian forces and their leading role in the fighting in Mogadishu let alone grave abuses they have committed." It argues that the reporting of the conflict in Ogaden is "entirely one-sided" with "no mention of the grave and well documented abuses published by Human Rights Watch and others perpetrated against the Ogaden civilian population by Ethiopian forces".³⁰² Human Rights Watch later published a report on the situation in the Ogaden region. It accuses the Ethiopian military of extrajudicial killings, rape, torture, using food as a weapon of war and burning down villages.³⁰³

171. Tom Porteous told us that he found the FCO's reporting "extraordinary" and said that Ethiopian abuses amounted to war crimes. He added:

The fact remains that the UK, the US and the EU got it wrong on Somalia when they came down in support of the Ethiopian intervention. The Union of Islamic Courts was dislodged, but there was no consideration of the humanitarian consequences of the conflict that was bound to break out. The consequences are now very clear. The humanitarian situation has been described by the UN as the worst in the world. We regard the human rights situation there as absolutely terrible.

²⁹⁹ Foreign Affairs Committee, Third Report of Session 2006–07, *Human Rights Annual Report 2006*, HC 269, paras 165–166

³⁰⁰ "UN predicts massive crisis", *The Guardian*, 21 April 2008

³⁰¹ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 31–2

³⁰² Ev 25

³⁰³ "Ethiopia military accused of rape and torture in fight against rebels", *The Guardian*, 13 June 2008

He called for a commission of inquiry to map out the human rights abuses in Somalia in the previous decade. He argued that the FCO needs to address the situation in Somalia not merely through the prism of counter-terrorism but also of accountability and human rights.³⁰⁴ Amnesty International argues that there is a “near total absence in the rule of law”, with “widespread rape and sexual assault of women”, including by the Ethiopian military.³⁰⁵

172. Lord Malloch-Brown told us that the FCO was “guilty as charged” in covering Somalia “insufficiently” in the report. He added:

The extenuating circumstances that I would point to, however, are, first, with a report by a Government, we have a standard of evidence that we have to satisfy ourselves is being met. In this particular case, the allegations against Ethiopian soldiers – which form part of your concern and have been made again this week – are stoutly denied by the Ethiopians. [...] We need to look at the new claims and weigh them against the assertions made, in order to meet our responsibility on the facts.³⁰⁶

We received a letter from the Ethiopian Ambassador on this issue. He stated that “the Government of Ethiopia categorically rejects the allegations of atrocities” levelled against its armed forces in Somalia. He argued that “these stories are based on lies and fabricated information” from sources affiliated to terrorist organisations in Somalia. He claimed that Amnesty International in particular made “uncritical use of sources which have their own agenda”.³⁰⁷ However, we note that these very serious allegations have been made by *both* Human Rights Watch and Amnesty International.

173. Despite his admission that the report’s coverage of Somalia is inadequate, Lord Malloch-Brown argued that the Government has been active in supporting human rights in Somalia, for instance by helping to adopt a resolution at the Human Rights Council. He claimed the Government had “quite a good track record” in promoting NGO human rights concerns in the country. He acknowledged that the current Government was “admittedly imperfect” but argued that the most important thing for human rights was the establishment of authority and judicial institutions, which the UK was helping to build up.³⁰⁸ Tom Porteous told us that Lord Malloch-Brown “has been more sympathetic” to the concerns of NGOs than his predecessor.³⁰⁹

³⁰⁴ Q 39

³⁰⁵ Ev 52

³⁰⁶ Q 105

³⁰⁷ Ev 122

³⁰⁸ Q 105

³⁰⁹ Q 39

174. We conclude that the FCO's report fails to pay sufficient attention to the severe human rights crisis in Somalia. We are particularly concerned by the absence of any mention of alleged abuses carried out by Ethiopian troops in the country. Strong denials by the Ethiopian Government are not sufficient cause for omitting these allegations. We recommend that the Government should ensure human rights are central to its approach in Somalia, and we further recommend that it is included as a major country of concern in next year's report.

Sudan

175. The human rights situation in Sudan has been of grave concern for a number of years. The population in the western region of Darfur have suffered in particular from the effects of brutal insurgent and counter-insurgent operations. However, as the FCO's report makes clear, abuses are not limited to the Darfur region. The report notes the Government's concerns as including: "the death penalty; torture; Hudud punishments (amputation, flogging and stoning); freedom of the media; and harassment and arrest of activists and political figures."³¹⁰

176. The report argues that the Sudanese Government is "falling short of its human rights commitments" and adds that belligerents "on all sides of the conflict in Darfur continue to commit human rights abuses". In its submission, Amnesty International argues that the report should use stronger language against the Sudanese Government. It argues that the FCO report "fails to note" that Khartoum "continues to attack civilian populations in Darfur", referencing events in west Darfur's Sirba region where up to 100 civilians are believed to have been killed when the Sudan Armed Forces (SAF) moved to reoccupy the area. It adds that the SAF was accompanied by "uniformed Janjawid milita on horseback".³¹¹

177. The FCO's report states: "the only solution to the Darfur conflict is a negotiated political settlement". Amnesty International "recognises the Government's continued engagement" in efforts to find a political solution to the conflict.³¹² However, it is clear that a political solution in Darfur can only be found through the establishment of security. To this end, the UN Security Council mandated the hybrid UN-African Union peacekeeping force for Darfur (UNAMID) in July 2007, and the FCO report states that the Government is "working to support its prompt and effective deployment". However, this force remains to be fully deployed. Tom Porteous argued that there were three reasons for the delay:

One is the obstructionism of the Sudanese Government; another is lack of support from the international community to provide the equipment that the peacekeeping force needs, especially helicopters, and the third thing is that this is a hostile environment and there is not much of a peace to keep at the moment.

³¹⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, p 174

³¹¹ Ev 9

³¹² Ev 9

He argued that the international community had the capacity to resolve the problems surrounding the lack of equipment for UNAMID. Focusing on the record of the Government, he commented that “the UK has played a largely constructive role politically, but it has not stepped up to the plate with regard to equipment. It says that it has its own military problems elsewhere and therefore does not have the necessary equipment.”³¹³

178. We put this charge to the FCO. Its response noted a contribution of £4 million towards pre-deployment training and equipping of African troops participating in UNAMID. It added:

This money is for essential equipment including armoured personnel carriers and communications kit. [...] We continue to work in support of the UN, African Union and international partners for the earliest possible deployment of an effective UNAMID. It is however disappointing that more offers have not been forthcoming from those with spare capacity to meet the need for helicopters.³¹⁴

179. Mr Porteous also highlighted difficulties with the implementation of the comprehensive peace agreement between northern and southern factions in Sudan. He argued: “it is important that the British Government get behind an international effort to ensure that the peace process stays on track”. Kate Allen noted that the conflict in Darfur has spread to Chad and the Central African Republic, and that this was “hugely concerning”. She also called for the Government to help Amnesty International gain access to Sudan, noting that the last time the organisation was permitted inside the country (rather than on its borders) was in 2004 with the help of the then Foreign Secretary, Rt Hon Jack Straw MP.³¹⁵

180. We conclude that the human rights situation in Sudan remains of paramount concern. We are disappointed that the UN-African Union hybrid peacekeeping force for Darfur has yet to fully deploy. We welcome the Government’s support for a political solution in Darfur and its financial assistance to the peacekeeping mission. We recommend that the Government should consider again whether it has any spare capacity to meet the need for helicopters or other equipment. We further recommend that the Government should provide the necessary diplomatic assistance to NGOs in their efforts to gain access into Sudan.

Syria

181. The FCO report lists Syria as a major country of concern. It argues that “the development of civil society is severely restricted”. Anwar Al Bunni, a prominent human rights defender, was sentenced in April 2007 to “five years’ imprisonment”. Arbitrary

³¹³ Q 37

³¹⁴ Ev 66

³¹⁵ Q 37

arrests continue, and there are reports of torture in prison. Around 4,000 political prisoners, many of them members of the banned Muslim Brotherhood and the Communist Party, remain imprisoned in Syria. The FCO report adds that “identity-based discrimination against the Kurdish minority persists”, and that women face legal as well as social discrimination.³¹⁶

182. The report states that there is limited scope for taking practical action in Syria because of the “significant restrictions” on NGOs and foreign embassies. However, the British Embassy is “an active member of the EU Human Rights Group”, and the EU collectively “regularly raises urgent human rights cases with the Syrian government”, and embassy officials have attended the trials of human rights defenders.³¹⁷

183. Human Rights Watch argues that the report’s coverage of Syria is “generally sound”. However, it adds that human rights should be at the “forefront” of the UK and EU’s strategy towards Syria. It accepts that “UK leverage over Syria is limited” but argues that:

it should be a guiding principle of UK policy towards Syria that Damascus will only be able to play a stabilising role in the region if Syrians within Syria are allowed the political space to express their political opinions without fear of arrest, torture and imprisonment. There is a concern that if Syria starts to cooperate with the UK, the EU and the US on the regional politics then external pressure for improvements on the internal political front will diminish – as it has in Libya and Egypt.³¹⁸

184. In our Report on *Global Security: The Middle East*, published in August 2007, we noted that the Syrian President is selected by a referendum, held once every seven years, in which there is only one candidate. In the most recent election, in May 2007, President Bashar al-Assad received 97% of the vote according to the Syrian Interior Ministry.³¹⁹

185. We conclude that the repression of civil liberties in Syria continues to give cause for concern. We recommend that the Government should ensure that human rights remains central to its, and the EU’s, approach towards Damascus. We further recommend that the international community does not relax the pressure on Syria to improve its human rights record even if progress is achieved on other political and foreign policy fronts.

Zimbabwe

186. In his foreword to the 2007 edition, the Foreign Secretary notes that Zimbabwe has appeared as a “major country of concern” in each of the ten FCO annual human rights reports. It is a tragedy that recent events in Zimbabwe will justify its receiving more

³¹⁶ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 178–9

³¹⁷ *Ibid*, p 179

³¹⁸ Ev 31

³¹⁹ Foreign Affairs Committee, Eighth Report of Session 2006–07, *Global Security: The Middle East*, HC 363, para 122

coverage than ever before in next year's report. Whilst the FCO report deals mainly with the events of 2007, we also consider here the human rights fallout of the 2008 elections in Zimbabwe.

187. The FCO report vividly illustrates the erosion of any semblance of human rights or stability in Zimbabwe. It notes a "marked escalation in the use of intimidation and violence" since 2006. There has been a collapse in the formal economy. State agents are responsible for a number of abuses, "including assault, torture and illegal detentions". In March 2007, opposition leader Morgan Tsvangirai was severely beaten. President Robert Mugabe's comments speak for themselves: "Of course he was bashed. He deserved it... I told the police beat him a lot".

188. The FCO notes that life expectancy in Zimbabwe is now the lowest in the world.³²⁰ In 2006, a woman could expect to live for 34 years, and a man 37 years.³²¹ According to the UN Common Database, life expectancy was one of the highest in Africa - 58 years - for an infant born in 1980, the year of Zimbabwe's independence.³²² It has the world's highest rate of orphans, and more than 3,000 people a week die from AIDS-related illness. It is estimated that between 3 and 4 million people have fled Zimbabwe, over 80% of the population is unemployed, and even before the recent world food crisis, the FCO was estimating that 4 million people are in need of food aid.³²³

189. The FCO report, published in March 2008, called for "free and fair elections".³²⁴ Parliamentary and Presidential elections were held later that month. The elections were held in clearly undemocratic conditions. Parliamentary results were announced in relatively good time, with Robert Mugabe's Zanu-PF party losing its majority to the Movement for Democratic Change (MDC). However, in the Presidential election, it took nearly six weeks for the results to be announced. A candidate requires 50% to win in the first round, and there was speculation that Morgan Tsvangirai, the candidate of the MDC, may have attained this figure and that the results were being tampered with. Lord Malloch-Brown told us that the delay left "very little confidence in the accuracy of the vote".³²⁵ In a written statement on 21 April 2008 (before the results were announced), the Foreign Secretary claimed Mugabe had an "ambition to steal the election" and said that Zanu-PF had launched a "campaign of violence" against ordinary Zimbabweans.³²⁶ *The Times* reported that the Prime Minister believed the situation could be best resolved through the influence of regional states such as South Africa, but President Thabo Mbeki went so far as

³²⁰ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 189–190

³²¹ "Zimbabweans have 'shortest lives'", *BBC News Online*, 8 April 2006, news.bbc.co.uk

³²² Globalis, "Zimbabwe: Life Expectancy At Birth", globalis.gvu.unu.edu

³²³ Foreign and Commonwealth Office, *Human Rights Annual Report 2007*, Cm 7340, March 2008, pp 189–190

³²⁴ *Ibid*, pp 189–190

³²⁵ Q 100

³²⁶ HC Deb, 21 April 2008, cols 91–2WS

to state that there was “no crisis in Zimbabwe” following a meeting with President Mugabe.³²⁷

190. When the result was eventually announced on 2 May, the Zimbabwe Electoral Commission gave Mr Tsvangirai 47.9% of the vote, automatically triggering a second round of voting on 27 June. Lord Malloch-Brown told us that “we cannot accept an outcome that is a perversion of democracy and human rights values”. However, he acknowledged that, because the Movement for Democratic Change only claimed that Morgan Tsvangirai won by a “paper-thin” majority of 50.3%, it was difficult for the Government to say beyond any reasonable doubt that he received over half the votes cast. He argued that the “cleanest constitutional outcome of this terribly flawed, first round process is a second round that is adequately monitored” both for the integrity of the vote and the security of the opposition before it.³²⁸ He argued that any second round “has to be free and fair”, and that the international community should not accept a situation where Mr Mugabe was allowed to “steal” the election by refusing to acknowledge his Government.³²⁹ He claimed that there was a greater chance of this happening than before because there “has been a massive diplomatic shift” and a “much higher degree of unity” that “is necessarily apparent publicly”. He said there was “tremendous support among the regional leaders [...] for the view that the result cannot be allowed to stand”.³³⁰

191. Kate Allen was more sceptical of the role of states in the international community, noting her disappointment at the opposition of South Africa and China to the Security Council sending an envoy into Zimbabwe. She argued that South Africa’s “quiet diplomacy” approach was “completely inappropriate for the current situation”. Both she and Tom Porteous noted that, amongst the regional states, Zambia was starting to speak out more vocally against President Mugabe’s abuses. Mr Porteous argued that the African Union should “unite and tell Mugabe that the game is up, and that he must go. If he does not, it must think about imposing serious economic and political sanctions on him to go”. With regard to the UK, Ms Allen said that the Government worries that “their speaking out is counter-productive. The moment for such thinking has gone [...] it has been good to hear the Prime Minister make clear the Government’s view of the election”.³³¹

192. The second round of the election was due to be held on June 27. However, following a campaign of violence against MDC supporters, leading to over 80 deaths, Mr Tsvangirai pulled out of what he called an “illegitimate sham of an electoral process”, initially seeking refuge in the Dutch Embassy. A spokesman for the UN Secretary-General called it a “deeply distressing development”.³³² The Prime Minister described Mugabe’s regime as a

³²⁷ “Brown believes Zimbabwe fate must be left to its neighbours”, *The Times*, 14 April 2008

³²⁸ Q 100

³²⁹ Q 101

³³⁰ Q 102

³³¹ Q 36

³³² “Tsvangirai withdrawal: Key quotes”, *BBC News Online*, 23 June 2008, news.bbc.co.uk

“criminal and discredited cabal” which “should not be recognised by anybody”.³³³ The UN Security Council unanimously condemned the violence in Zimbabwe, and said in a statement that a free and fair run-off election would be “impossible”.³³⁴

193. Despite international calls for a postponement of the polls, Robert Mugabe went ahead with the June 27 election. The continuation of voter intimidation meant that he was able to claim victory and was inaugurated as President two days after the poll. Leaders from the 53 African Union states, meeting at a summit in Egypt, stopped short of directly criticising Mugabe but called for a government of national unity in Zimbabwe. They merely “noted” reports of intimidation whilst making reference to the “complexity of the situation” in the country. The AU statement also appealed to “states and all parties concerned to refrain from any actions that may negatively impact on the climate of dialogue”, which was understood as coded criticism of UK and US moves towards urging the Security Council to impose sanctions against Zimbabwe.³³⁵ However, the Prime Minister praised the African Union’s efforts. He said that “it is important to recognise” that it “did take a step forward yesterday” by calling for mediation between the MDC and Zanu-PF.³³⁶

194. The French Foreign Minister Bernard Kouchner has said that the EU “will not accept a government other than one led by Mr Tsvangirai”. At the time of agreeing this Report, the EU is believed to be preparing a package of sanctions against Zimbabwe, including a widening of asset freezes and travel bans for key regime figures. Whilst Italy recalled its Ambassador to Harare in protest, it appears that EU states were unable to come to a common agreement to take this course of action.³³⁷

195. At the time of agreeing this Report, the Prime Minister has announced that the Government is preparing increased financial and travel sanctions against members of the Mugabe regime, and that it would prevent players from Zimbabwe from participating in a bilateral cricket tour of the UK in 2009.³³⁸ He added that “businesses should also look at their involvement in Zimbabwe [...] We do not want to do further damage to the Zimbabwean people, but businesses that are helping the regime should of course reconsider their position.”³³⁹ The Prime Minister’s comments came after newspaper reports that Anglo American, a mining company, was investing \$400m (£200m) in Zimbabwe. However, *The Times* later reported that British companies that “sought the Foreign Office’s advice have been left with the impression that they should not leave Zimbabwe”.³⁴⁰

³³³ “Mugabe ‘should not be recognised’”, *BBC News Online*, 23 June 2008, news.bbc.co.uk

³³⁴ “UN: Free Zimbabwe poll impossible”, *BBC News Online*, 24 June 2008, news.bbc.co.uk

³³⁵ “Mugabe: African Union calls for national unity government in Zimbabwe”, *The Guardian*, 2 July 2008

³³⁶ HC Deb, 2 Jul 2008, col 861

³³⁷ “EU will only accept Tsvangirai as Zimbabwe leader: Kouchner”, *AFP*, 1 July 2008

³³⁸ HC Deb, 25 Jun 2008, col 278

³³⁹ HC Deb, 25 Jun 2008, col 279

³⁴⁰ “British companies confused by advice about staying in Zimbabwe”, *The Times*, 2 July 2008

196. In 2003, our predecessor Committee recommended that the Government strip Robert Mugabe of all honours bestowed upon him, including his knighthood. At the time, the Government replied that it “has made it clear that removing Mugabe’s honorary knighthood, conferred on him in 1994, on the recommendation of the previous Government, is not our immediate priority. We may revisit this question in the future”.³⁴¹ Following the election debacle, we wrote to the Foreign Secretary reminding him of our recommendation.³⁴² Lord Malloch-Brown commented that it was “just about the least-deserved knighthood out there”. However, he said there was an argument about “time and place” and that revoking the honour at this moment would run “the risk of throwing us back into the old tracks of Britain versus Zimbabwe, old colonial whatevers, and debts to settle”.³⁴³ He acknowledged that the Government should “perhaps have seized the moment” when the Committee made its original recommendation, but he felt that “not is probably not the most opportune moment”.³⁴⁴ However, following the escalation of violence in June 2008, Her Majesty the Queen annulled Mr Mugabe’s honour following a recommendation from the Government.³⁴⁵

197. We conclude that Robert Mugabe’s human rights record is utterly appalling. The first round of the Presidential election in March 2008 was deeply flawed, and the delay in announcing the results was unacceptable. We are concerned that South Africa appears to have maintained its patently ineffectual policy of “quiet diplomacy” with Zimbabwe, but we are encouraged that other regional states such as Zambia are beginning to speak out more forcefully against the brutality of the Mugabe regime. We conclude that the decision to remove Robert Mugabe’s honorary knighthood was correct. We recommend that the Government should continue to urge regional states to take the diplomatic lead against Zimbabwe, and should not recognise any regime led by Mugabe. We further recommend that the Government should set out in its response to this Report what action is being taken against British businesses whose presence in Zimbabwe is helping to prop up the regime.

³⁴¹ Foreign and Commonwealth Office, *Zimbabwe: Response of the Secretary of State for Foreign and Commonwealth Affairs*, Cm 5869, July 2003, p 3

³⁴² Ev 121

³⁴³ Q 103

³⁴⁴ Q 104

³⁴⁵ “Queen strips Mugabe of knighthood”, *BBC News Online*, 25 June 2008, news.bbc.co.uk

Formal Minutes

Wednesday 9 July 2008

Members present:

Mike Gapes, in the Chair

Sir Menzies Campbell	Mr Paul Keetch
Mr Fabian Hamilton	Andrew Mackinlay
Mr David Heathcoat-Amory	Mr Greg Pope
Mr John Horam	Mr Ken Purchase
Mr Eric Illsley	Sir John Stanley

The Committee deliberated.

Draft Report (*Human Rights Annual Report 2007*), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 7 read and agreed to.

Paragraph 8 read, amended and agreed to.

Paragraphs 9 to 10 read and agreed to.

Paragraph 11 read, amended and agreed to.

Paragraph 12 read, amended and agreed to.

Paragraphs 13 to 22 read and agreed to.

Paragraph 23 read, amended and agreed to.

Paragraphs 24 to 34 read and agreed to.

Paragraph 35 read, amended and agreed to.

Paragraphs 36 to 40 read and agreed to.

Paragraph 41 read, amended and agreed to.

Paragraphs 42 to 46 read and agreed to.

Paragraph 47 read, amended and agreed to.

Paragraphs 48 to 52 read and agreed to.

Paragraph 53 read, amended and agreed to.

Paragraphs 54 to 102 read and agreed to.

Paragraph 103 read, amended and agreed to.

Paragraphs 104 to 121 read and agreed to.

Paragraph 122 read, amended and agreed to.

Paragraphs 123 to 127 read and agreed to.

Paragraph 128 read, amended and agreed to.

Paragraphs 129 to 144 read and agreed to.

Paragraph 145 read, amended and agreed to.

Paragraphs 146 to 147 read and agreed to.

Paragraph 148 read, amended and agreed to

Paragraphs 149 to 184 read and agreed to.

Paragraph 185 read, amended and agreed to.

Paragraphs 186 to 197 read and agreed to.

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

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

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Wednesday 15 October at 2 p.m.]

Witnesses

Wednesday 30 April 2008

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Kate Allen, Director, Amnesty International UK, and **Tom Porteous**, London Director, Human Rights Watch Ev 32

Wednesday 7 May 2008

Rt Hon Lord Malloch-Brown KCMG, Minister of State, **Susan Hyland**, Head, Human Rights, Democracy and Governance Group (HRDGG), and **Stuart Adam**, Head of Equality and Communications Team, HRDGG, Foreign and Commonwealth Office Ev 53

Thursday 22 May 2008

His Holiness the Dalai Lama Ev 71

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3	Further memorandum from Amnesty International	Ev 50
4	Letter to the Head, Parliamentary Relations Team, Foreign and Commonwealth Office from the Committee Specialist	Ev 64
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6	Letter to the Committee Specialist from Head, Parliamentary Relations Team, Foreign and Commonwealth Office	Ev 66
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8	Letter to the Clerk of the Committees from the Office of Tibet	Ev 69
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13	Submission from Amnesty International UK	Ev 84
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14	Letter to the Chairman of the Committee from the Minister of Trade, Portfolio on Africa, Department of Trade and Industry	Ev 88

15	Letter to the Chairman of the Committee from the Chinese Ambassador to the Court of St James, Embassy of the People's Republic of China	Ev 89
16	Memorandum submitted by Christian Solidarity Worldwide UK	Ev 90
17	Letter to the Chairman of the Committee from Professor Li Shao	Ev 93
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19	Memorandum submitted by the British Humanist Association	Ev 96
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23	Letter to the Chairman of the Committee from Andrew Tyrie MP Chairman of the All Party Parliamentary Group on Extraordinary Rendition	Ev 111
24	Memorandum submitted by the Independent Tibet Network	Ev 112
25	Letter to Rt Hon David Miliband MP, Secretary of State for Foreign and Commonwealth Affairs from the Chairman of the Committee	Ev 121
26	Letter from Sir Peter Marshall, KCMG CVO	Ev 121
27	Letter from Helen Gradwell, Western Shugden Society	Ev 122
28	Letter from the Ambassador of the Federal Democratic Republic of Ethiopia, London to the Chairman of the Foreign Affairs Committee	Ev 122
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30	Letter to the Chinese Ambassador to the Court of St James from the Chairman of the Committee	Ev 126
31	Letter to the Rt Hon Sir John Stanley MP from the Secretary of State, Foreign and Commonwealth Office	Ev 126
32	Letter to the Chairman of the Committee from the Secretary of State, Foreign and Commonwealth Office	Ev 127

Reports and Evidence from the Foreign Affairs Committee since 2005

The following reports and evidence have been produced in the present Parliament.

Session 2005–06

REPORTS

First Report	Human Rights Annual Report 2005	HC 574 (<i>Cm 6774</i>)
Second Report	Foreign and Commonwealth Office Annual Report 2004–05	HC 522 (<i>Cm 6791</i>)
Third Report	Public Diplomacy	HC 903 (<i>Cm 6840</i>)
Fourth Report	Foreign Policy Aspects of the War against Terrorism	HC 573 (<i>Cm 6905</i>)
Fifth Report	Strategic Export Controls: Annual Report for 2004, Quarterly Reports for 2005, Licensing Policy and Parliamentary Scrutiny	HC 873 (<i>Cm 6954</i>)
Sixth Report	Developments in the European Union	HC 768 (<i>Cm 6914</i>)
Seventh Report	East Asia	HC 860 (<i>Cm 6944</i>)
Eighth Report	Foreign and Commonwealth Office Annual Report 2005–06	HC 1371 (<i>Cm 7008</i>)

Session 2006–07

REPORTS

First Report	The Work of the Committee in 2005 and 2006	HC 206
Second Report	Visit to Guantánamo Bay	HC 44 (<i>Cm 7063</i>)
Third Report	Human Rights Annual Report 2006	HC 269 (<i>Cm 7127</i>)
Fourth Report	South Asia	HC 55 (<i>Cm 7142</i>)
Fifth Report	Visit to Turkey and Cyprus	HC 473
Sixth Report	Foreign Policy Aspects of the Detention of Naval Personnel by the Islamic Republic of Iran	HC 880 (<i>Cm 7211</i>)
Seventh Report	Strategic Export Controls: 2007 Review	HC 117
Eighth Report	Global Security: The Middle East	HC 363 (<i>Cm 7212</i>)

Session 2007-08

REPORTS

First Report	Foreign and Commonwealth Office Annual Report 2006-07	HC 50 (<i>Cm7302</i>)
Second Report	Global Security: Russia	HC 51 (<i>Cm 7305</i>)
Third Report	Foreign Policy Aspects of the Lisbon Treaty	HC 120 I-II (<i>Cm 7332</i>)
Fourth Report	The work of the Committee in 2007	HC 287
Fifth Report	Global Security: Iran	HC 142 (<i>Cm 7361</i>)
Sixth Report	Proposed appointment of Rt Hon Jack McConnell MSP as High Commissioner to Malawi	HC 507

Seventh Report	Overseas Territories	HC 147-I; HC 147-II
Eighth Report	Scrutiny of Arms Export Controls (2008): UK Strategic Export controls Annual Report 2006, Quarterly Reports for 2007, licensing policy and review of export control legislation	HC 254

Oral evidence

Taken before the Foreign Affairs Committee

on Wednesday 30 April 2008

Members present:

Mike Gapes (Chairman)

Rt hon. Sir Menzies Campbell
Mr. Fabian Hamilton
Andrew Mackinlay

Mr. Ken Purchase
Rt hon. Sir John Stanley

Memorandum submitted by Amnesty International UK

AMNESTY INTERNATIONAL

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. In pursuit of this vision, Amnesty International's mission is to undertake research and action focused on preventing and ending abuses of these rights.

INTRODUCTION

The FCO's *Human Rights Annual Report 2007* (the report) is the Government's 10th human rights report. Amnesty International welcomes the publication of these reports; they represent an important opportunity to set out the Government's activities and policies in this field. On the whole, the report is comprehensive and provides a thorough overview of the Government's work to protect and promote human rights worldwide. However, the report is noticeably weak in relation to countries where the UK has particular strategic, security or economic concerns.

In part, the report is structured around the FCO's new policy goals. Amnesty International was involved in the consultation on the policy goal refresh; we welcome the involvement of stakeholders in this process. Human rights are incorporated in the policy goal "prevent and resolve conflict", and in theory are "mainstreamed" throughout the work of the FCO. However, Amnesty International is concerned at a number of human rights omissions from the policy goals as well as by the mismatch between rhetoric and practice in some instances. Amnesty International is particularly concerned at the absence of a serious and integrated approach to gender issues in both the policy goals and the report; a separate section on women's rights is insufficient. We would like to see gender awareness throughout the report and the FCO's work more broadly.

The clear commitment to human rights expressed in the report is not always consistently applied in practice. This year marks the 60th anniversary of the Universal Declaration of Human Rights. This is a key moment for the UK to reinvigorate its commitment to rights. The UK must take the lead and refocus its efforts on promoting the human rights framework rather than taking steps that undermine it (for example in the counter-terrorism field).

The Government has identified a role for the UK as a global hub, a point of leadership and influence. Amnesty International would like to see this role expanded to include a proud and consistent assertion of universal human values. Human rights values (including the rule of law, justice and equality) should be at the heart of all the UK's foreign policy goals. This is not just a principled approach; a human rights approach to foreign policy is crucial to any effective long-term policy.

Amnesty International welcomes the Foreign Secretary's recognition that human rights have moved "from the margins to the mainstream" and can no longer be treated as a discrete area of foreign policy, with human rights a vital dimension of foreign policy challenges.¹ It is critical that human rights values are fully integrated in UK foreign policy and are consistently respected in the implementation of policies, and not just given rhetorical support at opportune moments. This should be true in relation to all states, including those with which the UK has important strategic, security or economic links.

¹ "The Foreign Secretary's Speech at the Launch of the FCO's 2007 Human Rights Report", 25 March 2008, London.

The FCO frequently makes reference to the fact that human rights cut across the policy goals and are mainstreamed throughout the organisation. However, there is a need to make mainstreaming more meaningful if pockets of good practice are not to be seen as tokenistic. This could be achieved by such measures as: strengthening and deepening human rights training across government; strengthened, frequent and regularised dialogue with NGOs; and regularised NGO briefings and training.

Amnesty International welcomes the report's shorter, more compact format and general accessibility. However, we note that with the exclusion of the annexes, the report does not contain any breakdown of the level of government funding for human rights projects. In the past, this information provided an important opportunity to scrutinise expenditure. The issue of funding for human rights projects is an ongoing concern. It has often been difficult to establish what funding is available for discrete human rights projects within the Global Opportunities Fund (GOF). Fewer countries are eligible for funding under the GOF programme than the previous Human Rights Project Fund and there remain fears that the GOF could be susceptible to budgetary pressure.

This submission will look briefly at each of the policy goals. It will then focus on a small number of "countries of concern", incorporating many of our concerns relating to the key human rights themes outlined in Part 4 of the report (equality, democracy and the rule of law). The report covers the period from September 2006 to December 2007, but also looks forward to the year ahead. Therefore, this submission will focus on this period, but comment on more recent events where appropriate, as well as making forward-looking recommendations for government policy and practice.

POLICY GOALS

Counter terrorism, weapons proliferation and their causes

Counter terrorism

Amnesty International fully recognises the serious nature of the threat of terrorism and the obligation on all states to act to protect their citizens. We condemn in the strongest possible terms all violent acts targeting civilians—the horrors of 9/11, the Bali, Madrid and London bombings. These terrorist attacks were barbaric acts and gross human right violations and the perpetrators must be brought to justice.

Amnesty International welcomes the report's statement that "far from being an obstacle to our counter-terrorism work, human rights are central to our efforts to counter radicalisation under the Government's 'Prevent' strategy". The report also notes the importance of the rule of law in any long-term approach to security. It is incumbent on the Government to ensure that all measures taken to bring people to justice, as well as all measures to protect people from terrorism, are consistent with international human rights law and standards. Unless governments across the world respond to the threat of international terrorism in a manner that is fully grounded in respect for human rights and the rule of law, they risk undermining the values they seek to protect and defend.

The policy goals contain an important recognition of the diverse range of factors that contribute to radicalisation. Many of these factors have human rights aspects. The report notes that the GOF supports projects that tackle human rights-related themes and contribute to efforts to reduce the stimuli for radicalisation. This is to be welcomed. However, there should be a more explicit recognition of the importance of human rights throughout the various approaches to countering extremism; human rights could be made more central to the conceptual framework.

It is critical that policies in this area are implemented in a human rights context. For example, working with or promoting international partners who abuse human rights risks making the policy counterproductive and could risk encouraging extremism. It is also important to ensure that any "moderate voices" the Government works to promote hold moderate views across the whole range of issues, including gender. Given that real or perceived political grievances or social injustice can drive extremism, it is crucial that UK policies are consistent in terms of the values they espouse. The alternative risks perpetuating a cycle of political grievance and social injustice that could contribute to extremism.

This is not just a matter of principle. There is a national interest in being seen to do the right thing in today's globalised world, where what the UK does in Pakistan, Saudi Arabia, Libya or China is seen all over the world as well as in the UK. Only by consistently living up to the values the UK claims to stand for and promote, can the UK work towards reclaiming the rhetoric of justice so often misused by extremists.

Deportations of foreign nationals and torture

Amnesty International would question the report's assertion that the UK "abides by its human rights obligations, including the absolute prohibition of torture". We are also gravely concerned by the section titled "ethical dilemmas", which appears to give support to the use of "torture evidence". Under international law torture is absolutely prohibited in all circumstances; no statement obtained through torture or other ill-treatment should be admitted as evidence except in proceedings against torturers. The absolute prohibition of torture and ill-treatment is one of the most universally accepted human rights and

encompasses a ban on transferring a person to a state where there is a real risk they would be subjected to torture or other ill-treatment (*non-refoulement*). The principle is binding on all states, is absolute and permits no exceptions.

The report states the Government's commitment to the obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). However, the report also sets out the Government's policy of deportations with diplomatic assurance. Amnesty International is extremely concerned at the Government's efforts to deport foreign nationals to countries where they face a real risk of torture or other ill-treatment (whether in association with memorandums of understanding, an exchange of letters or any other sort of diplomatic agreement). Amnesty International considers that the UK's reliance on diplomatic assurances when seeking to expel people to countries where they would face a real risk of torture or other ill-treatment violates its obligations under international law. Diplomatic assurances are corrosive of the absolute prohibition against torture.

Amnesty International is far from reassured by what the report says about safeguards and improvements in human rights brought about by these arrangements. Diplomatic assurances are only sought with countries where there is a risk of torture and ill-treatment and which do not respect their existing obligations. Given that these states have previously violated legally binding obligations, they cannot be relied on to honour bilateral diplomatic understandings. Moreover, torture and other ill-treatment almost always happens in secret. Amnesty International considers that undertakings not to torture made by states known to use torture or ill-treatment are self-contradictory and cannot be relied upon.

The idea that monitoring mechanisms bolster the effectiveness of diplomatic assurances is misguided. The safeguards that assurances provide fall below those in international law; they lack an enforcement mechanism and do not provide a remedy in case of a breach. Indeed, diplomatic assurances have proven to be ineffective. People who have been transferred on the basis of diplomatic assurances by other countries have later complained of torture.² Amnesty International considers that diplomatic assurances are inherently unreliable and in practice ineffective.

Amnesty International has consistently raised concerns about the UK's efforts to "balance" the risk of torture and ill-treatment with national security concerns. This has included interventions in a number of cases before the European Court of Human Rights in an effort to change case law in this area. In this regard, Amnesty International welcomed the February 2008 ruling by the European Court of Human Rights in the case of *Saadi v Italy*. In this landmark judgement, the Court ruled that deporting Nassim Saadi to Tunisia, where he would face a real risk of torture, would violate the Italian Government's obligations under the European Convention on Human Rights. The Court recognised the difficulties states face in protecting against terrorism, but explicitly rejected UK and Italian arguments that the risk of harm faced by the individual should be balanced against any danger posed by the individual.³ The Court rejected as "misconceived" the arguments advanced by the UK. Amnesty International considers that the Government's efforts to "balance" national security and the risk of torture work to undermine the absolute prohibition of torture.

Many international human rights institutions and experts share Amnesty International's concerns in this area. The UN Special Rapporteur on Torture, Manfred Nowak, has said: "The prohibition of torture is absolute, and States risk violating this prohibition... by transferring persons to countries where they may be at risk of torture".⁴ Terry Davis, Secretary General of the Council of Europe, has expressed similar concerns: "Diplomatic assurances and memoranda of understanding do not constitute adequate safeguards to avert the risk of deportees being subjected to torture or other ill-treatment in the countries of destination". The Council of Europe Committee for the Prevention of Torture has said: "The fact that such assurances are sought shows in itself that the sending country perceives a serious risk of the deportee being subjected to torture or other ill treatment".⁵ Moreover, in April 2008, the Court of Appeal ruled in two cases that the UK could not lawfully proceed with deportations in two key cases. The Court found that an individual could not be returned to Jordan because of the risk of unfair trial, including the use of "torture evidence" and that two Libyans could not be returned because the Memorandum of Understanding with Libya is insufficient to protect them from torture and other ill-treatment.

Amnesty International calls on the Government to reaffirm its commitment to the absolute obligation under international law not to return any person to a country where they face a real risk of torture or ill-treatment. It is extraordinary that the Government, which has been a strong advocate of the elimination of torture throughout the world, should now be undermining this work by seeking to circumvent the principle of non-refoulement.

² In 2001, Sweden expelled two asylum seekers to Egypt relying on "diplomatic assurances" to counter the risk of torture. Both men were held in incommunicado detention in Egypt and allege that they were tortured while in custody in Egypt.

³ Grand Chamber, Case of *Saadi v Italy*, Judgement, Strasbourg, 28 February 2008.

⁴ Statement of the Special Rapporteur on Torture, Manfred Nowak, to the 2nd Session of the UN Human Rights Council, Geneva, 20 September 2006.

⁵ "Speech by Terry Davis", Secretary General of the Council of Europe, at the Seminar on Action against Trafficking in Human Beings, London, 10 December 2007.

Guantánamo Bay

In previous years, Amnesty International has criticised the Government for being slow to make sufficiently strong and public criticism of Guantánamo. We therefore welcome the report's finding that the "circumstances in which detainees are currently held indefinitely at Guantánamo Bay are unacceptable" and the call for the detention facility to close. However, the report makes only brief mention of the human rights abuses at Guantánamo and fails adequately to criticise US practice there.

The report glosses over the harsh reality of conditions at Guantánamo and gives a misleading impression by citing reports of improvements. In addition to the serious distress caused by the indefinite nature of their detention, most detainees have languished in harsh conditions throughout their detention, confined to mesh cages or enclosed in maximum-security cells. In December 2006, a new facility known as Camp 6 opened. This facility created even harsher conditions of extreme isolation and sensory deprivation in which detainees are confined to almost completely sealed, individual cells, with minimal contact with any other human being.

Amnesty International is also concerned by the report's acceptance of US assurances that the USA is opposed to torture and other cruel, inhuman or degrading treatment. It has become clear over recent years—not least from the US Government's own confirmation that it has authorised and used the form of torture known as "waterboarding"—that what the USA considers torture does not match international law. Furthermore, the USA's treaty reservations mean that it considers itself to be bound by the prohibition of cruel, inhuman or degrading treatment only to the extent that it matches existing US law. Under US Supreme Court jurisprudence, conduct is banned that "shocks the conscience". This opens the door for consideration of the "circumstances" in which the abuse occurs. In Amnesty International's view, the USA adheres to a less than absolute ban on torture and other ill-treatment.

A further area of concern is the denial of access to due process. The report notes some concerns about the Military Commissions Act, but does not fully recognise the seriousness of the situation. Detainees are held in indefinite executive detention without charge or trial. The systems of review and trial fall far short of international standards. The Combatant Status Review Tribunals (CSRTs) have effectively served as rubber stamps to affirm "enemy combatant" status, a status used by the USA but unknown in international law. The narrow judicial review of CSRT decisions provided for under the Detainee Treatment Act cannot be an adequate substitute for habeas corpus review, and in any event has not yet occurred. Military commissions are not impartial or independent. Like the CSRTs, they also allow the use of information extracted under cruel, inhuman and degrading treatment and classified evidence, without the defendant necessarily being able to effectively challenge this.

The conditions at Guantánamo and the continued denial to detainees of access to due process are wholly unacceptable. The Government should press the USA to repeal or substantially amend the Military Commissions Act to bring it into conformity with international law, including by fully ensuring the right to habeas corpus. There is also an urgent need to end the harsh conditions of isolation and sensory deprivation in use at the camp.

The report notes the Government's change in position on former UK residents held at Guantánamo and its request for their return from the USA. Amnesty International welcomed this and the return of Bishar al-Rawi, Jamil El Banaa, Omar Deghayes and Abdennour Sameur. However, we remain deeply concerned about former residents Binyam Mohammed and Shaker Aamer, as well as Ahmed Belbacha, who also lived in the UK, but was excluded from the UK request because the Government claims he was present in the UK illegally. Belbacha, who is reported to be cleared for release, would face a serious risk of torture or other ill-treatment if returned to his native Algeria. It is now more than six years since the first detainees were transferred to Guantánamo from Afghanistan. There is a need for increased urgency in efforts to find a solution to closing the camp. There is a broad consensus that Guantánamo should close. However, the USA will need assistance in achieving this. The Government should push hard for the return to the UK of the remaining UK residents, and Ahmed Belbacha, and work with its allies to encourage other states to take a similar approach. The UK should also work with its allies to help resettle detainees who are not going to be charged and tried in accordance with international standards, and who cannot return to their country of origin.

Rendition

The report sets out the Government's understanding of the terms "rendition" and "extraordinary rendition". There is a danger of confusion over terminology in this area. Amnesty International uses the term "rendition" to refer to a variety of practices involving transfers of individuals from one country to another, without any judicial or administrative process such as extradition. This includes transferring detainees into the custody of other states, assuming custody of individuals from foreign authorities and abducting suspects on foreign soil. Amnesty International considers rendition to be illegal because it bypasses any judicial or administrative process. Additionally, rendition usually involves multiple human rights violations, including abduction, arbitrary arrest and detention and unlawful transfer without due process of law. All of the victims of rendition Amnesty International has interviewed have said they were subjected to torture or other ill-treatment.

As reflected in the report, the Government has taken a strong position on rendition that involves torture. However, it has failed to take a principled position on the broader human rights abuses involved in rendition. The Government has also failed to criticise the US practice of rendition. The Government should take a strong and consistent position opposing rendition in general and not just rendition that involves torture. The Government also needs to take a stronger position opposing the US practice of rendition and secret detention.

The report sets out the Government's policy on rendition and its expectation that the USA will request permission to use UK airspace or Overseas Territories for rendition. Amnesty International is deeply concerned by this position. As the report notes, in February 2008, Foreign Secretary David Miliband was forced to tell Parliament that previous assurances that UK Overseas Territories had not been used for rendition were inaccurate. The USA is now known to have used Diego Garcia to render two individuals. Relying on US requests and assurances regarding rendition is clearly ineffective. The Government should oversee a properly independent and thorough investigation into the UK's involvement in rendition. This should include flights believed to have been on the way to or from a rendition (the rendition circuit) and not just those with detainees on board. In relation to the two detainees rendered through Diego Garcia, the Government should seek more details about the men. The Government should also press the USA to make a full disclosure of its rendition and secret detention programme, cease rendition and secret detention, and hold to account those involved in these practices.

A later section of the report sets out the Government's position on the International Convention for the Protection of All Persons from Enforced Disappearance. This Convention could provide important protections in the area of rendition and secret detention. The Convention recognises enforced disappearance as a violation of human rights and prohibits it; puts an obligation on states to make enforced disappearance a crime in national law, bring offenders to justice and investigate reports of enforced disappearance; and provides for reparations for victims and families. The Government should give urgent attention to signing and ratifying the UN Convention on Protection from Enforced Disappearance.

Weapons proliferation

Arms Trade Treaty

The development of an international Arms Trade Treaty (ATT) to help curb the flow of arms to those using them to commit abuses of human rights and international humanitarian law remains crucial. Significant progress continues to be made; Amnesty International welcomes the commitment of the Government and its international partners, which continue to play a lead role in promoting the ATT on the international stage. In 2007, at least 100 governments submitted their views on an ATT to the Secretary General, an unprecedented number of responses for an initiative of this kind.

This year (2008) is another key year for the ATT. The 28-member Group of Government experts (GGE) will meet three times to consider the feasibility, scope and draft parameters of a legally-binding arms trade treaty and will report back to the General Assembly.

The Government has been at the forefront of support for the ATT initiative. It must continue to work hard to drive it through the UN system and increase its efforts to secure widespread and international active support, particularly from southern governments. It is clear from progress so far, that there is overwhelming international support for an ATT. However, substantial blocks are starting to emerge as key governments begin to outline their concerns. It is imperative that efforts are made to engage effectively with these sceptical states and ensure they do not de-rail progress.

It is also clear that an ATT will only save lives and protect human rights if it is truly comprehensive, robust and effectively implemented. Amnesty International does not support an ATT at any cost; we believe that the eventual treaty must enshrine the core principles of international human rights and humanitarian law and other relevant non-proliferation norms and standards. It must also be as comprehensive in scope as possible, apply to all conventional arms, including their components, manufacturing technology, production equipment and relevant dual-use goods. As a starting point, Amnesty International recommends that the ATT use the Wassenaar military list. This list is comprehensive, multilateral in status, supported by the majority of arms-exporting states and is an agreed international standard for classification of conventional weapons. The ATT must also cover all aspects of international arms transfers, including import, export, transit, transshipment, and overseas production and arms-brokering activities.

Cluster Bombs

This year (2008) will see the conclusion of a new international treaty prohibiting the use, production, stockpiling and transfer of cluster munitions. Final treaty negotiations will take place in Ireland in May 2008. Amnesty International welcomes the Government's support for the process, but remains concerned that it is part of a small group pushing for certain exemptions that would seriously weaken the treaty. This stance risks undermining the UK's leadership in this area and credibility to argue for legally binding humanitarian standards for arms transfers.

In particular, Amnesty International is concerned that the Government appears to be arguing for exemptions that would allow it to keep its current stocks of cluster bombs, either by allowing munitions with self-destructing mechanisms or by allowing weapons with less than 10 munitions. The UK's existing munitions stocks should not be exempted from an eventual cluster bomb treaty.

In addition, the UK continues to claim that L20A1 artillery shells with M85 submunitions should be exempted from prohibition because their "self-destruct" (SD) mechanism means they do not cause significant post-conflict contamination. However, M85 submunitions with SD were used by Israel in Lebanon in 2006 and have caused contamination and subsequent casualties. Analysis by the head of the UN mine action programme in southern Lebanon, NGOs, government defence research bodies and independent ordnance analysts has concluded that the performance of M85 with SD in Lebanon demonstrates that the presence of SD mechanisms does not provide an adequate basis for civilian protection.

In 2007, the Government sought to reclassify CRV7 rockets with M261 warheads containing M73 submunitions as "not cluster munitions", despite the fact they had been categorised as cluster munitions previously. The Government argued for this reclassification, and continues to argue for an exemption from prohibition, on the basis that each warhead contains only nine submunitions. An exemption for a cluster munition with 10 or fewer submunitions would represent a major loophole in the treaty. Such a loophole would allow the development and continued use of weapons that have exactly the same problematic effects that have been associated with cluster munitions for decades. In a short-term effort to secure an exemption for one specific weapon, the UK appears to be prepared to create loopholes that will result in long-term shortcomings for the international treaty. These rockets are fired from pods of 19 rockets, and four such pods are typically mounted onto an attack helicopter, providing a capacity for 684 submunitions. M73 submunitions do not contain any self-destruct mechanism, and so fall within the Government's own definition of "dumb" munitions.

Even under controlled testing environments, the M73 has an unacceptably high failure rate of approximately 6%. The UK has not made a detailed case for the particular military utility of these weapons, nor has it explained why other CRV7 rocket warheads that do not contain cluster bombs, which can and are fitted to the CRV7 system, might not be used to provide the same capability.

Export Licensing

The Government has made a commitment not to grant arms export licenses to countries or end-users that could use the equipment to facilitate human rights abuses. However, export licenses continue to be issued for types of equipment that could be used to commit abuses to countries about which the Government has expressed human rights concerns. These countries include Afghanistan, China, Colombia, Israel, Iraq, Russia, Pakistan and Saudi Arabia. The type of equipment that has been licensed to these destinations include armoured vehicles, pistols, machine guns and sniper rifles, components for combat helicopters, components for air to surface missiles, body armour, riot control agents and military communications equipment. According to Saferworld, in 2007 the Government issued export licences for arms and dual-use equipment to 18 of the 21 countries identified by the Government as "major countries of concern" for human rights abuse.

The Government has made some improvements in the transparency of its reporting, for example by disclosing the end-users of certain equipment, particularly where it is destined for a humanitarian end-use (eg mine clearance) or peacekeeping activities. However, the Government's arms export reports still do not enable adequate or meaningful scrutiny. It is imperative that the Government provide a much more coherent explanation of its export licensing decisions to countries it lists as countries of concern in the FCO's annual human rights report. The Government should also publish more information on end use and end-users.

Review of the Export Control Act

The 2007–08 review of the 2002 and 2004 Export Control legislation offers an opportunity to close existing loopholes in the UK's export control system. Amnesty International welcomes the Government's decision to close the loophole on the brokering and trafficking of small arms and light weapons by introducing full extraterritorial controls on these categories of arms. These are important and necessary controls.

We also welcome the decision to introduce a new "end-use" control on goods and equipment that could be used to facilitate acts of torture. This addresses a dangerous loophole that could have allowed certain goods to evade control because they were not included on a specific list of equipment. Although we support efforts to introduce the torture end-use control across the EU, as part of the ongoing development of the EU Torture regulation, Amnesty International urges the Government to make a commitment to introduce torture end-use controls within the UK's national export controls at the earliest opportunity.

Amnesty International is also pleased that the review is being extended into late 2008 to cover issues that require further deliberation. We welcome the approach taken by the Government and its desire to work constructively with both NGOs and industry. Recent case examples have shown the need to more effectively regulate international production issues, including the export and re-export of components, as well as the need to extend full extraterritorial brokering controls to a wider range of lethal equipment.

For example, in July 2007, Amnesty International and other NGOs published a report detailing the proposed transfer of military helicopters from India to Burma. These helicopters contained significant components and technology from several EU and US manufacturers. Several EU countries have much more stringent controls over the re-export of components and technology, and it appears that this stopped the deal. This is in stark contrast to the situation in the UK, where no re-export controls are applied. A previous transfer from India to Burma of UK military aircraft went ahead. Similarly, in 2005, Uzbekistan security forces used military Landrover defender vehicles during the Andijan massacre. These vehicles were supplied by Turkey, which manufactures them under license from Landrover in the UK. In February 2005, it emerged that a UK subsidiary company based in India was negotiating to supply military trucks to Sudan. This deal would have been illegal if done from the UK, as Sudan is subject to an EU arms embargo.

PROMOTE A LOW-CARBON, HIGH-GROWTH GLOBAL ECONOMY

Human rights and globalisation: human rights and global business

Clarity of strategy

The report outlines the Government's development of a strategy on Corporate Social Responsibility (CSR). Amnesty International welcomes this and congratulates the Government for developing a strategy on CSR. However, we have questions about the clarity of this strategy. The strategy document of February 2007 states that: "The FCO also plays a lead role in the international implementation of the DTI's International Strategic Framework for Corporate Social Responsibility of March 2005". Amnesty International would ask whether this means that the Government is implementing two CSR strategies simultaneously, and if this is the case, which strategy takes precedence and which department has the lead on CSR? A further question would be whether DfID is part of this strategy with regard to the role of the World Bank and other international financial institutions in funding Foreign Direct Investment projects.

Minimal human rights emphasis

The FCO strategy emphasises partnership with business to demonstrate "the UK's currently undisputed leadership in the CSR field", with benefits for the reputation of British business and the UK generally. However, there is minimal emphasis on human rights in the strategy, and none at all on the Government's international obligations to hold companies accountable. The assertion that "the FCO intends to encourage responsible business practice that goes beyond compliance with international legal requirements and regulations" calls into question why the Government is not actively trying to raise the bar on international human rights standards for business. The "beyond compliance" agenda assumes that the impact of business at present is adequately regulated. Amnesty International considers that this is not the case, especially in areas of weak governance where states are unwilling or unable to hold companies accountable.

Evaluation

The report notes that the Government has "identified voluntary industry codes of conduct as a priority, focusing on multi-stakeholder dialogues that bring together companies, governments and civil society". This implies that the Government believes that voluntary codes of conduct and multi-stakeholder initiatives are effective in improving the effects that companies have. Amnesty International would ask whether the Government has evaluated any of these initiatives, and if so, what evidence there is that they work. Amnesty International's experience of participation in the UN Global Compact and the Voluntary Principles on Security and Human Rights is that these initiatives are inadequately governed, their effects on the ground are not monitored, and that there is considerable variation between commitment and implementation. This is reinforced by the lack of sanctions against those companies that link themselves to initiatives but fail to operationalise them.

If the Government's approach to corporate social responsibility is to lead to improvements in the impact that companies have on human rights, it will have to address fundamental issues outlined in the report to the Human Rights Council of the UN Secretary General's Special Representative (9 February 2007):

- Very few states explicitly consider human rights criteria in their export credit and investment promotion policies or in bilateral trade and investment treaties. These are the points at which government policies and global business operations most closely intersect.
- For businesses with large physical or societal footprints, accountability should begin with assessments of what their human rights impact will be. This would permit companies and affected communities to find ways of avoiding negative effects from the start. No single measure would yield more immediate results in the human rights performance of firms.
- One area where greater clarity is needed is indigenous peoples' rights. The current lack of consensus on the practical implications of "consent" (in the formula of "free, prior and informed consent" to large-scale projects) is a major challenge for indigenous communities, business and governments alike.

- The rules governing extraterritorial jurisdiction suggest that it is permissible for the home country to impose civil liability on the parent company for its acts and omissions regarding activities by its subsidiaries abroad.
- In some instances, states are turning to soft law to avoid more binding measures gaining political momentum.

Human rights, development and poverty reduction

As set out in the report, the Government is proud of its record on poverty alleviation and the fulfilment of economic, social and cultural rights. However, Amnesty International has concerns about a number of areas of this work.

Rights Based Approach to Development

In “Realising Human Rights for Poor People” (2000), the Government outlined the importance of human rights for achieving poverty reduction and sustainable development. However, two assessments of the role of human rights in the work of the Department for International Relations carried out by the Overseas Development Institute in 2004 and 2008, both highlighted the fact that while the rights-based approach principles of inclusion and participation are generally implemented, insufficient attention is paid in policy and practice to the role of the international human rights framework, both to hold governments to account and to empower individuals.

Amnesty International recommends that the Government implement a full survey of its use of international human rights standards in its development and poverty alleviation work. This should be with a view to strengthening the accountability element of the rights-based approach that it takes and ensuring that state recipients of UK aid use it appropriately. This includes ensuring that UK aid donated through multilateral institutions, such as the EU and World Bank, is also given in accordance with human rights principles.

Millennium Development Goals

Amnesty International also commends the Government for its focus on the MDGs. However, the MDGs are merely goals and say nothing about the strategies required to achieve them. As such, they are silent on the key human rights principles of participation, inclusion, equality and in particular, non-discrimination. The MDGs also set lower targets than states are required to meet under international law and only partially reflect the spectrum of economic, social and cultural rights states are obliged to address. The MDGs also exclude civil and political rights, despite acceptance that economic, social and cultural rights are rarely realised where individuals are denied the freedom to mobilise in defence of them.

Amnesty International urges the Government to develop a set of principles at the UN Summit in September 2008 to assess progress towards the Millennium Development Goals worldwide. Amnesty International urges the Government to work with relevant civil society organisations in-country to achieve this.

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

It is critical that international institutions and standards that affect development are strengthened. Negotiations have been underway for some years at the UN in order to secure an Optional Protocol to the Covenant on Economic, Social and Cultural Rights (OP-ICESCR). This would allow redress at the international level for victims of abuses of economic, social and cultural rights on the same terms as victims of abuses of civil and political rights. As part of the NGO Coalition for an OP-ICESCR, Amnesty International believes that only a “comprehensive” form of protocol would be effective, ie obliging states to allow individuals to seek redress for all rights protected by the International Covenant as opposed to only those the state chooses.

On 4 April 2008, a final text for such a protocol was agreed by the UN working group on an OP-ICESCR and has now been passed to the Human Rights Council for adoption in June, after which it will proceed to the General Assembly for adoption in December. Up until the last week of negotiations, the Government argued for an “a la carte” version of the text, allowing states to pick which rights would apply. However, the Government supports the agreed text.

Amnesty International welcomes the Government’s support for an effective and comprehensive Optional Protocol to the Covenant on Economic, Social and Cultural Rights. The organisation urges the Government to argue strongly for both the Human Rights Council and General Assembly to adopt the Optional Protocol.

PREVENT AND RESOLVE CONFLICT

Amnesty International welcomes the fact that preventing and resolving conflict are now at the heart of the FCO's strategic framework. We agree with the report that "human rights violations can be an indicator of an impending conflict". Amnesty International urges the Government to ensure that all UK posts are adequately trained in identifying human rights abuses and are working to implement the EU Guidelines on Human Rights Defenders.

The report also mentions the role that the UK can play as a permanent member of the UN Security Council and as a member of other multilateral institutions. Amnesty International agrees that these institutions are platforms for addressing threats to peace and security; however, political will is also required for effective action. Amnesty International urges the Government to ensure that it uses its membership of multilateral bodies to ensure that high and equal standards are set when addressing issues of conflict prevention and resolution. For instance, the Government must condemn unequivocally abuses committed by states, including when they are committed by close allies.

The report notes that international financial institutions (IFIs) have a role to play in conflict prevention and resolution. Amnesty International agrees that IFIs have a role to play in ensuring that human rights are upheld and respected. We urge the Government to use its influence and membership of these bodies to ensure that human rights are on their agenda. For instance, while trade agreements have created new opportunities for some, and can have a positive impact on human rights, they have been associated with patterns of growing inequality and deteriorating social conditions, including denial of human rights for the poorest and most marginalised sectors of the population.

Responsibility to protect

In September 2005, the UN World Summit agreed the concept of the "responsibility to protect"; in April 2006, the UN Security Council adopted Resolution 1674 on the Protection of Civilians in Armed Conflict. However, the international community continues to fail to meet this responsibility; this is clear from the situation in Darfur, where over 200,000 people have died as a result of the conflict, tens of thousands of people have been raped and assaulted, and almost two million people forced from their homes. Darfur is the litmus test for the international community to show its resolve in addressing egregious human rights violations; to date it has failed to meet this test. The Government must show commitment to translating the concept of the responsibility to protect into a willingness to act in all instances where states fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. It must use its influence, in particular as a permanent member of the Security Council, to ensure that prompt and decisive action is taken to protect civilian populations.

Sudan

The report addresses many of Amnesty International's concerns regarding Sudan. The organisation recognises the Government's continued engagement in efforts to find a resolution to the conflict while seeking to maintain support for the 2005 Comprehensive Peace Agreement.

However, while the report states that the Sudanese Government is falling short of its human rights commitments, the report fails to note that it continues to attack civilian populations in Darfur. In February 2008, Amnesty International reported that thousands of civilians had fled West Darfur's Sirba region; an unknown number of people were killed as the Sudan Armed Forces (SAF) moved to re-occupy the area, accompanied by uniformed Janjawid militia on horseback. In the attacks, up to 100 civilians are believed to have been killed in the three main villages in the area (Sirba, Abu Suruj and Silea). The attacks were supported by SAF aeroplanes and the SAF now occupies the area.

The report also fails to make any reference to the fact that the conflict in Darfur has spilled over into eastern Chad and the Central African Republic. Amnesty International has conducted two missions to eastern Chad in the past year and has reported cross-border attacks by Janjawid militia and other armed groups. In the February attack, Amnesty International reported that thousands of civilians had fled West Darfur's Sirba region; up to 12,000 fled to Chad, where many, including women and children, took shelter in the bush.

Amnesty International urges the Government to use its influence to ensure that the African Union-United Nations Hybrid Operation in Darfur is provided with the logistical support it requires and that it is fully deployed as soon as possible.

We would also welcome any representations the Government was able to make to its Sudanese counterpart to assist gaining access for Amnesty International to Northern Sudan and Darfur. It was the Secretary of State's timely intervention that resulted in Amnesty International's access to Darfur in March 2004. Since that time, the organisation has only been able to visit Southern Sudan, and does not have access to other parts of the country.

Women, peace and security

The report notes that the UK was a driving force behind the adoption in 2000 of UN Security Council Resolution 1325 on Women, Peace and Security. The report also sets out the UK's development in 2006 of a national action plan for the implementation of Resolution 1325. Resolution 1325 calls for increased protection of women during armed conflict, for an end to impunity for gender-based abuses during and after conflict, and the participation of women at all levels of decision-making related to prevention, management and resolution of conflict. Amnesty International welcomes the Government's development of a national action plan. However, despite modest progress in mainstreaming gender considerations in peace-keeping initiatives, violence against women and girls in conflict-affected situations continues unabated and most acts of violence are never investigated, or the perpetrators brought to justice. Amnesty International urges the Government, along with its international partners, to take concrete steps to make real the promises of Resolution 1325 for all women living in conflict-affected situations.

Private Military and Security Companies

The report does not mention the role of private military and security companies. This is a grave oversight given that these companies are currently not subject to adequate legal control in the UK for their activities abroad, and that increasing use is being made of them in conflict and weak governance zones around the world, including by the Government. There is a pressing need to regulate these companies. Amnesty International is concerned that since the publication of the Green Paper ("Private Military Companies: Options for Regulation") in 2002, and the Government review completed in 2005, a decision has still not been announced as to whether the Government will pursue regulation of private military and security companies. Amnesty International urges the Government to issue a timeframe for the announcement of a decision on regulation of private military and security companies. We further urge the Government to opt in favour of binding regulation that will ensure accountability for human rights violations committed by UK private military and security contractors.

In particular, Amnesty International calls on the Government to put in place legislation that will enable private military and security contractors to be brought to justice in the UK for serious crimes committed abroad. We are concerned that there is currently a lack of jurisdiction in the UK to prosecute private military and security contractors for a range of serious crimes if these are committed abroad. Given that contractors are effectively immune from prosecution in many of the countries they operate in, UK contractors are operating in a context of impunity and the potential for unaddressed human rights violations is significant. The Government must act swiftly to remedy this situation.

Amnesty International further urges the Government to adopt measures to increase transparency and oversight over the activities of private military and security companies and reminds the Government of the recommendations made in this regard by the Foreign Affairs Select Committee in its Ninth Report of 2002.

DEVELOP EFFECTIVE INSTITUTIONS

Amnesty International welcomes the fact that one of the FCO's policy goals is to establish effective international institutions. However, the focus in this section of the report is on the UN Human Rights Council, the UN General Assembly and the Third Committee. While these are critical bodies for addressing human rights, Amnesty International considers that human rights should be on the agenda of all international institutions; international institutions should work to mainstream human rights in their activities. In this section, the report fails to mention the role that international financial institutions can play in promoting and protecting human rights.

The report states that the Government is committed to building an international system able to meet the challenges of the 21st century. Amnesty International welcomes this ambition. It is critical that the Government work with the international community wherever possible to enhance, promote and improve human rights, and to ensure that they are mainstreamed throughout all international institutions. Amnesty International would also like the UK to use its almost unparalleled multilateral engagement (for example as a permanent member of the UN Security Council and a member of the EU, the UN Human Rights Council, the G8, WTO and IMF) to encourage other states to do the same, in order to ensure that the multilateral infrastructure is fit for purpose.

UN Human Rights Council

The report's assessment of the UN Human Rights Council is fair. The UK has been active in its efforts to ensure that the Council is an effective body for addressing human rights. The Council's success will depend on the political will of its members and its ability to establish effective mechanisms for addressing human rights. The Government has made a positive contribution to the UN Human Rights Council, working to ensure that it is an effective body. Amnesty International would urge the Government to continue in this spirit, using its influence to build on the foundations that have been laid in the Council's first year, ensuring that its mechanisms and procedures continue to be strengthened.

The UK was among the first group of countries to undergo the Universal Periodic Review (UPR); Amnesty International urges the Government to set a high benchmark for others to follow. The Ministry of Justice coordinated a cross-government consultation process with civil society, in which Amnesty International took part. In general, Amnesty International was satisfied with the consultation; the timing was tight, but the Government was working to a UN timetable. Nevertheless, there are likely to be lessons to be learnt from the process. Amnesty International welcomes the Government's willingness to share its experiences by holding seminars for Commonwealth countries in Geneva and London.

European Neighbourhood Policy

The report covers the European Neighbourhood Policy (ENP), stating that the underlying political principals of the policy are the same as the EU's: democracy, liberty, freedom of expression, respect for human rights and the rule of law. The report goes on to note that respect for human and fundamental rights feature heavily in each of the action plans. Amnesty International would urge the Government to ensure that human rights are respected by all the countries that are party to the European Neighbourhood Policy.

COUNTRIES OF CONCERN

Afghanistan

Despite recognising "difficult security challenges", the report fails to reflect the severity of the security situation in Afghanistan. The conflict in the south and east has grown in intensity and had a detrimental impact on governance in other parts of the country. In 2007, around 1,500 civilians were killed and thousands were forced to flee their homes because of conflict and drought. The UN Secretary-General's special representative to Afghanistan has expressed concern about the deteriorating security situation in the south and called for more development work as well as further military and diplomatic interventions to curb the growing violence.

Benefiting from a climate of lawlessness, notably in the south, the Taliban has enjoyed a significant resurgence. Their forces are responsible for killing civilians and others not involved in combat, using human shields to escape attack and ill-treating and torturing those over whom they have effective control. The conflict has also reduced the access of humanitarian agencies to some of the worst affected areas in the south, hindering the delivery of essential aid and medical care to millions of Afghans.

While the report highlights the attacks on civilians by the Taliban and other groups, it underplays the number of civilians killed as a result of the failure by international and Afghan forces to take precautions to protect them; this failure is in contravention of international humanitarian law. Civilians have been killed as a result of indiscriminate attacks, including aerial bombardments by the International Security Assistance Force (ISAF) and US-led Operation Enduring Freedom forces. As a matter of urgency, Amnesty International calls on all sides to adhere in their operations to the principles of distinction and proportionality, rules of international humanitarian law by which they are bound. All forces must ensure that they do not target civilians or carry out indiscriminate attacks.

The report states that the UK is "confident that the human rights of detainees handed over by UK forces are not breached". Amnesty International commends the UK for keeping records of prisoner transfers and for regular monitoring of prisoner welfare. However, the organisation remains concerned about the treatment of detainees handed over by ISAF to the Afghan authorities. We have received reports of torture and other ill-treatment, as well as arbitrary detention by Afghan forces, particularly the National Directorate of Security (NDS). Memorandums of Understanding (MoUs) drawn up between some ISAF forces, including the UK, and the Afghan authorities have not prevented allegations of torture. Under international law, states are under an absolute obligation not to expel, return or extradite any person to a country or location where they would face a real risk of torture or other ill-treatment (the principle of non-refoulement). MoUs must not be used to circumvent this obligation. Research by Amnesty International, as well as other sources, has shown that such a risk clearly exists in Afghanistan, especially for those detained by the NDS.

Amnesty International urges all ISAF forces to refrain from transferring individuals to the Afghan authorities until safeguards against abuse are in place. During this proposed temporary moratorium, Amnesty International suggests that ISAF states work collectively to create a national engagement plan to reform the Afghan prison system so that it operates in full compliance with international law and standards. The Government should also impress upon the Afghan Government the importance of protecting the human rights of those in its custody and the need for independent and impartial investigations of abuse. Amnesty International also urges the Government to press the Afghan authorities to allow independent monitors, such as the International Committee of the Red Cross and the Afghan independent Human Rights Commission, unrestricted access to all National Directorate of Security facilities.

The report recognises that there is still much to be done on women's rights. Progress has been made in this area since the fall of the Taliban, but Afghan women and girls remain at exceptional risk, facing: widespread discrimination from all segments of society; domestic violence; abduction and rape by armed individuals;

trafficking; forced marriage (including child marriages); and being traded in settlement of disputes and debts. Schools and teachers (especially those dedicated to educating girls) and students have also been targeted.

Amnesty International is concerned at the failure to ensure justice for women whose rights have been abused. The police, courts and other justice-sector officials seldom address women's complaints of violence, including rape and other sexual violence. Women victims and defendants have little recourse to justice and are discriminated against in the formal and informal justice systems. Legal reforms designed to protect women have not been implemented, and women continue to be detained for breaching social traditions. There has been a rise in "honour" killings and self-immolation by women. In promoting their rights, women frequently encounter discriminatory laws, policies and practices, as well as attacks. Amnesty International calls on the Government to urge its Afghan counterpart to reaffirm its commitment to protect the rights of women and girls and ensure that human rights defenders are able to play their vital role documenting violations of human rights and upholding international human rights standards. Amnesty International also urges the Government to continue to fulfil its commitments under UN Security Council Resolution 1325 through practical projects that promote understanding of women's roles in conflict prevention and resolution and peacebuilding.

Amnesty International is concerned that the Afghan Government and its international partners are failing to meet the benchmarks set in the 2006 Compact on justice and the rule of law. Amnesty International calls on the Afghan Government and its international partners, including the UK, to co-ordinate efforts to reform the justice sector and establish the rule of law, including by providing the sustained financial support that is required for meaningful change.

Amnesty International welcomes the Government's statements and the EU Troika demarche to the Afghan foreign minister in response to the execution of 15 people in October 2007. The 15 men were executed by firing squad at the Pul-i Charkhi high security prison outside Kabul. This marked an end to a three-year moratorium on executions in Afghanistan. The Government should continue to urge the Afghan Government immediately to implement a moratorium on the use of the death penalty, in accordance with the 18 December 2007 UN General Assembly Resolution on a moratorium on executions. This should be a first step towards the total abolition of the death penalty.

China

The Government's policy towards China stresses the need for engagement and dialogue. It recognises the importance of human rights, but is driven more by economic and other strategic considerations. At present, the interface of the 2008 and 2012 Olympic Games is also important. The UK is keen to emphasise its multi-layered approach, where high-level contact is supported by a range of projects to improve human rights in modest but practical ways. Public comments by senior members of the Government on China's human rights record are carefully measured in order to avoid upsetting the overall balance of the relationship with China.

However, recent events in Tibet and China's actions in the run up to Olympics are challenging the Government to be more robust in its condemnation of China's deteriorating human rights record. The Chinese authorities seem to have considered and then discounted the expected level of international reaction to these events. The Government has been slow to rise to the challenge. Amnesty International calls on the Government to express in unequivocal and public terms its condemnation of the worsening human rights situation in China.

Amnesty International considers that much of the current wave of repression is occurring because of, and not in spite of the Olympics. Human rights activists, and others who have publicly criticised official government policy, have been targeted in the official pre-Olympics "clean up", in an apparent attempt to portray a "stable" or "harmonious" image to the world. Although there have been some high profile releases of human rights activists, many more have been detained in recent months for nothing more than petitioning the authorities to address grievances or drawing international attention to ongoing human rights violations. Individuals who have linked China's human rights responsibilities to its hosting of the Olympics have been among the most harshly treated. In March 2008, Yang Chunlin was sentenced to five years in prison for "inciting subversion" after he spearheaded a campaign under the banner "We don't want the Olympics, we want human rights". Yang was reportedly tortured by the police in detention; he was denied the opportunity to raise these allegations in court. Also in March, Beijing-based activist Hu Jia was convicted for "inciting subversion" in connection with his human rights activities; he had already spent many months under intrusive house arrest. His wife, Zeng Jinyan, continues to be held under tight police surveillance at home. Amnesty International is calling for the release of both these men. The Government should call for the unconditional release of Yang Chunlin, Hu Jia and other human rights activists unfairly convicted or detained in China.

Amnesty International has welcomed official Chinese promises of "complete media freedom" and the introduction in 2007 of new, more open regulations for foreign journalists in the run up the Olympics. However, foreign journalists continue to be obstructed from reporting on issues deemed sensitive by the authorities. The Foreign Correspondents Club of China documented more than 180 violations of the regulations in 2007, with some cases amounting to assault and arbitrary detention. Chinese journalists

continue to work under conditions of tight control and censorship; journalists who publish articles critical of the authorities or official policy risk prosecution and imprisonment. In recent months, new measures have been introduced to increase controls over the Internet. Reports suggest that information controls are also being extended to SMS text messaging in Beijing. The Government has been instrumental in persuading China to relax restrictions on foreign journalists for the duration of the Olympics; it should continue to press the Chinese authorities to maintain this relaxation and extend it to domestic journalists.

Since March 2008, serious human rights violations have been reported in Tibet and neighbouring provinces. The Chinese authorities have used excessive and sometimes lethal force to crackdown on Tibetan protests; some of these protests are reported to have resulted in death, injury and damage to property. Amnesty International condemns such attacks and acknowledges the Chinese authorities' right and duty to protect all individuals against violence, including those who are at risk of being targeted solely on account of their ethnic identity. However, we are concerned that in restoring order, the Chinese authorities have resorted to measures that violate international human rights law and standards. Amnesty International has called on the Chinese authorities immediately to end such repressive measures. We are particularly concerned about the treatment of hundreds of persons detained in response to the recent unrest. Amnesty International calls on the Government to press the Chinese authorities to allow immediate access to Tibet and surrounding areas by UN investigators and other independent observers. The Chinese authorities should also disclose the names, whereabouts and legal status of all those detained in Tibet, and release anyone detained solely for peaceful protest.

The Chinese authorities have claimed that the restoration of the Supreme People's Court (SPC) review led to a significant reduction in the number of executions in 2007. However, the authorities have failed to support these assertions by publishing full national statistics and other detailed information on the application of the death penalty. Such information is essential to assess accurately the impact of SPC review, and allow the Chinese public at large to debate and come to informed opinions on the death penalty. Recent reports indicate that the review process is beset by significant problems, including a lack of clarity on procedures for defence lawyers. No efforts have been made to reduce the large number of crimes punishable by death. Two recent SPC judicial interpretations on damage to electric power facilities and the production or sale of fake medicine may actually encourage lower courts to impose the death penalty, even if the crimes have non-lethal consequences.

China is a "litmus test" country against which to judge the Government's resolve to make human rights considerations a key component of UK foreign policy. Amnesty International considers that, at this time, the Government is failing that test in its policies towards China. The Government needs to re-examine whether its longstanding policy of engagement and practical co-operation is capable of delivering real human rights improvements in China.

Colombia

The report acknowledges that Colombia has a long way to go on human rights. Nevertheless, Amnesty International considers that the report fails accurately to reflect the seriousness of the human rights situation. There have been improvements in the security situation in some large cities, leading to fewer kidnappings and killings, but the situation remains serious, especially in regions such as Nariño and Arauca, and in rural areas. All parties to the conflict—guerrilla groups, paramilitaries and the security forces (sometimes in collusion with paramilitary forces)—are responsible for repeated and widespread human rights abuses and violations of international humanitarian law, including war crimes and crimes against humanity. Amnesty International agrees with the report when it says that there are too many victims of extrajudicial execution; increasing reports of extrajudicial execution by the security forces are a particular concern. The security forces often describe the victims as "guerrillas killed in combat"; in reality, they are mostly peasant farmers.

Amnesty International is concerned at reports that some "demobilised" paramilitaries have regrouped as criminal gangs, others have failed to demobilise, and new paramilitary groups have emerged. Paramilitaries continue to commit human rights violations in areas where they had supposedly demobilised. In 2007, paramilitary groups are believed to have been responsible for more than 200 civilian deaths. The Government should question the Colombian authorities about the progress of its demobilisation process and urge it to investigate the links between public officials and paramilitary groups.

Impunity remains a problem. Although the Constitutional Court has said that the ordinary justice system should deal with human rights cases implicating the security forces, most are referred to the military justice system. The military system usually closes such cases without any serious attempt to hold those responsible accountable. Despite repeated recommendations by the UN, the Colombian Government has failed to tackle this issue. In view of the UK's support for the process of military justice reform, Amnesty International urges the Government to insist on the complete exclusion of human rights abuse cases from the jurisdiction of military justice.

Amnesty International welcomes the Government's work to press the Colombian Government to prioritise victims' rights. Nevertheless, the organisation questions UK and EU support for the Justice and Peace Law (JPL), which is contributing to the culture of impunity and continues to fail to meet international standards for victims' rights to truth, justice and reparation. There are insufficient investigative units to

handle the thousands of cases of human rights violations committed by paramilitaries, and the process has moved very slowly. Very little of the estimated 4 million hectares of land stolen by paramilitaries has been returned to the rightful owners; what little has been returned, has been a consequence of investigations outside the JPL process. Investigations into the links between state officials and paramilitaries have largely resulted from the work of the offices of the Attorney General and Procurator General, the Supreme Court of Justice and journalists and human rights groups rather than the JPL process.

Civilians, especially those belonging to indigenous, Afro-descendent or peasant-farmer communities continue to bear the brunt of the conflict (many live on land of economic and strategic importance). Amnesty International is concerned about the high number of people forcibly displaced (estimates suggest more than 305,000 civilians were displaced in 2007). We have received many testimonies of continued forced recruitment of children by both guerrilla and paramilitary groups. Paramilitaries and criminal gangs are also known to recruit women and girls for prostitution. Combatants continue to kill, sexually abuse, kidnap and threaten women and girls. The Government should continue to support the Human Rights Ombudsman's Office and efforts to protect internally displaced people.

Human rights defenders, trade unionists, and community activists continue to be targeted, principally by paramilitaries. The arrival of a permanent International Labour Organization representative and the establishment of special units in the Attorney General's office to investigate the killing of trade unionists are positive steps. Nevertheless, Amnesty International remains concerned at the high number of attacks against trade unionists and the small number of prosecutions for these attacks. In 2007, 39 trade unionists were killed. The international community has tended to take a clear and constructive stance in this area. Amnesty International urges the Government to continue to support organisations representing human rights defenders. It is critical that FCO staff in Colombia work to implement the EU Guidelines on human rights defenders.

Colombia has yet to fully implement the human rights recommendations of the Office of the UN High Commissioner for Human Rights, which provide a blueprint for addressing the human rights crisis in the country. Amnesty International urges the Government and its EU partners to monitor the Colombian authorities' implementation of the UN recommendations. The Government must also continue to fund projects that will strengthen this process.

Amnesty International is concerned that the UK continues to provide military assistance to Colombia, including to units implicated in serious human rights abuses, such as the High Mountain Brigades. As in previous years, the report provides little information on UK assistance. Given that successive Colombian governments have failed fully to implement the UN human rights recommendations, which are essential to confront the crisis, there are no guarantees that military aid will not exacerbate the human rights crisis. Amnesty International urges the Government to be more transparent about assistance for the Colombian Government, in particular the military.

There is a risk that funding projects linked with the demobilisation process will exacerbate the problem of impunity and cause further human rights abuses. One such project (the Rural Reinsertion Programme) threatens to legalise ownership of land stolen by paramilitaries. Instead, international actors should consider how to ensure that such land is identified, registered and returned to its rightful owners. The Government, with its EU partners, should stop funding projects linked with the paramilitary demobilisation process.

Iraq

Compared with previous entries on Iraq, the report takes a more balanced approach to the myriad human rights problems in the country. Nevertheless, it underplays a number of aspects of the very serious and broad nature of the human rights abuses in Iraq. The Government should urge its Iraqi counterpart, as well as its international allies, to make a real commitment to protect and promote the full range of human rights for all Iraqis and others within Iraq.

The report notes that insecurity is a serious obstacle to a culture based on human rights and that violence is generating a complex humanitarian picture. Amnesty International agrees with this assessment, but considers that the report does not fully reflect the reality that Iraq is now one of the most dangerous places in the world. Hundreds of people are being killed every month in pervasive violence. Despite the "surge", the violence has continued, albeit less intensively than in recent years. Most killings are the result of sectarian violence; all sides have committed gross human rights violations. Amnesty International condemns attacks on civilians as well as indiscriminate attacks, abduction, hostage-taking, torture and other ill-treatment. The Iraqi Government has a duty to bring those responsible to justice in fair trials and without recourse to torture or the death penalty.

Iraqi security forces are reported to have extra-judicially executed dozens of people. Some members of these forces are believed to maintain close links with militia groups and allegations of involvement in sectarian killings continue. In recent months there have also been allegations of rape by members of the Iraqi forces. The Iraqi Government has failed to introduce practical measures to deal with the serious human rights violations perpetrated by its security forces. The Government should urge its Iraqi counterpart to ensure that allegations of human rights abuse by members of the Iraqi security services are properly investigated.

The report overlooks the part played by the multinational force in the violence. Amnesty International remains concerned at the number of civilians killed by US forces. US forces have killed scores of civilians in recent months, on many occasions firing at unarmed civilians seen as a threat because they came too close to a convoy or patrol or approached checkpoints too quickly. Moreover, despite the introduction of measures to safeguard detainees, torture and other ill-treatment by the multinational force continue to be reported, albeit on a lesser scale than before 2004. The Government should urge both the Iraqi and the US Governments to set up prompt, independent and impartial investigations into human rights violations. The Government should also ensure that there are proper investigations into alleged abuse by UK forces.

The report does not mention the problem of private military security contractors (PMSCs) in Iraq. Contractors from foreign firms have killed dozens of Iraqis, and appear to have total impunity to do so. The Government should ensure that private military security contractors contracted by the Government (whether from the UK or elsewhere) are subject to adequate legal control. The Government should also ensure that all allegations of human rights violations committed by employees or contractors of such firms are promptly investigated.

The report makes only brief reference to the problem of displacement. Sectarian violence has forced millions of Iraqis to flee their homes, creating a deepening humanitarian catastrophe. Iraqi refugees who fled to countries in the region are experiencing acute economic difficulties, mainly because they are not allowed to work, and are at risk of detention and deportation for overstaying their visas. Living conditions for people displaced within Iraq have deteriorated considerably, with shortages of food, clean water, shelter, fuel, electricity and adequate healthcare. Many children are not attending schools. The international community has largely ignored the increasingly desperate humanitarian situation of displaced Iraqis. The Government should urge its Iraqi counterpart to take immediate steps to improve security for all refugees and internally displaced people, and provide them with adequate humanitarian assistance, including ensuring children's access to education. The international community must work harder to provide financial, technical and in-kind assistance to regional states that have received large numbers of Iraqi refugees, as well as to UN agencies and international NGOs that are assisting Iraqi refugees and internally displaced people. The Government should immediately stop all forcible returns to any part of Iraq. Any return of failed asylum-seekers should only take place when the whole of Iraq has stabilised.

The report fails to reflect the extent of the impact of violence on women in Iraq. Violence against women and girls has increased dramatically in the past five years. Many have been forced to leave their jobs or schools for fear of being killed; others have fled the country. Women are being threatened if they do not observe strict Islamic dress. Women and girls are also at risk of rape by armed groups and members of the Iraqi security forces. Domestic violence and "honour killings" are increasing; few cases are investigated. Iraq is a state party to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Under the Convention, the Iraqi Government has a duty to protect women from violations by state agents as well as by private actors such as armed groups. The Iraqi Government also has a duty to amend any law that discriminates against women, such as provisions in the Iraqi Penal Code that allow lenient punishment for "honour killings". The Government should urge the Iraqi Government to take urgent steps to uphold the rights of women and protect women and girls from violence. Amnesty International calls on the Government, through its commitment to UN Security Council Resolution 1325, to press the Iraqi Government to advance human rights through the Constitution and repeal any articles that could discriminate against women.

The report includes a section on coalition detention and internment, but does not properly consider the human rights implications of these practices. The majority of detainees held by the multinational force are security internees who have been held without charge or trial and without the right to challenge their detention before a judicial body. Amnesty International considers the system of security internment to be arbitrary and in violation of fundamental human rights. Under the International Covenant on Civil and Political Rights (ICCPR), ratified by Iraq, the USA and the UK, no one should be arbitrarily detained. Detainees must have access to a court empowered to rule without delay on the lawfulness of their detention and to order their release if the detention is found to be unlawful. These requirements apply to "anyone who is deprived of his liberty by arrest or detention" and therefore apply fully to those interned by the multinational force.

The report notes various weaknesses of the Iraqi justice system. These include serious abuse in Iraqi prisons as well as the failure to tackle the culture of impunity. The report sets out some of the work the UK is doing to provide the Iraqi police with human rights training and to support an improvement in the criminal justice culture more broadly. Amnesty International welcomes this work. Up to 35,000 detainees are held in prisons and detention centres under the control of the Iraqi authorities, where torture and other ill-treatment are widespread. The report notes the execution of prominent members of the former regime, including Saddam Hussein, and sets out the UK's opposition to the death penalty. However, the report does not make clear the extent of the problem. The death penalty has been used extensively since its reintroduction in 2004; hundreds of people have been sentenced to death after grossly unfair trials. In 2007 alone, Amnesty International recorded at least 199 death sentences and at least 33 executions. The true figure could be higher since the media does not report death sentences systematically. The vast majority of death sentences have been passed by the Central Criminal Court of Iraq (CCCI); trials before the CCCI consistently fall short of international standards for fair trial. Defendants commonly complain that their

“confessions” were extracted by torture and that they could not choose their own legal defence counsel. Amnesty International opposes the death penalty in all circumstances as a violation of the right to life and as the ultimate cruel, inhuman and degrading punishment.

The Government should call on its Iraqi counterpart to immediately establish a moratorium on executions with a view to abolishing the death penalty. Amnesty International continues to urge the multinational force in Iraq not to transfer any detainees to the custody of the Iraqi authorities for fear of torture. Both the Iraqi Government and multinational force should release or charge with recognisable criminal offences all those currently held without charge or trial in prisons and detention centres. The Government should urge the Iraqi Government to ratify and observe the requirements of the Convention against Torture.

The report makes a very brief mention of the situation in the largely autonomous Kurdistan region. Serious human rights violations, including arbitrary arrests, torture and the use of the death penalty, continue to be reported in the Kurdistan region. Political opponents of the Kurdish authorities are subject to arrest, and sometimes torture, by the security forces. Journalists are muzzled and often risk arrest and torture in their daily work. Scores of women have been killed in “honour crimes”, with few of the culprits being brought to justice.

Israel and the Occupied Territories

The report notes that the human rights situation in Israel and the Occupied Territories has not improved over the last year. Amnesty International say there has been a marked and clear deterioration in the human rights situation. Moreover, despite recent peace talks, there appears to be very little or no progress in improving the humanitarian situation for Palestinian civilians in the West Bank and Gaza Strip.

The report states that the Government is concerned about whether Israel’s use of force is necessary and proportionate. Israel’s response to attacks by Palestinian armed groups is often disproportionate, and too often results in death or injury to innocent civilians. In a two week period in May 2007, 50 Palestinians were killed and 200 injured in the Gaza Strip by Israeli air strikes and other attacks. On 20 May 2007, seven members of the al-Haya family, including two children, were killed by an Israeli air strike. Amnesty International has presented the Government with information about these and other attacks. The organisation shares the Government’s concern over the failure to convict members of the Israeli Defence Force for their part in such attacks. As a party to the Fourth Geneva Convention, the Government should unreservedly condemn Israel’s disproportionate use of force, which too often results in death or injury to Palestinian civilians.

The report rightly raises the humanitarian situation in Gaza and notes that it has deteriorated further since the Hamas takeover in June 2007. However, it is important to note that even before this date, the Gazan crossing points only opened on an ad hoc and infrequent basis, adversely affecting the humanitarian situation. It is misleading to suggest that the humanitarian situation was adequate before the Hamas takeover.

As the occupying power, Israel is responsible for ensuring the welfare of the 1.5 million Palestinians in the Gaza Strip, all of whom are protected persons under the Fourth Geneva Convention. Arguments that Israel is not bound by the laws of occupation because it redeployed to the perimeter of the Gaza Strip in 2005 are inaccurate. Israel retains effective control by virtue of its full control over the land border, air space and territorial waters, as well as the movement of people and goods. Israel is bound by its obligations under international humanitarian and human rights law to ensure the welfare of the Palestinian population. According to Article 33 of the Fourth Geneva Convention: “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited”. The Government has failed to make this point publicly. Amnesty International urges the Government to condemn the collective punishment of the Palestinian population of Gaza and to press the Israeli authorities immediately to end restrictions on the supply of fuel, electricity, humanitarian assistance, medical supplies and other necessities.

The report highlights the problem of access to clean water and effective sewerage systems in Gaza and the fact that this has been exacerbated by closures since June 2007. However, the report fails to mention that the sewage plant was originally destroyed by Israel in 2006. It also fails to mention that access to water is a serious problem for Palestinian communities in the West Bank, where Israeli settlers are given priority and are permitted access to five times as much water as Palestinians.

Amnesty International agrees with the report that Israeli settlements are an obstacle to peace and are illegal under international law. The report notes the expansion of existing settlements in violation of the Roadmap. In addition, existing settlements continue to expand and new settlements are being built despite previous assurances of a freeze on settlement expansion. New settlements are also being built under the pretence that they are part of existing settlements. In addition to violating international law, the settlements and related infrastructure, including the fence/wall (80% of which is inside the West Bank) and the network of “bypass” roads, have had disastrous consequences for hundreds of thousands of Palestinians. Restrictions on movement hinder the functioning of the Palestinian economy, causing increased poverty and unemployment and ultimately preventing any semblance of normal life.

The Government should continue to demand that the Israeli authorities: immediately stop building and expanding settlements and the fence/wall, including in and around East Jerusalem; enact measures to evacuate settlers; dismantle those sections of the fence/wall that have been built inside the West Bank; and end the regime of closures and movement restrictions.

The report notes that the Israeli authorities frequently demolish Palestinian homes in East Jerusalem and elsewhere in Area C of the occupied West Bank on the grounds that they have been built without a permit. However, as in previous years, the report underplays the problem. The report also fails to mention efforts by the Israeli military to intensify the expulsion of Palestinians from the Jordan Valley. Much of the Jordan Valley has been designated a “closed military zone”. As a result, the Israeli authorities are putting increasing pressure on Palestinian villagers to leave the area.

The Israeli authorities continue to pursue a policy of discriminatory house demolition. While Israeli settlements are allowed to be built on occupied Palestinian land, in breach of international law, Palestinian land is confiscated, with the Israeli authorities refusing Palestinians building permits and destroying their homes. This confiscated land is often used to build illegal Israeli settlements. International law forbids occupying powers from settling their own citizens in the territories they occupy.

Amnesty International urges the Government to lobby its Israeli counterpart to cancel all outstanding orders for forced eviction and demolition of unlicensed houses and to impose a moratorium on forced eviction and demolition until such time as the law is amended in a manner that complies with international standards. Amnesty International would also ask the Government to urge the Israeli Government to end its policy of punitive demolition.

The Palestinian Authority

The report condemns all acts of violence against Israel’s population and indiscriminate rocket attacks from the Gaza Strip into Israel. The report notes the issue of intra-Palestinian violence and in particular focuses on the inter-factional political violence that has engulfed the Gaza Strip in the past year. Amnesty International has reported that fighting between security forces and armed groups loyal to the two main Palestinian political parties (Fatah and Hamas) has caused the death of many unarmed bystanders, including children. In the first half of 2007 alone, some 350 people were killed and over 2,000 injured as a direct result of inter-factional violence. Both sides have committed grave human rights abuses and have shown a flagrant disregard for the human rights of the civilian populations of the Gaza Strip and the West Bank.

Amnesty International urges the Government to use its influence to press the Palestinian Authority and the de facto Hamas administration in the Gaza Strip to investigate all unlawful killings, abductions and other attacks against civilians, and to ensure that those responsible for such crimes are brought to justice.

While there has been considerable focus on the security situation in the Gaza Strip since June 2007, the situation in the West Bank has received much less attention. In the West Bank, the Palestinian Authority security forces continue to detain Hamas supporters and there have been reports of torture and other ill treatment in detention. In addition, the Palestinian Authority has closed more than 100 charities linked to Hamas and used violence to break up demonstrations and public gatherings of Hamas supporters. The Government is right to condemn abuses committed by Hamas and other groups, but must pay equal attention to abuses committed by the Palestinian Authority and armed groups affiliated to Fatah.

Amnesty International urges the Government to use its influence in representations to the administration of President Abbas to press the Palestinian Authority to:

- Issue clear instructions requiring all Palestinian Authority security forces to uphold the law and respect human rights.
- End the torture and ill treatment of all of those detained by the Palestinian Authority.
- End arbitrary arrests and detentions and ensure that those detained arbitrarily are released immediately.
- End impunity and investigate all unlawful killings, abductions and any other attacks against civilians, and ensure that those responsible for such crimes are brought to justice.

Myanmar (Burma)

Amnesty International shares the Government’s concerns over the deteriorating human rights situation in Myanmar.

We welcomed the opportunity provided in October 2007 for our Secretary General to address the Prime Minister about the violent suppression of peaceful demonstrations across Myanmar in August and September 2007. We also welcomed the strong terms in which the Prime Minister and Government responded to the serious human rights abuses committed by the Myanmar authorities. Such international pressure was clearly instrumental in the Myanmar authorities’ initial acceptance of visits by UN representatives to the country. However, that pressure has not been maintained and the Myanmar

authorities have not since met any of the calls to restore and protect human rights made in the UN Security Council Presidential Statement of October 2007, UN General Assembly resolutions or at the UN Human Rights Council. UN Special Rapporteur Paulo Sergio Pinherio was not permitted to return to Myanmar to monitor implementation of the recommendations he made following his visit in November 2007. The Government, both in its own right and through the EU, must continue to press the Myanmar authorities for Professor Pinherio's successor to have the opportunity to complete a full assessment of the human rights situation in the country.

The Myanmar authorities should continue to be pressed to allow: international organisations access to political prisoners, the unconditional release of monks currently confined to their temples as well as those imprisoned, and the unconditional release of prisoners of conscience, including Daw Aung San Suu Kyi. The international community should set a strict timetable for these steps to be taken.

Amnesty International understands that last summer's demonstrators will be charged under law 5/96, which provides for up to 20 years in prison for anyone who is found guilty of expressing opinions that disrupt the stability of the state. We have called for the repeal of this law and its vague and sweeping provisions, which criminalise the peaceful expression of political beliefs.

Concerns over the suppression of last summer's demonstrations should not overshadow longstanding human rights abuses suffered by ethnic groups in Myanmar. The Myanmar army has resorted to killings, torture, forcible relocation and collective punishment of populations suspected of sympathising with opposition armed groups, especially in and around Kayin (Karen) State and Bago Division. Punishments have included the burning of houses and villages, and the destruction of crops. There is evidence that these military operations have involved acts against civilians that constitute violations of international humanitarian and human rights law on a scale that amounts to crimes against humanity.

Amnesty International considers it unacceptable for states to continue to supply arms to a government that is responsible for persistent serious violations of human rights and which now resorts to violence against peaceful demonstrators. We have urged the UN Security Council immediately to impose a comprehensive and mandatory arms embargo on Myanmar. The Government is a party to the EU embargo and a supporter of the EU common position, but is less vocal for action by the UN given the reluctance of some other UN Security Council members to act. Amnesty International has also called on the principal suppliers of arms to Myanmar (China, India, Russia, Serbia, Ukraine and ASEAN nations) to prohibit supply of military and security equipment to the country. Specifically, in July 2007, Amnesty International and a number of European NGOs produced a report illustrating how EU components (including parts from the UK) were used in the manufacture of attack helicopters apparently destined to be sold by India to Myanmar. India subsequently denied such an intention and the sale did not go ahead.

Pakistan

Amnesty International welcomes the inclusion of Pakistan in the report as a major country of concern and the recognition of the many serious human rights abuses in the country. Nevertheless, we consider that the report underplays some serious areas of abuse and is insufficiently critical in certain places.

In November 2007, the Pakistani Government declared a state of emergency. There were widespread arrests and incommunicado detention of lawyers, judges, journalists and human rights defenders as well as the violent suppression of peaceful protests. Criminal charges were made against hundreds of lawyers who had protested against the imposition of emergency powers. The report briefly mentions this issue, noting the Government's criticism of the imposition of the state of emergency. Amnesty International urges the Government to press the Pakistani authorities to make public information about all those arrested and subsequently released during the state of emergency, and to ensure that individuals are either charged and tried with recognisable criminal offences in fair trial processes, or released.

The report underplays the human rights abuses linked with terrorism and counter-terrorism activities. Armed groups are responsible for violent attacks and public executions. However, Amnesty International has also received reports of extrajudicial execution, house demolition, arbitrary detention and harassment by the Pakistani security forces. The organisation is also concerned at the treatment of terrorism suspects, many of whom are dealt with outside the judicial system. Hundreds of suspects are known to have been handed over to US authorities outside the legal extradition process; some were subsequently transferred to Guantánamo Bay. There are also believed to have been large numbers of "disappearances"; it is impossible to know the true extent of the problem. The Government should use its strategic relationship with Pakistan to push the authorities to make greater efforts to ensure that human rights are respected in its counter-terrorism policies and practice. In particular, the Pakistani Government should ensure that there are no further "disappearances", that there is full disclosure of those who have been held in secret detention and redress for victims and their families. The Pakistani Government should sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance. The Government should also press its Pakistani counterpart to work harder to investigate allegations of human rights abuse, and ensure that those found responsible are held accountable.

Amnesty International remains deeply concerned about the risks to women and children in Pakistan. The report notes that amendment of some of the most damaging Haddood Ordinances by the introduction of the Women's Protection Bill in 2006 was a welcome step. However, women continue to be discriminated against in law. This is evident in the refusal to recognise marital rape and the incorporation of some of the provisions of the Zina (Haddood) Ordinance into the penal code (this does not recognise women as independent agencies and leaves them unable to make decisions about their own future). Such provisions obstruct women's freedom of movement, choices in marriage and contravene international conventions. In addition, "honour crimes" and forced marriage remain huge problems, and there is a high incidence of domestic violence. Amnesty International urges the Government to press its Pakistani counterpart urgently to work to repeal laws that discriminate against women.

Press freedom was almost entirely suspended during the state of emergency. The Pakistani Government is currently repealing emergency laws restricting print and electronic media freedoms, and reports suggest that the situation is returning to "normal". However, even prior to the emergency measures, press freedom was heavily constrained. Journalists who criticise or contradict the Pakistani Government are regularly harassed, intimidated, attacked and in some cases murdered. Amnesty International urges the Government to put pressure on the Pakistani Government to cease attacks against and harassment of journalists and ensure that press freedom is respected.

Amnesty International remains concerned at the low level of religious freedom in Pakistan. Members of faiths other than Islam are often arrested and detained. Individuals and their places of worship and business are also subject to attack. Cases of arrest for blasphemy are increasing; individuals charged with blasphemy face a long and unjust judicial process, with cases often taking years to conclude. Individuals accused of blasphemy remain at risk of attack even while in custody. The Government should impress upon the Pakistani authorities the urgent need to repeal all laws that persecute religious minorities.

Russia

Torture is used in police custody across Russia. The General Procuracy routinely fails to ensure effective investigation of torture allegations and there is no fully effective, independent nationally enforced mechanism for monitoring places of detention. The UN Special Rapporteur on Torture has not yet been able to visit the Russian Federation. The Russian authorities say that the standard conditions of such visits (in particular, unannounced arrival at places of detention and private interviews of detainees) contravene Russian law. This is a particular concern in Chechnya; the Special Rapporteur has been asking to visit the area since 2000. The Government should press the Russian authorities to sign and ratify the Optional Protocol to the UN Convention against Torture, establish a mechanism for unannounced inspections of all places of detention, increase the effectiveness of investigations into allegations of torture and improve professional training for police officers. The Government should also press the Russian authorities to cooperate with UN human rights bodies.

The report notes that the Russian human rights group "Memorial" has reported a fall in the number of disappearances in Chechnya and the North Caucasus, and comments that this is a "positive trend". However, Memorial itself has said that the picture in the North Caucasus "does not look reassuring" and that "although the situation is changing, there is no overall improvement in it". While the number of reported enforced disappearances in Chechnya has decreased, extrajudicial executions, enforced disappearance, abduction, arbitrary detention and torture (including in unofficial places of detention) have all been reported as part of the Russian Government's counter-terrorism operations in the North Caucasus, particularly in Chechnya and Ingushetia. Amnesty International calls on the Government to urge the Russian authorities to investigate independently all allegations of abuse by security forces, and bring those responsible to justice.

Amnesty International shares the report's concern about the expanded Law on Combating Extremist Activity, and specifically the overly broad definition of extremism. The right to freedom of expression, assembly and association are guaranteed in the Russian Constitution and are enshrined in international human rights law. However, these rights are increasingly restricted. The provisions in various Russian laws allow for arbitrary interpretation and the Russian authorities have used them to clamp down on "dissent" by human rights defenders and others expressing alternative viewpoints.

The report refers to the fact that a number of NGOs have expressed concern about the new NGO law; Amnesty International is one such organisation. In particular, Amnesty International is concerned that the law has been used to target NGOs, including human rights organisations, because they are seen as a threat to state authority. Some NGOs, including human rights organisations, have had to suspend their activities due to the law's requirements, and in some cases NGOs are reported to be facing possible closure for alleged violations of the law. The Government should remind the Russian authorities of their domestic and international duties to uphold the right to freedom of expression, assembly and association.

Amnesty International shares the report's concerns about growing xenophobia in Russia. The Russian authorities have failed to provide protection or investigate effectively racially motivated attacks, including murders. A small rise in prosecutions of race hate crimes and local initiatives, such as increased policing, have been insufficient to address the scale of the problem, and there is no comprehensive programme to combat racist and xenophobic ideas and ideologies.

We welcome the report's inclusion of material on violence against women in Russia. However, this material is limited to detail of UK funding for projects to support the Russian police in dealing with domestic and sexual violence and human trafficking. Amnesty International is concerned that the problem of violence against women cannot be addressed solely by law enforcement strategies. Russian law does not contain specific measures to address violence against women in the family, and there is inadequate government support for crisis centres and hotlines. The UN Committee against Torture has expressed concern about domestic violence and the lack of shelters for women. The Government should include more detail on the problem of violence against women in future human rights reports.

The report notes that Russia is the only member of the Council of Europe that has not ratified Protocol 14 of the European Convention on Human Rights. The protocol was designed to reform the Convention and improve the workings of the European Court of Human Rights. The protocol cannot come into force until all member states have ratified it. Amnesty International notes that Russia has also failed to ratify Protocol 6, which provides for abolition of the death penalty, despite its commitment to do so by February 1999. In addition to concerns about the retention of the death penalty, we note that individuals who have sought justice before the European Court of Human Rights have faced intimidation by officials; defence lawyers have also been harassed. The Government, along with its European allies, should remind its Russian counterpart of its human rights responsibilities as a signatory to the European Convention on Human Rights and participant in the Council of Europe. The Government should press the Russian Government to implement fully the decisions of the European Court of Human Rights.

Saudi Arabia

Amnesty International shares many of the concerns raised in the report, but we are disappointed by the extreme brevity of the coverage of Saudi Arabia. The report cites the progress of gradual reform as a hopeful sign. However, despite such reform, Amnesty International remains gravely concerned about a range of human rights abuses in Saudi Arabia.

The report notes the publication by the Saudi Arabian National Society on Human Rights of its first report. This is to be welcomed, as was the decision by the Saudi authorities to allow a research mission to the Kingdom by Human Rights Watch. However, the cancellation of subsequent missions and the refusal to allow Amnesty International to send a research mission to Saudi Arabia shows that transparency and openness remain the exception rather than the rule. Amnesty International would welcome any representations the Government could make to its Saudi counterpart to assist gaining access for the organisation to the country.

We welcome the UK's engagement with Saudi Arabia and the opportunity this gives to work to improve the country's human rights record. However, we were disappointed at the failure to discuss human rights as part of the 2007 state visit to the UK by King Abdullah. The Government should use the UK's close relationship with Saudi Arabia to express in unequivocal terms its condemnation of the human rights situation in Saudi Arabia.

The report refers to ongoing reforms and work to restructure the judicial system. However, it remains to be seen whether these steps will address the system's serious shortcomings, namely: the secrecy and lack of transparency of the criminal justice system; the lack of adherence to international fair trial standards, such as the rights to legal representation and appeal; and the lack of independence of the judiciary. The rights of detainees are commonly and systematically violated; detainees are often denied access to representation and face lengthy periods of pre-trial detention. Critics of the government are routinely held without trial. The Government should urge its Saudi counterpart to take steps to improve the fairness and transparency of the Saudi judicial process.

The death penalty continues to be applied to a wide range of offences and is often applied to child offenders. At least 158 people (82 Saudi and 76 foreign nationals) were executed in 2007. These included three women and at least one child offender, Dhahian Rakan al-Sibai, who was 15 at the time of the offence for which he was prosecuted. Those executed were convicted of murder, rape, drug offences, witchcraft, apostasy and other charges, but virtually no information was available about their trials, appeal, or whether the defendants received legal representation. Most of the executions were carried out in public. The Government should press the Saudi authorities to abolish the death penalty immediately.

Discrimination remains a serious problem, with women, migrants, Shia Muslims and non-Muslims being particularly at risk. Women suffer extremely harsh limitations on their freedom (despite a number of reforms, women continue to have a lesser status than men in Saudi law; a woman's testimony is worth half that of a man). There has been discussion of allowing women to participate in the political process, but at present women remain unable to vote. Rates of domestic violence are high, with little judicial recourse for victims and a culture of impunity for perpetrators. The seriousness of the situation is illustrated by the al-Qatif case, in which a girl was sentenced to 200 lashes and six months in prison for committing a *kilwa* offence (being with a man who is not a family member) after she was gang raped by seven men while with

this man. The Government should press the Saudi authorities to eliminate all discriminatory legislation and judicial processes. The Saudi Government should also adopt the recommendations of the Convention on the Elimination of all Form of Discrimination against Women (CEDAW), which Saudi Arabia ratified in 2000, in particular in relation to women's freedom of movement, right to work and equal status with men.

April 2008

Memorandum submitted by Human Rights Watch

INTRODUCTION

Human Rights Watch thanks the FAC for providing it once again with the opportunity to comment on the FCO's 2007 annual report on human rights. As in previous years Human Rights Watch welcomes the FCO's report which for the most part provides workmanlike analysis of the most serious and significant human rights crises and themes around the world. The report sets a useful standard against which groups like Human Rights Watch can measure the British government's performance in addressing these abuses through the various policy instruments at its disposal.

The report is also potentially a useful means of ensuring that officials and policy makers in the FCO and in other relevant parts of government (eg DFID, MOD, BERR, etc) are aware of the UK's position on important human rights issues. It is therefore welcome that this 2007 edition, while shorter than some previous editions, is more clearly structured and easier to use.

This submission starts with three general points about the report before going into a more detailed commentary on some of the chapters and sections where Human Rights Watch takes issue with the analysis provided by the FCO.

Three preliminary points

First, the report does not always deal with abuses and abusers with the clarity of analysis and disapproval which they warrant. This report is not supposed to be comprehensive and there will always be quibbles over things that have been left out. But there are some particularly striking omissions, and some issues which are raised in the report are misrepresented or glossed over. These weaknesses in the report are addressed in more detail in the text below. The main examples include: absence of any reference to torture perpetrated by the governments of Jordan, Libya, Egypt and other key strategic allies; absence of any mention of the role of Ethiopia in Somalia and the abuses perpetrated by its forces there; very weak handling of US counter terrorism policy including Guantanamo and the military commissions, and the CIA's programme of abduction and secret detention; an overly upbeat assessment of the human rights situation in Iraq.

Secondly, the report highlights an important contrast between the FCO's analysis and HMG's policy response. Notwithstanding the points made in the preceding paragraph, much of the analysis provided in the report is sound and based on an accurate assessment of facts on the ground. However, in many cases the policy response of HMG is too weak. This submission provides further detail below on this contrast between analysis and action. Two good examples include: the failure to address the issue of human rights abuses in Saudi Arabia at a high enough level in bilateral dialogue between London and Riyadh, particularly during the state visit of King Abdullah in 2007; on China the UK government's determination to use the Beijing Olympics to promote the London Olympics, and to avoid offending the Chinese government, has led the UK to largely ignore those who are trying to use the Games as a way of drawing attention to China's dismal record on human rights.

The two points raised above underlie a third more general point which is of relevance to this report, namely that wherever important UK interests are at stake, or are seen to be at stake, the government often seems to struggle to align those interests with a principled approach to tyranny and repression. Because the report clearly sets out the human rights dimensions of the FCO's four new policy goals, it helpfully highlights some of the dilemmas and countervailing interests faced by ministers when they seek to reconcile UK efforts to promote human rights with the pursuit of other important UK interests. In the case of torture and counter terrorism, the report explicitly elaborates and analyses one such dilemma. Human Rights Watch believes that it would be useful to extend this approach to other areas where respect for and promotion of human rights are somehow seen as being in conflict with UK interests, for example energy

security, development, commercial relations and conflict resolution. Many of these dilemmas are real. But it is only by setting out them out clearly that one can deal with them and devise strategies to align interests more closely with ethics.

PART 1: POLICY GOALS

Counter Terrorism and weapons proliferation

Human Rights Watch welcomes the statement in the report that “the counter terrorism programme requires the consideration of human rights whenever projects are deployed”. However this approach should be extended beyond “projects funded by us” to all aspects of HMG’s policies on counter terrorism.

US counter terrorism policy

The UK’s attitude, as revealed in this report, towards US counter terrorism policies and practices indicates a failure to face up to the seriousness of US abuses.

For example, on the detention of terrorism suspects at Guantanamo Bay, Cuba, the report welcomes Bush’s “commitment to close the facility”. But in fact, President Bush has now stated that he will not do so, and that he will leave Guantanamo for the next president to deal with. The FAC should encourage the FCO to press the US to take concrete steps to end detention at Guantanamo Bay, a policy that Secretary of State Rice, Secretary of Defense Gates, and numerous former diplomats have all supported. The UK should offer assistance in resettling Guantanamo inmates in the EU.

The report discusses “improvements” in camp conditions, but neglects to mention that the majority of the detainees are being housed in maximum security units, locked in their cells 22–23 hours a day, with almost no opportunity to communicate with anyone other than the prison guards. Those housed in these units, which are modelled on those used to house the most dangerous convicted criminals in the US, include detainees who have long been cleared for release and remain in Guantanamo only because they cannot be returned to their home country. As is to be expected, the extreme isolation is reportedly having a negative psychological effect on many of the detainees, which will only make it even harder to resettle and reintegrate them in the future.

On US torture policy, the report commends President Bush’s statements that the US does not practice torture, without mentioning that the US has now conceded that it has water-boarded three detainees in its custody, and that while water-boarding is not currently approved for use it is not off the table for the future. President Bush’s statements on torture need to be considered in the light of the memoranda from his legal advisers that re-defined torture so narrowly as to make the prohibition virtually meaningless.

Furthermore, the Bush administration has vetoed legislation which would have prohibited abusive interrogation techniques by all government agencies including the CIA. In vetoing the legislation, the President insisted that the CIA and other non-military interrogators needed the flexibility to use additional interrogation techniques. These additional techniques reportedly include extreme sleep deprivation, sensory deprivation, and use of painful stress positions—all of which violate the prohibition on inhumane treatment. Although the actual veto came after this report went to press, the administration had long made its position and intentions clear.

The report makes no mention of the CIA detention program for terrorism suspects, whose existence the US government has acknowledged. The report should have condemned the incommunicado and secret detention of terrorist suspects by its ally, which is a violation of international law. Failure to do so gives a dangerous impression that the UK condones such action or is complicit in it.

There is no mention in the report of the fact that the military commissions set up to try terrorism suspects held at Guantanamo explicitly authorise the use of evidence obtained through cruel, inhuman, and degrading interrogations, so long as the evidence was obtained prior to December 2005 and a judge finds the information “reliable”. The rules governing the commissions also give the prosecution wide latitude to withhold sources and methods of interrogations from both the defendant and his counsel. As a result, it will be extremely difficult for defendants to establish that evidence was obtained through torture or other coercive interrogation methods. When coupled with the lax hearsay rules, this means that defendants could be convicted based on affidavit summaries of evidence obtained through abuse, without any opportunity to confront this accuser or to establish that the statement was the product of abuse and therefore unreliable. Unless military commission judges are extremely vigilant, the prohibition on evidence obtained through torture could become virtually meaningless.

Contrary to what the report states, the military commissions are back up and running, albeit fitfully. The US Supreme Court decision expected in 2008 should address detainees’ right to habeas corpus; but it will not consider the legality of the new military commissions.

Again contrary to what the report says, the US has failed to provide proper protections to ensure that Guantanamo detainees are not transferred to face abuse or torture elsewhere. Detainees have no meaningful opportunity to raise an individualised fear of torture upon repatriation, and the US, like the UK, relies on unenforceable promises of humane treatment to transfer detainees to countries with poor records on torture. Human Rights Watch has documented the torture and ill-treatment of several Russian and Tunisian detainees returned home based on promises of humane treatment.

Deporting foreign nationals from the UK

As in recent years, the report provides a defence of the UK's misguided policy on deporting terrorism suspects to their countries of origin in spite of the risk of torture. Human Rights Watch's arguments against this policy are well known and have been laid out clearly at <http://hrw.org/reports/2005/eca0405/>. Four points are worth highlighting:

First, the report states: "The government takes its obligations under the CAT [UN Convention Against Torture] very seriously and is fully committed to upholding this principle, known as the principle of nonrefoulement. The government is equally committed to upholding similar international human rights obligations to which the UK is party, including article 3 of the European Convention on Human Rights". However in *Saadi v Italy* at the European Court of Human Rights, the UK was the lead intervener (sending more lawyers than Italy, which was actually defending the case), arguing that the principle of non-deportation where there is substantial risk of torture should be "balanced" in cases where there was an alleged threat to national security. This argument was rejected by the ECtHR. In the light of this, Human Rights Watch recommends that the FAC ask the FCO if it now accepts that the Art 3 CAT and Art 3 ECHR duties of nonrefoulement are absolute and there should never be a balancing exercise where there is a risk of torture.

Secondly, it is disingenuous for the report to cite a 2004 report by the former Special Rapporteur on Torture Theo van Boven to support the UK's policy on deporting terrorism suspects on the basis of diplomatic assurances. Mr van Boven has since made clear his opposition to diplomatic assurances from countries where torture is a serious problem. It is peculiar to say the least that on the same page as a cite of Mr van Boven, the report uses a photo of the current Special Rapporteur on Torture, Manfred Nowak. Mr Nowak's vocal and unequivocal opposition to diplomatic assurances in general and specifically to the UK's policy on deportations with assurances is well-known.

Thirdly, the UK policy hangs in part on the effectiveness of mechanisms established to monitor whether or not deported terrorism suspects will be tortured when they return to their home countries. The report appears to justify its efforts on monitoring mechanisms by referring to the Optional Protocol to the Convention Against Torture. But this Protocol provides for monitoring of all places of detention in a country on a universal and non-selective basis and does not in any way contemplate the type of individual monitoring based on diplomatic assurances provided for in the Memoranda of Understanding which the UK has now negotiated with three Arab states.

Finally, the report makes no mention of the decision of the Special Immigration Appeal Commission (SIAC) in relation to Libya permitting the appeal against deportation based on DAs. Nor does it mention the credible reports of ill-treatment of Algerians sent back in reliance on DAs. In the light of the recent rulings in April 2008 by the Court of Appeal against the government's policy on deportations under diplomatic assurance, Human Rights Watch urges the FAC to encourage the government to abandon this policy.

Renditions

The report states that the UK government has "not approved and will not approve a policy of facilitating the transfer of individuals through the UK to places where there are substantial grounds to believe they would face a real risk of torture". However, the real problem (underscored by the Diego Garcia case) is that the UK does not have sufficient safeguards in place to prevent renditions from being carried out through UK airspace and territory. The key question therefore is not just does the UK approve of renditions to torture. It is whether the UK does anything meaningful to stop such renditions from taking place.

Following the admission by the Secretary of State in Parliament about rendition flights passing through Diego, Human Rights Watch recommends that the FAC support calls for a full independent public inquiry into all rendition flights over UK airspace or through UK territory, including follow-up on the fates of the two men who have been acknowledged as victims of rendition through UK territory. Through the APPG on renditions there have already been proposals in parliament to address the current deficiencies in UK law and policy regarding use of UK airspace/territory for rendition flights but so far they have been ignored by the government.

Cluster munitions

While UK policy on cluster munitions has evolved in a positive fashion, and it has taken some important steps at the national level, there is still reason for serious concern about the UK's commitment to the Oslo Process aimed at a prohibition on cluster munitions that cause unacceptable harm to civilians.

The UK has not been among the nations leading the way toward a treaty that will have the greatest humanitarian impact. Rather, it has been a leader in a group of states—mostly European nations with significant stockpiles of cluster munitions—that have promoted provisions that would weaken the future treaty.

Most notably, the UK has been insisting that its helicopter-launched CRV-7 cluster munition rockets be exempted from the prohibitions on use, production, transfer and stockpiling. The cluster rocket itself is not guided, nor are the individual sub-munitions it contains. The sub-munitions do not have self-destruct devices or any other fail safe mechanisms. We note that annual report states that the UK withdrew from service the BL-755 and M26 cluster munitions because “Neither system has target discrimination capability nor a self-destruction, self-neutralisation or self-deactivation capability”. The same is true of the CRV-7.

The UK has also supported the deletion or the gutting of the draft treaty's provision that prohibits assistance with any banned act, in essence indicating that it would be permissible for the UK to assist the United States with use of cluster munitions during a joint military operation. This would completely undermine the integrity of the treaty and the effort to stigmatise the weapon.

Finally, while the annual report cites the UK's substantial contributions to clearance of explosive remnants of war in order to provide relief to civilian populations, the UK has also indicated that it opposes the provisions in the draft treaty text that would require states parties to provide victim assistance and that assign special responsibility for clearance of existing contaminated areas to those who used the weapons.

Promote a low carbon high growth global economy

Human Rights and Business

Human Rights Watch welcomes the FCO's efforts to promote voluntary corporate responsibility efforts. However the FCO should go further by examining ways it could develop and support stronger mechanisms to ensure corporations respect human rights. Human Rights Watch also urges the government to play a productive role in developing meaningful human rights standards for some of the initiatives that it does support, such as the Voluntary Principles on Security and Human Rights. An effort is underway to strengthen this initiative and we hope that the FCO will support meaningful standards intended to improve human rights.

Human Rights, Development and poverty reduction

Human Rights Watch welcomes the government's recognition that sustainable development is underpinned by human rights and democracy and notes the contribution to the debate on this issue by DFID in its 2007 policy paper Governance, Development and Democratic Politics. However the FCO report on human rights should have gone beyond the generalities of its work on promoting the key social and economic rights, including the rights to education, water, health and food, to address the dilemmas HMG faces when governments that are in receipt of UK taxpayers' money in development assistance engage in serious human rights violations or corruption which in turn can fuel rights abuses. Examples include Ethiopia, Rwanda, Kenya, Afghanistan, Pakistan, Iraq and Nigeria.

Conflict Prevention

The UK government should be commended for its leading role in catalyzing international efforts on conflict prevention, especially in Africa, and for its championship of the concept of an international responsibility to protect civilians from genocide, war crimes, ethnic cleansing and crimes against humanity. However Human Rights Watch would like to draw the attention of the Foreign Affairs Committee to the report's poor coverage of two conflicts.

Lebanon/Israel

Human Rights Watch criticised the FCO's 2006 report on human rights for its biased assessment of the 2006 Lebanon/Israel war. That report rightly mentioned the violations of international humanitarian law by Hezbollah as well as the number of Israeli civilian casualties from Hezbollah's attacks. However it failed to mention Israeli violations and the far higher number of Lebanese civilian casualties. The FCO described this omission as an oversight and committed itself to correcting the record in the 2007 report, which it has done, citing Human Rights Watch as a source.

However, even if it is strictly true to state that “during the conflict, the UK consistently urged Israel both publicly and privately to act proportionately, to conform to international law and to do more to avoid civilian death and suffering” (p 39), that diplomatic action, if it took place, needs to be seen in the context of the UK also providing diplomatic support at the UN and in the EU for an Israeli military campaign in which serious violations of IHL took place.

Somalia and Ethiopia

On pp 31–32 the report addresses the linked conflicts in Somalia and the Ogaden. The report’s characterisation of these conflicts is misleading and inaccurate. For example in its description of the serious escalation of the Somalia conflict in 2007 (in which Human Rights Watch has documented serious violations of IHL amounting to war crimes by all sides) the report does not even mention the intervention of Ethiopian forces and their leading role in the fighting in Mogadishu let alone grave abuses they have committed.

The description of the conflict in the Ogaden, the Somali region of Ethiopia, is entirely one-sided. The report says that the cause of the conflict is the conflict in Somalia—with no reference to the equally important internal causes of the Ogaden conflict. And it blames the conflict entirely on the Ogaden National Liberation Front, which it does not mention by name but merely describes as a terrorist group. It further says that the UK “fully recognises Ethiopia’s need to counter the threat posed by these terrorist elements . . .”. p 32. There is no mention of the grave and well documented abuses published by Human Rights Watch and others perpetrated against the Ogaden civilian population by Ethiopian forces. The report’s treatment of the Ogaden and Somalia conflicts amount to a whitewash of Ethiopia’s very grave abuses.

Israel Palestinian conflict

The principle shortcoming of the discussion of what the report refers to as the Middle East Peace Process is that it does not note the failure of the Quartet to identify, either in its statements or its practices, respect for human rights and international humanitarian law as an essential component in any effort to resolve this conflict, which is fraught with serious abuses by all parties.

Peacekeeping and human rights

The introduction to the section on conflict prevention states: “It is a UK priority to ensure that mandates for UN and other peacekeeping missions include the promotion and protection of human rights” (p 29). This point is deemed important enough to be highlighted in the introduction to the report itself which states: “Peacekeeping missions have an important role in protecting human rights” (p 8).

These statements seem to be in marked contrast to what FCO lawyers have been arguing in the various cases at the ECtHR in which the UK has been taking the lead in intervening to try and limit the application of human rights law in peacekeeping.

In the case of *Behrami and Behrami v France* last year, on the application of human rights law (ECHR) to France with regard to its forces that formed part of KFOR in Kosovo, the UK led a series of states intervening aggressively (and unfortunately successfully) to say that the European Convention could not apply to states sending forces on UN peacekeeping missions.

In its intervention (paragraph 13) the UK stated: “It follows from the terms of resolution 1244 (1999) that KFOR had no powers of administration over Kosovo and its inhabitants and had neither the legal responsibility, nor the capacity, to secure human rights and freedoms to those inhabitants. Still less did any one of the States which contributed forces to KFOR have such responsibility or capacity”.

Since KFOR has significantly greater powers to impose security than almost any other peacekeeping force, the UK’s argument would suggest that it believes its peacekeeping forces will never have the power or the capacity to secure human rights for the inhabitants of countries to which they are deployed.

Another question is whether human rights law applies to military personnel serving in multinational stabilisation forces overseas. This issue has arisen in the *Saramati* case, which was joined with the *Behrami* case at the ECtHR, and in the various cases within the UK with regard to the conduct of UK forces in Iraq and Afghanistan. The government’s general legal argument in these cases has been that human rights law should not apply to its forces.

Two questions therefore arise which we recommend that the FAC should pursue with the government. First, given the statement in the FCO’s report on human rights, does the UK believe its peacekeeping forces are under a duty to secure human rights to the inhabitants of the territories they are in? And second does the UK believe that peacekeeping forces should comply with human rights law? If the answer to the questions is yes, then Human Rights Watch recommends that the FAC should welcome the change of position from the government’s previous legal arguments. If the answer is no, then the government should be pushed to resolve the inconsistency or to admit publicly that the statement in the report is misleading and that in fact the government’s position is that their peacekeeping forces do not need to protect human rights and can violate them at will.

Develop Effective International Institutions

Human Rights at the United Nations

Human Rights Watch commends the FCO for its work at the UN Human Rights Council where in the first two years of the Council's existence the UK has been at the forefront of efforts to make sure the Council does not fail but can develop the institutional teeth it needs to act as an effective mechanism to improve and promote respect for human rights among UN member states. This is of course a difficult task as several of the UN member states on the Council, and many who are not currently represented, appear determined to prevent the Council from becoming an effective body.

Human Rights Watch would like to draw the Committee's attention to several issues on which the UK needs to redouble its efforts at the council.

On Burma there is need for continued pressure at the HRC. There were good resolutions in October and December but the Special Rapporteur Paulo Sergio Pinheiro has not been able to return to the country because of government obstruction. The Council should not allow Burma to be allowed to obstruct the work of its Special Rapporteur in this way.

Since the report went to press the Council has decided to terminate the mandate for an expert on DR Congo. Human Rights Watch sees this as unjustified and believes that the EU compromised too much allowing for the abolition of this mandate in return only for a discussion on the DR Congo in March 2009. The EU should have stuck to principle and voted against the decision.

More generally the Council has failed to take meaningful action on a number of situations that deserve its attention including: Iraq, Somalia, Sri Lanka, Iran, Tibet, Uzbekistan and others.

The last eight months have seen concerted attempts by some member to undermine the institution-building package that was agreed by the Council last June. In particular this has impacted on the appointment procedure for the special procedures. This could usefully have been mentioned in the report as could the efforts of some HRC members to undermine the independence of the Office of the High Commissioner for Human Rights.

European Union

The report states that the EU is a "driving force on human rights". Human Rights Watch agrees that the EU indeed has been such a force in the enlargement area, accession to the EU being a powerful stimulus for improvement on human rights. However outside of the enlargement area the picture is much more mixed. Indeed Human Rights Watch believes that the consensus rule combined with a non transparent decision process often means that the EU tends to adopt a lowest common denominator approach to human rights.

For example the European Neighbourhood Policy has failed to use the EU's considerable leverage to win concrete improvements in the human rights situation in Egypt, Libya and other North African countries. In the case of Libya where the EU is developing a new economic and political relationship, this is particularly disappointing, and the UK appears to be among those EU member states willing to downgrade human rights in favour of developing business, security and counter-immigration ties with Tripoli. Human Rights Watch would also question the assessment of the report that "Jordan has put in a good performance on human rights reform" especially as there is no mention of the continuing and pervasive problem of torture in Jordan.

Another example is the EU's relationship with Central Asia. The UK's approach to human rights in Central Asia has been among the best of all EU member states. However its principled attitude towards human rights violators and violations in the region is diluted in EU policy terms by the efforts of Germany and others to prioritise strategic and economic concerns above the promotion of human rights.

The UK has been in the lead when it comes to stronger EU measures against those responsible for serious human rights violations in Burma and Darfur. It is critically important that the UK continues its leadership in this regard and that it does so in a very open and public manner.

With the likely coming into force of the Lisbon Treaty in January 2009, the EU will establish a new and enhanced diplomatic service on foreign and security policy primarily consisting of diplomats seconded from the 27 member states to the Council secretariat. It is critically important that such a new service will include experts on regional priorities of the EU as well as on human rights, including child and gender specific aspects of these rights, and International Justice—all stated EU priorities. The UK should ensure that such experts will be among the new diplomatic service and should offer to second human rights experts for the service.

PART 2: HUMAN RIGHTS THEMES

Human Rights Watch has on numerous occasions applauded the UK government for its work on various cross cutting human rights themes. Comments on this section are limited to the rule of law.

Rule of Law

Human Rights Watch welcomes the UK's international work on enforced disappearance, the death penalty, prison reform, torture, and law enforcement. Human Rights Watch notes the reasons given in the report for not signing the convention on enforced disappearances and urges the government to move swiftly towards signing and ratifying the treaty.

On torture Human Rights Watch notes with great concern that there is no mention of the problem of torture in countries such as Jordan, Lebanon, Algeria, Libya, Egypt, Tunisia and Morocco. In several of those countries torture is enough of a problem that (taken together with other concerns) it warrants including them in the FCO's list of countries of concern. At the very least concerns about torture in those countries should have been mentioned in the section on torture.

PART 3: MAJOR COUNTRIES OF CONCERN

The list of countries chosen this year is broadly the right one and there is useful material in each of the country sections. Human Rights Watch particularly welcomes the inclusion in this report of Pakistan. The FAC may wish to consider that the FCO includes one or two further countries in next years' report. Possible contenders include Libya and Egypt. We have not commented on all the countries listed in the report as countries of concern.

Afghanistan

As a major military, diplomatic and development player in Afghanistan it is of great importance that the UK keeps human rights and the rule of law at the forefront of its strategic thinking on dealing with the challenges in Afghanistan. Human Rights Watch is therefore encouraged that the report addresses Afghanistan's human rights situation. However Human Rights Watch notes with concern that the report fails to reflect the gravity of the human rights situation in Afghanistan, and even the fact that UK forces are involved in an armed conflict in the country.

It is not noted for example that 2007 was the most violent year in Afghanistan since the US led invasion in 2001. Furthermore the report does not attempt to examine the reasons for this violence, beyond blaming "Taleban and other insurgent groups". It is true that anti-government forces routinely target civilians in indiscriminate attacks, including suicide bombing. It is also true that they violate the laws of war by launching attacks from civilian areas, knowingly drawing return fire. But it is also the case that NATO and US led coalition forces, including UK military personnel, killed at least 300 civilians in 2007—though the real figure is likely much higher given the inherent difficulty of distinguishing between civilians and combatants in this kind of war and the extensive use of airpower.

The report also fails to provide adequate analysis of government abuses and the extent to which warlords and criminals responsible for egregious crimes in the past continue to exercise power and influence over the parliament and government and continue to protect their position through intimidation and violence. None of this is reflected in the report's coverage of what it understatedly calls the "controversial" Amnesty Bill through which the warlords sought to institutionalise impunity in Afghanistan. Nor is there any mention of the nexus between human rights abuses, warlordism and opium cultivation. Efforts of international actors in Afghanistan to address the wider problem of impunity in Afghanistan are hampered by the excessive focus of energy and attention on the conflict with the Taleban. But defeat of the Taleban depends not only on military action, but political action, including ending impunity for powerful warlords and war criminals.

On the issue of detention, it is commendable that UK is monitoring detention facilities in Afghanistan and supporting the Afghan law enforcement institutions to improve prison and detention conditions. However it should be noted that there is no central control over prisons and detention facilities. This leads to a situation where it is practically impossible to monitor and control all the various legal and quasi-legal prisons and detention facilities, operated by institutions (such as the NDI—national intelligence service) which do not keep to the minimum standards. Furthermore there is no mention in the report of the fact that the US forces, operating in Afghanistan without an adequate legal framework, continue to detain hundreds of Afghans without adequate legal process. In a single remarkable exception to an otherwise poor record of accountability a US federal court in February 2007 found one CIA contractor guilty of assault in the beating to death of an Afghan detainee in 2003.

In its coverage of women's rights the report also fails to note that according to the Afghan Independent Human Rights Commission (AIHRC) violence against women, domestic violence, forced marriage, self-immolation, access to justice have all deteriorated in 2007.

Another omission in the report is the dire situation of the judiciary in Afghanistan, which suffers from a serious lack of professional and qualified judges and resources. As a result basic rights to due process and rule of law are under threat for Afghans who either are brought before the justice system or seek justice through it. In most southern provinces the formal justice system is totally dysfunctional and traditional customary systems are filling the vacuum.

There is also no mention of the situation of children in Afghanistan. The achievements of the past six years, mainly in the field of education, have come under threat in the past 18 months. The number of school attacks has increased and accordingly the enrolment and attendance rate of primary schools in the Southern provinces of Afghanistan have decreased, in some districts no girls are registered for primary school attendance at all.

Belarus

Human Rights Watch commends the UK government for its role in ensuring that Belarus was not elected to the Human Rights Council. The report's section on Belarus makes it clear why Belarus would have made a terrible HRC member. However there are some important omissions in the report.

The report mentions the harassment against several members of the political opposition, but fails to explain the grounds. Authorities in Belarus require political opposition groups to register, but registration is frequently denied for arbitrary and unfounded reasons. Consequently, many people who participate in opposition activities are detained and harassed for acting on behalf of unregistered organisations. Students linked to opposition groups have been expelled from schools.

In the section about independent media, the report omits information about the Internet, which is tightly controlled by the government. All Internet access passes through the state-owned operator Beltelecom, and the State Center for Information Security responsible for protecting state secrets and for running the country's top domain is supervised by President Lukashenka.

The report does not mention religious freedom. In theory the Belarusian constitution provides for freedom of religion, but authorities make it difficult for adherents of religions other than those affiliated with the Belarusian Orthodox Church. Religious leaders have been threatened, detained and fined, for holding religious services in "unauthorised" spaces, even though it is very difficult for adherents of some faiths to secure authorisation and registration. More than 25 foreign Catholic and Protestant clergy were expelled from Belarus between the summers of 2006 and 2007 for allegedly "posing a threat to national security".

Burma

The chapter on Burma is good. But Human Rights Watch has three concerns. First, while it is right to endorse the International Labour Organisation's (ILO) mechanism on reporting cases of forced labour, there should be some acknowledgement of the limitations of the mechanism. Even the ILO admits it will not stamp out forced labour in the countryside, where egregious and widespread use of forced labour continues. Second, any discussion of the humanitarian crisis in Burma and DFID's work in addressing the crisis needs to underline the level of restrictions experienced by UN agencies and relief agencies in the country. Third, while it is positive that the UK is supporting the efforts of Mr Gambari, a more balanced assessment of his work could have been presented. In truth the Burmese government has made few, if any, real changes in response to Mr Gambari's work: no political prisoners have been released, no military offensives have been halted, and no participatory progress on democratic freedoms has been achieved.

China

The section on China is generally sound. The report also notes that "as the 2008 Beijing Olympics draw closer, the world's attention is increasingly focused on China's human rights record". However neither this report, nor any other statement in recent months by the British government, has articulated how and why the UK should use the opportunity of the Beijing Olympics to press for improvements in human rights China.

Recent weeks have demonstrated the lack of a coherent UK strategy towards the Beijing games. In China as the Games approach the government is cracking down ever harder on dissent and protest not only in Tibet but around the country. Meanwhile the UK government is tying itself to the Chinese position of pretending that the Games should have nothing to do with human rights. The Prime Minister Gordon Brown not only took part in the disastrous torch relay ceremony in London (without mentioning human rights) he has also committed himself unconditionally to attend the Games in August.

The UK government seems to want to use the Beijing Olympics to promote the London Games in 2012 and to avoid offending the Chinese government. In so doing it is turning its back on those Chinese groups inside and outside of China who are using the Beijing Games to draw attention to the dismal human rights situation in China. The UK government needs quickly to rethink this unprincipled position. The Prime

Minister should at the very least make his presence at the closing ceremony of the Games conditional on genuine improvements in key aspects of the human rights situation, including the Chinese government honouring the commitments on human rights it made as part of its bid for the Games.

Colombia

The report's coverage of Colombia is sound. However Human Rights Watch believes that in the light of the serious human rights situation in Colombia, and especially in light of the high rate of extrajudicial executions by the military, the UK should either suspend military assistance to Colombia or attach strong human rights conditions to it. The UN's High Commissioner for Human Rights noted in her annual report that extrajudicial executions continue to be a problem, and Human Rights Watch has also documented several cases from last year (12 from just one small town). The Office of the Inspector General of Colombia has 650 investigations open into such executions, all from the last few years. The US Congress has already moved to freeze some US military aid to Colombia. Human Rights Watch respectfully suggests to the FAC that it recommend that the UK government suspends military aid or at least make its continuance conditional on substantive improvements.

Iraq

Given the UK government's prominent role in Iraq it is perhaps inevitable that the report's coverage of human rights in Iraq pulls its punches. The report rightly notes the existence of a "culture of abuse" within the Iraqi security forces. It also notes that elements of the Iraqi police and military have committed grave human rights violations, including the torture by police of detainees at secret jails in Baghdad. The report cites UK efforts to institute human rights training in police units established with British supervision, and points to the disbanding of two units in the south as evidence of commitment to identify and seek accountability for such abuses.

However, the report ignores the degree to which security forces in Basra, generally established under the supervision of British forces, have been infiltrated by militias and other armed elements which are themselves reported to have committed abuses. The report also fails to draw any link between the dreadful human rights situation in Iraq and strategic and policy mistakes made by the UK and the US.

Most tellingly the report fails to make any reference to instances of abuse of Iraqi civilians and detainees by British forces, nor to instances of abuse of Iraqi civilians by US forces and/or private security outfits contracted to the US government and MNF bodies.

Furthermore the report makes no reference to the high level of civilian casualties of US-led MNF operations.

The report also paints far too rosy a picture of the UK's efforts to address the Iraqi refugee crisis. According to the report the UK has provided £125 million for humanitarian action in Iraq since 2003. Included in that sum is UK money spent addressing the refugee and internal displacement crisis. This is a small sum compared to the billions spent on military operations in Iraq and highlights the need for solutions to the Iraq crisis which focus much more on human security and the needs of Iraqi people.

Human Rights Watch also notes that the government had to be pressured by the campaigning of groups like Human Rights Watch, Amnesty and the Refugee Council and the media not to abandon those Iraqis (translators and interpreters for the most part) who were at grave risk because of their employment by the British government in Iraq. And six months after it announced a package of support to these Iraqis many have not received any help at all but are still struggling to survive as fugitives from death squads in Iraq or as refugees in Syria and Jordan.

Israel and OPT

The survey of human rights concerns in the OPT is generally comprehensive and accurate. However, in referring to Israel's blockade of movement of persons or goods into or out of Gaza after the Hamas takeover in June 2007, the report fails to observe that this constituted a policy of protracted collective punishment, a serious violation of international humanitarian law. The report should also have noted that the Israeli-led blockade had in fact been imposed earlier, in part in response to Hamas forming a government after winning free and fair elections in early 2006. The measures implemented in June 2007 represented only an intensification of a long-standing policy that initially was tacitly or openly supported by the UK and other Israeli allies. The UK itself participated in an economic embargo of the Palestinian Authority (PA) which exacerbated the effects of the blockade in the period between the formation of a Hamas-led PA in March 2006 until President Abbas' June 2007 dismissal of the Hamas-led government. Also, to attribute the breakdown in Israeli-Palestinian security coordination to Hamas's takeover ignores the serious lack of coordination in preceding years as a consequence of the policies of both Israel and the PA.

The survey's attention to the continuing Israeli policy of administrative detention without trial is welcome. However, the report does not mention that while administrative detention can be imposed for periods up to six months, these periods can be renewed indefinitely and many administrative detainees have

been imprisoned for years. Furthermore, the report omits that when Israel transfers Palestinian administrative detainees to prisons inside Israel it does so in flagrant breach of international law which prohibits the transfer of detainees outside of occupied territory. Furthermore, this section, states that the majority of Palestinian prisoners have received court trials, without noting that these trials are in Israeli military courts operating under procedures that do not meet international fair trial standards.

The survey refers to the closure of the Erez border between Gaza and Israel since June 2007, but fails to mention the disastrous consequences of this closure, including the denial of passage to urgent Palestinian medical cases (which has resulted in tens of deaths, according to the World Health Organisation and human rights organisations) and to hundreds of Gazan students who are unable to continue their higher education outside Gaza.

Finally, Human Rights Watch welcomes the inclusion of a discussion on the rights of Israel's Bedouin citizens in the Negev region. Human Rights Watch has just published a major report documenting the systematic discrimination in planning, land allocation and land access against Bedouin citizens and the intentional state policies which led to the confiscation of Bedouin land and the de-legalisation of long standing Bedouin villages. The report also documents the often unlawful way in which the state demolishes Bedouin homes, more than 200 in 2007 alone. Human Rights Watch recommends that the FAC requests that the FCO raise the issue of accountability for human rights violations perpetuated against the Bedouin population.

Pakistan

Given the seriousness of the human rights problems in Pakistan Human Rights Watch welcomes the inclusion of Pakistan in the list of countries of concern in this year's report. However some serious shortcomings in the report's coverage of Pakistan should be noted.

Pakistan is referred to as one of the UK's "most important partners" in counter terrorism efforts which according to the report includes "operational co-operation". The report argues that the UK's training and wider counter terrorism assistance to Pakistan "promote human rights compliance, based on international human rights standards". This is a misrepresentation of the UK's counter terrorism cooperation with Pakistan. The report remains notably silent on the hundreds of disappearances of terrorism suspects in Pakistan. Human Rights Watch's research indicates that the UK has itself been complicit in the illegal detention, forcible transfer to the UK and torture of some terrorism suspects. These have included Salahuddin Amin and Rangzeib Ahmed in recent years. By failing to criticise Pakistan's well-documented human rights abuses in relation to the arrest and interrogation of terrorism suspects, this report actually fuels the allegations of UK tolerance of and complicity in such acts.

Another shortcoming of the report is that although it notes that the UK has continued to "argue for an independent judicial process in Pakistan", it omits to call for the restoration of the deposed judiciary and even fails to mention that the deposed Chief Justice Iftikhar Mohammad Chaudhry was held in illegal detention for almost five months along with his family, including his children—a teenage daughter and a seven-year-old son.

Russia

The section on Russia covers most of the important dimensions of the multi-faceted crisis of human rights in Russia, including the particularly dismal situation in the North Caucasus. However the report overlooks two important areas of concern for Human Rights Watch: ongoing abuses in the army and migrants' rights.

In places the language seems to reflect the caution with which the UK and the EU community in general have treated Russia recently. For example, the report says that although the EU regrets that in the run up to the recent presidential elections there were many allegations of media restrictions and harassment of opposition parties, "the EU welcomes the fact that elections took place in an orderly and organised fashion". Given the security clampdown in the main urban centers during the election it is hard to see how it could have been otherwise. Although it does address many of the immediate problems surrounding the elections, the report does not note the tight controls put into place over several years, through which the government has severely compromised the possibility of free and fair elections. Likewise, while the report mentions the specific obstacles put in the way of NGOs and civil society it fails to note the broad hostile environment in which NGOs struggle to operate thanks to the policies of President Vladimir Putin.

Saudi Arabia

Human Rights Watch welcomes the inclusion of Saudi Arabia as a country of concern and is appreciative of the assistance of the British government in securing authorisation from the Saudi government to visit Saudi Arabia at the end of 2006. For the record, it should be noted that this was not Human Rights Watch's first official visit, as stated in the report, but its first official research visit. Also Human Rights Watch researchers did not visit four prisons, as stated in the report, but one prison, one shelter for runaway domestic workers, one juvenile detention facility for boys, and one juvenile detention facility for girls and young women. In the last two no private interviews were allowed.

The report's characterisation of the human rights environment in Saudi Arabia is largely accurate. But Human Rights Watch takes issue with the statement that "the pace of reform will need to be acceptable to the Saudi government, its citizens and powerful religious leaders". This is tantamount to saying that reform must be at the pace of the most repressive and conservative elements of Saudi society. Would the UK government declare that change in Zimbabwe has to come at a pace that is acceptable to Zanu-PF?

The UK needs to speak up much more clearly on human rights in Saudi Arabia and should have avoided sweeping human rights under the carpet during the state visit of King Abdullah to London in October 2007.

Syria

The report's coverage of Syria is generally sound. However it is important that human rights should be at the forefront of the UK and EU's strategy towards Syria, as well as the issue of Syria's regional role with respect to Iraq, Lebanon and Israel/OPT. While Human Rights Watch accepts that UK leverage over Syria is limited (and vastly reduced because of mistakes in Iraq) nonetheless it should be a guiding principle of UK policy towards Syria that Damascus will only be able to play a stabilising role in the region if Syrians within Syria are allowed the political space to express their political opinions without fear of arrest, torture and imprisonment. There is a concern that if Syria starts to cooperate with the UK, the EU and the US on the regional politics then external pressure for improvements on the internal political front will diminish—as it has in Libya and Egypt.

Thailand

The report's coverage of Thailand is mostly accurate. However Human Rights Watch believes that the report's account of the widespread and systematic human rights violations committed by Thai security forces and the separatist militants in the southern border provinces does not reflect the gravity of the situation.

The report describes numerous reports of torture and ill-treatment of detainees in military custody as "unsubstantiated". However during the 18 month period of military installed government, torture and ill-treatment of detainees by Thai security forces has been thoroughly documented by Human Rights Watch and other organisations. Nearly all detainees interviewed by Human Rights Watch and other human rights groups reported that they were tortured by the military.

In spite of complaints to the government from Human Rights Watch, and promises to close down the main interrogation center in Pattani, there has been no improvement. The interrogation center remains operational under a different name, and the abuses continue at all levels of command. Furthermore, no one had been prosecuted in connection to the torture and ill-treatment or deaths of detainees in military custody.

On the other side, the report also does not mention that the separatist militants have shown no respect for international legal and human rights principles. They are responsible for the majority of the 2,800 deaths and the many more injuries from January 2004 to 2007 in the southern border provinces. More than 90% of their victims are civilians, including both Buddhist Thais and ethnic Malay Muslims.

Turkmenistan

The section on Turkmenistan focuses on the opening on the country during the first year of Gurbanguly Berdimukhamedov's presidency but it fails to make a clear statement that the end of isolationism did not bring a genuine human rights reform. Turkmenistan remains one of the most repressive and authoritarian countries in the world. No independent organisation has been able to do research on human rights abuses inside the country, and no agency, governmental or nongovernmental, has had access to detention facilities. Berdimukhamedov has made no public commitment for reform in the field of fundamental rights and freedoms.

A striking omission in the FCO report is that it does not mention the hundreds of political prisoners who remain incarcerated (after unfair trials) from the Niazov era. Among them are three well-known political prisoners, Mukhametkuly Aymuratov, Annakurban Amanklychev, and Sapurdurdy Khajiev. Another crucial issue is the continued de-facto prohibition of NGO and independent media activities. No independent NGO or media has been registered in 2007; at least six groups recently applied for but were denied the registration as NGOs.

Uzbekistan

The coverage of Uzbekistan is generally sound apart from the statement that "the crackdown on civil society has subsided". This does not square with the evidence provided by the report itself. Perhaps the authors are referring to the apparent lull in new arrests and convictions of human rights defenders. But it should be pointed out that repressive regimes use different instruments of repression at different times to

maintain control. Many human rights defenders remain in prison, others have been intimidated and threatened to the point they had to flee the country, and those who have most recently been released had to admit guilt and promise not to violate the law in the future.

Human Rights Watch is concerned that the use of language suggesting a relaxation reflects a slipping of the international community's expectations. The suggestion is that things are now not quite as bad as they were in the year immediately following Andijan, so this is a sign of progress. In fact, the human rights community has been completely decimated and there is no longer a need for the Uzbek government to use the brutal tactics of late 2005 and 2006.

The report states that the UK will "continue to support the maintenance of sanctions as an appropriate EU policy response until there is an improvement in Uzbekistan's human rights record". It is important that the UK continues to support sanctions, but the criteria for the lifting of sanctions are much more specific than simply an improvement in Uzbekistan's human rights record. Human Rights Watch expects the UK to take a leading role internationally and in Europe in supporting and actively pushing for the maintenance of sanctions until the criteria set by the EU have been fully realised.

Vietnam

Human Rights Watch welcomes the report's coverage of human rights abuses in Vietnam and agrees with much of the analysis and reporting. However, on the issue of religious freedom progress should not be measured (as in the report) by the number of registered congregations. Churches and denominations that do not choose to join one of the officially-authorized religious organisations, whose governing boards are under the control of the government, continue to be officially banned or considered illegal. For many churches that have been approved, registration limits them to certain "specific activities", enabling government officials to use the registration process to monitor and control religious activities.

The report's assessment that media freedoms have gradually improved is questionable. As the report notes, all media continues to come under the control of the Vietnamese government. The report points to media coverage of corruption cases as an indicator of improvement. But this is nothing new: it has long been the practice that certain newspapers are allowed to criticise certain corrupt officials.

There is no mention of suppression of freedom of assembly, such as legal restrictions on public gatherings and arrests of peaceful demonstrators, such as Khmer Krom Buddhist monks who participated in non-violent protests in the Mekong Delta in February 2007.

The report also overlooks labour violations, such as restrictions on workers who participate in "illegal" strikes not approved by the government controlled union confederation and the arrest and imprisonment of members of independent trade unions.

In addition to noting the national security provisions of Vietnam's penal code that criminalise dissent, it is important to note that Vietnamese law continues to authorise arbitrary detention without trial under Ordinance 44, which authorises placing people suspected of threatening national security under house arrest or in detention without trial in Social Protection Centers, rehabilitation camps or mental hospitals.

Finally Human Rights Watch urges the FCO to include in future reports, and the prisoner lists it submits to the Vietnamese government, the 350 ethnic minority Christians from the Central Highlands ("Montagnards") imprisoned since 2001 for peaceful expression of their political or religious views, or attempting to seek asylum in Cambodia.

Human Rights Watch thanks the Chairman and Members of the Foreign Affairs Committee's for their interest in these matters.

April 2008

Witnesses: **Kate Allen**, Director, Amnesty International UK, and **Tom Porteous**, London Director, Human Rights Watch, gave evidence.

Q1 Chairman: Kate Allen, Tom Porteous, you are both well known to us. You have given evidence to our Committee before. This has become like an annual event, as part of our annual human rights inquiry where we comment on the Foreign and Commonwealth Office's annual human rights report, which is now more than 10 years old. Can I begin by asking a general question about how the UN system is now working and the Human Rights Council which has been introduced recently? What is your assessment? Is it better than the previous commission or is it, as some people have alleged, pretty much the same?

Tom Porteous: Thank you very much for giving us a chance to give evidence this afternoon. I also thank the Foreign Office for producing this report. It is a very useful report. It provides a standard against which we can measure the performance of the Foreign Office on human rights. On the question of the Human Rights Council, it is nice to be able to start this evidence session with something positive to say about the work of the UK Government. The UK has played an excellent role at the Human Rights Council and is possibly one of the best allies among Governments at the Council of human rights organisations like Human Rights Watch. It has

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worked hard to fight off efforts by some Governments who obviously do not want the Council to work properly and are therefore trying to water down its institutions. We want to see the UK continue to play this role. That is why we welcome the fact that the UK is seeking re-election to the Human Rights Council. As to the assessment of its performance, it is too early to tell whether it is any better than its predecessor. Certainly, it has the potential to be better.

We have just seen in March the start of the universal periodic review process, by which Governments have a chance to review the performance on human rights of their peers. We were quite disappointed by the timidity of Governments in criticising their peers, or at least some of them. For example, in March we felt that Algeria and Tunisia got away very lightly, whereas the UK and the Czech Republic came in for some pretty heavy criticism, so we should like to see more consistency.

The March session also revealed the continuing reluctance of the Council to take on the big human rights crises that exist in the world and that are emerging. If the Human Rights Council is to have more credibility than its predecessor, it needs to examine the major human rights crises in the world. We have seen the Human Rights Council address Israel and the occupied territories. It is right that it should do that. If it only addresses that, clearly there is a big problem. We have seen it address Darfur. That is positive, although the resolution in March on Darfur was extremely weak. We think that the council needs to address crises like Somalia, Burma, Burundi, China—particularly Tibet—Iraq, Sri Lanka and Uzbekistan. Unless it addresses those human rights crises in the real world it will not have the credibility that it needs to make a better impression than that of its predecessor.

Q2 Chairman: So you would agree with the FCO's report when it says that there has been a disproportionate and unbalanced focus in the Council's early months on the situation in the Middle East?

Tom Porteous: Yes, we would. We think that the situation in the Middle East needs to be considered from a human rights perspective by the Human Rights Council, but other situations need to be considered as well if what it says about the situation in the Middle East is to be taken seriously.

Kate Allen: I very much agree with the comments from Human Rights Watch. This has been the first year of the Human Rights Council and it has the potential to be much more effective than the commission. We have been pleased to see the role that the UK Government have played. Looking at the FCO's new strategic directions and the fact that effective international institutions are one part of that, as is preventing and resolving conflict, we would like to see the Human Rights Council's role as an early warning signal of areas of conflict, by looking at what is happening in terms of human rights, developed in the longer term so that it is not always dealing with crises, but is able to talk about prevention and those early warning signs.

We think that the universal periodic review process is a good one. The UK was one of the earliest countries to go through that process. We were very pleased that the Government involved civil society in that process and welcome the fact that the Government are supporting seminars and other means to help other countries look at how that process can work.

I should have said at the start that Amnesty also welcomes the Human Rights Report, because it is a hugely important piece of work. We have our differences with it, but we also know that the report provides that moment in the year when we concentrate collectively on the Government's record on human rights, and we very much value that.

Q3 Sir Menzies Campbell: From your standpoint, how far does the absence of participation by the United States affect the work of the council?

Tom Porteous: I would not say that the United States is entirely absent, because it is there in Geneva and pays close attention to what is going on at the council. It did oppose the creation of the council for various reasons, and our office in Washington is certainly working hard to secure greater engagement by the United States in the Human Rights Council, because we think that it can play a positive role.

Q4 Sir Menzies Campbell: Is that your view as well, Ms Allen?

Kate Allen: Yes.

Q5 Chairman: We shall move on to the progress towards an arms trade treaty, which we have been pushing, as you know. In our report last year, we noted that the UN General Assembly had started the process, and the Foreign and Commonwealth Office report gives some information about that. What is your assessment of real prospects? The written evidence from Amnesty suggested that "substantial blocks" were starting to emerge as key Governments begin to outline their concerns. In your opinion, what are those substantial blocks and what can the Government and we as parliamentarians do to overcome them?

Kate Allen: We are very pleased by the progress that has been made on the arms trade treaty and delighted at the UK Government's continuing leadership on the issue. They have been there from the very beginning as a champion of the treaty, and that has been vital to the progress made so far. Our view of where things are going is that there are some obstacles, but progress is also being made. The group of Government experts looking at the detail are progressing well, although there are substantive issues yet to be touched on.

I think that there are some dangers, such as complacency and a feeling that the arms trade treaty has been done and has been through the General Assembly as an issue, so the danger is that it might now get lost. Our call from Amnesty is very much to maintain the UK Government's concentration on the arms trade treaty. There is a long way yet to go in devising the detail of the treaty and in ensuring that it is strong and effective.

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As parliamentarians, it would be good to keep that focus. All too often, attention can move to the next issue, and that would be a problem. A small number of states are opposing the treaty, and some of them are also on the group of experts—I refer particularly to India, Pakistan, Russia, China and Egypt. Some states are opposing the treaty, causing difficulties and questioning the scope of what an arms trade treaty should cover. From our point of view, as Amnesty, it is important that the arms trade treaty covers all conventional arms, including small arms, light weapons, ammunition and components and parts. We want a comprehensive arms trade treaty. I think that the British Government want that, too. The danger is that those countries that I have named will water down the scope of the arms trade treaty, and that must be guarded against.

Q6 Mr. Purchase: Obviously, I would also like to see a very comprehensive treaty. I know that it would still depend on civilised and decent Governments ensuring, on their part, that it was followed and adhered to properly. Regrettably, given the mode and method of production in the greater part of the world, people can obtain weapons of all kinds illegally and transport them round the world almost with impunity. Do you have any thoughts about how large the trade is in the illegal transportation and sale of arms, which has always been a problem, and where the majority of the armaments are emanating from?

Kate Allen: Many of those illegal arms start their life as legal arms. So we consider that the arms trade treaty, controlling the flow of the arms trade around the world, will have a knock-on effect in terms of how illegal arms become available around the world. The arms trade treaty, in itself, can provide a great framework for reducing illegal flows of arms. However, that would depend on the treaty being the comprehensive one that I have talked about and on monitoring mechanisms accompanying the treaty in respect of what arms are used for after they are sold legitimately, thus ensuring that the flow of illegal arms is reduced as far as possible.

Q7 Sir Menzies Campbell: The FCO report makes some reference to cluster munitions, but perhaps not in as much detail as you and I would prefer. In your submission to us, Ms Allen, you gave the opinion that the Government appear to be arguing for exemptions that would allow them to keep the stock of some weapons presently in their possession, particularly the M85, which I understand was extensively used in Lebanon, with the consequences that we know about. How would you characterise the Government's efforts in promoting the cause of a treaty to ban cluster munitions?

Kate Allen: We are pleased that the UK Government is supporting a treaty to ban cluster bombs, but it is confusing to see them wanting exemptions for two different means of delivering those weapons. You talked about the M85, which, as you say, has been used in Lebanon. The UK Government describe M85s as smart cluster bombs—ones that self-explode—but that was not the case in Lebanon. We

are all too aware of the damage that those cluster bombs have done to the civilian population since they were used.

The other mechanism is the CRV-7, which is a helicopter rocket system that the Government are seeking to exempt. That is intriguing because the Government have never actually used it. They have not used it in Iraq—they have not used cluster bombs in Iraq since 2003—so it would be intriguing to know why those bombs would be made exempt. We at Amnesty feel that it is inconsistent to look for those exemptions. It is possible that arguing for exemptions in the cluster bomb treaty will undermine some of the work on the arms trade treaty. We would like to see the UK Government drop that. It is ironic that one of the arguments that the Government use about CRV-7s is that they are needed to protect our forces, but unexploded cluster bombs have killed more NATO troops in Kosovo, including UK troops, than the whole military operation at that time. So these are incredibly indiscriminate and dangerous weapons. We would like to see the UK Government sign up to a complete ban.

Tom Porteous: I would add to that that the FCO report itself says, proudly, that the UK has withdrawn the BL755 and the M26 munitions, because they do not have a “target discrimination capability nor a self-destruction . . . capability”. Exactly the same is true of the CRV-7. So under the FCO's own criteria, that too should be withdrawn. There are two other ways in which the UK is trying to water down the Oslo process, as we see it. First, it is seeking to neutralise the efforts of other states involved in the Oslo process to include in the treaty a ban on assisting other states that are not party to the treaty. This is a question of interoperability. Basically, the US, we feel, is putting pressure on the UK to include this exemption in the treaty, so that the UK—

Q8 Sir Menzies Campbell: So UK-US forces can more easily operate together.

Tom Porteous: Yes, operate together, and under those circumstances, the US could use these cluster munitions. The other way in which it appears to be watering down the treaty is that it seems to be opposing provisions in the treaty that assign special responsibilities for clearance of already contaminated areas on those who used the weapons in the first place.

Q9 Sir Menzies Campbell: So there is some evidence of good intention, but it is not exactly fulfilled by good actions. Is that a good way to characterise it?

Tom Porteous: If we are to get a treaty that does the trick of stopping cluster munitions causing unacceptable humanitarian suffering, what the UK is trying to do will prevent that.

Q10 Sir Menzies Campbell: Just one last question: what is the provenance of the M85s? Who manufactures them?

Tom Porteous: They are mostly manufactured in Israel.

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Q11 Sir Menzies Campbell: And the other one, the helicopter rocket-launched weapon that you mentioned—the CRV?

Kate Allen: Can I get back to you?

Q12 Sir Menzies Campbell: Of course. So we are not manufacturing them, but we are buying them in, if they are in the British inventory.

Kate Allen: I will certainly get back to you on where they originate.

Q13 Mr. Hamilton: Amnesty has argued that there is minimal emphasis on human rights in the strategy on corporate social responsibility, business and human rights, and none at all on the Government's international obligations to hold companies accountable. We hear quite a lot about the fact that many multinationals are more influential than some Governments and, indeed, have larger incomes than some Governments. But how important do you both feel that the role of business is in promoting human rights, especially in international trade? How can Governments influence those multinational companies, which can switch capital from state to state as they see fit?

Tom Porteous: Obviously, business can be extremely beneficial. Businesses pay taxes, and they create employment and so forth. We are certainly not anti-business. However, it is pretty clear that some businesses have played a role in various parts of the world in facilitating quite serious human rights abuses. Human Rights Watch and Amnesty have documented this. Just last year, we did a report on the abusive labour practices of Wal-Mart in the USA; it is not limited to the developing world. But we have also done work on the links between abuses in the Democratic Republic of the Congo and gold extraction. We have done work on the role of Google and Yahoo! in China, where they are co-operating with a Government who are fairly restrictive—to say the least—on freedom of expression. There are clear links between human rights abuses and business in Burma, Indonesia, Nigeria and elsewhere. Both of our organisations have done quite a big job in documenting that.

Thanks to the work of campaigning groups like ours, there is a growing awareness of such issues in business and in government. Human rights organisations have been in dialogue with Governments and businesses to address this problem. Reputable businesses have a lot at stake. If an important brand with an international reputation is sullied by accusations that the business is involved in human rights abuses, there is a problem from a business point of view. We have found it quite easy to enter into dialogue with some businesses.

What has come out of that dialogue so far is a plethora of voluntary processes and guidelines for businesses, such as the extractive industries transparency initiative, the global compact, which is a UN initiative, and the voluntary principles on security and human rights, with which Amnesty and Human Rights Watch are involved. Those things are good, and we have made a good start. However, Human Rights Watch believes—interestingly, a

growing number of businesses agree—that, without regulation, you will not get very far. The voluntary principles are fine and have got us some way, but they will be only partly effective.

The reason why businesses are coming to the conclusion that regulation might be necessary is that the smaller businesses that can get under the radar are able to continue engaging in abusive practices. It is the big companies that suffer, because they are the ones with the reputations. They want to have a completely level playing field. With the growing influence of China, Malaysia and countries in parts of the world like Africa, big business is beginning to realise that, if a regulatory framework can create that level playing field, it will be to their advantage. Obviously, it would be to the advantage of the victims of the abusive practices that businesses have engaged in, and continue to engage in, particularly in conflict-prone parts of the world.

Q14 Mr. Hamilton: I do not know whether Ms Allen wants to come back on that as well. It is quite surprising to hear that big business is in favour of regulation. Generally, it is not in favour of further regulation. In your response, you have not mentioned the role of the consumer. It seems to me that the consumer and the market can play an important role, because if consumers see that the products that they want to buy are produced by companies or factories that abuse the human rights of the workers, they will take their own action, will they not? A good example of that is Apple computers.

Tom Porteous: That is true to an extent. We have been at the forefront of raising the awareness of abusive practices, and it seems to work on companies with big brand names, whether Wal-Mart, Nike or Gap. However, the situation is different with essential commodities such as oil. In many parts of the world, the extraction of oil is related to serious human rights abuses, but people do not know where the petrol at their local Shell filling station comes from, and they will go on filling up their cars. When it comes to such essential commodities, there remains a big problem.

Kate Allen: To come back to this Government, I think that their approach is disjointed. The Department of Trade and Industry published a strategy in 2005 and the Foreign and Commonwealth Office published one in 2007, but the role of the Department for International Development was ignored a bit in both strategies. The UK Government very much rely on voluntary initiatives. Certainly, one of the areas that Amnesty was very much supporting some years back was the question of the UN norms. That went off the agenda, and instead, we had Professor John Ruggie looking at this issue. He has just reported, and that report is on its way to the Human Rights Council. That is now an opportunity to take this issue, which is vitally important.

Like Human Rights Watch, Amnesty has reported on many abuses that companies have been involved in—sometimes unwittingly, sometimes purposefully. These issues need to be confronted by the Human

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Rights Council, and from an Amnesty perspective, we are increasingly less interested in voluntary mechanisms and more interested in mandatory ones to control this situation. Professor John Ruggie clearly points out that this is one of the governance gaps following globalisation—it is a total anomaly that a parent company and its subsidiaries continue to be treated as distinct entities and that the parent company has no responsibility for the actions of its subsidiaries. These are issues that, in a globalised world, have just got to be challenged. It is absolutely time for the Human Rights Council and others to get to grips with what will be one of the big areas for advancing over the next 10 or 20 years.

Q15 Mr. Purchase: I agree broadly with the analysis made by Amnesty that it is difficult for Governments to hold big international companies to account. We have, as you said, this plethora of voluntary agreements. When I talk to large international companies, they always reasonably say, “We have an interest in good human relations, good environmental policies and working to the highest standards”, but the truth of the matter is that that is absolutely voluntary.

As my colleague mentioned earlier, often some of these international companies have a greater product or output than many of the countries in which they are located. How do we start to tackle that? There are certain powerful Governments who could make an effort—Britain, America, Germany and so on—but the majority of countries where large multinationals are located are smaller entities than the company they are hosting. How do we start to get to that?

Kate Allen: It is absolutely vital that countries such as the UK start that process of discussion and debate that leads to something mandatory. Look at the damage done: in Bhopal, 20-plus years later, the companies involved have still not taken responsibility for what happened. They have still not been effectively brought to account. The people of Bhopal have continued to suffer—new generations. It needs the UK Government, with their influence, to start the discussion. It was regrettable that the UN norms went off the table, but we want to see that process and Professor John Ruggie’s report to begin a new approach to this from the Human Rights Council.

Tom Porteous: Two quick points, one of which is that the extractive industries transparency initiative, which is this Government’s initiative, has been very positive. However, that initiative deals with revenue transparency of big oil-producing countries such as Nigeria and Angola. I think that there needs to be a similar initiative looking at the expenditure transparency of those countries. A lot of the money paid to those countries disappears, when it should be going on social spending on health, education and so forth.

Mr. Purchase: Nigeria, you might think.

Tom Porteous: The second point is that a lot of the money ends up in western banks, albeit offshore banks. More could be done by this country and

other western countries to deal with that particular problem—to identify the corrupt payments that end up in western bank accounts.

Q16 Andrew Mackinlay: Kate Allen, in your written evidence you primarily suggested that the Foreign and Commonwealth Office does not have a coherent strategy on gender issues, so perhaps you would amplify that.¹ The Committee is conducting an inquiry on Overseas Territories, so while you might want to paint on a broad canvas, we would also like to know about any issues relating to Overseas Territories in particular, because they are clearly within the direct competence of the FCO. We have already identified the fact that there is some disparity in the application of a number of treaties, conventions and Western European norms in Overseas Territories.

Kate Allen: May I answer the question quite broadly and perhaps get back to you on the specifics of Overseas Territories as they relate to women’s human rights? Amnesty’s criticism is that issues relating to women’s human rights are not included in the policy goals that the Foreign and Commonwealth Office has outlined. We do not see a comprehensive approach to tackling women’s human rights by the Foreign and Commonwealth Office. We know that that happens in some projects and in some embassies, but it does not happen consistently and it is not included in country strategies or in policy generally.

We would like to see something that takes on those issues. I would like to outline a couple of reasons why and paint a picture of how women’s human rights need to be addressed by the Foreign Office. If you look at violence against women in Russia, for example, you will see that 9,000 women are killed every year in situations of domestic violence, but there are no policies in that country to deal with the situation and the perpetrators very often go free. In the Democratic Republic of the Congo, tens of thousands of women were raped and abused during the conflict, and there are no effective facilities for support or health support for those women.

With regard to the empowerment of women, we know that very little happens. In Iran, a campaign for equality was launched by women there. Many of the women who launched that campaign, which is just a straightforward campaign for equality, are now in prison. One of them, Delaram Ali, has been sentenced to 10 lashes as well as imprisonment. In Nepal, we see a peace process but no women involved in it. They are totally excluded from drawing up the ways in which that peace process will take place.

In all those ways, the Foreign Office could have a voice with regard to the position of women’s rights and could be saying consistently that they should be addressed in foreign policy. That would make a huge difference to how women around the world are able

¹ *Note by witness:* “In our actual submission we said we are “concerned at the absence of a serious and integrated approach to gender issues in both the policy goals and the report; a separate section on women’s rights is insufficient”. Ev 1.

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to live their lives, how they contribute economically, their independence and their ability to look after their children and be members of society. It is absolutely vital, because this is pervasive and affects everything, and gender issues need to be mainstreamed within foreign policy for that reason and because of how women in particular suffer in those instances. I do not have the detail on Overseas Territories, but we will get back to you in time for your inquiry.

Q17 Chairman: May I switch the focus to some terrorism-related issues? As you are aware, over a number of years, our Committee has pursued the issue of extraordinary rendition in several reports and through extensive correspondence with three successive Foreign Secretaries. I do not want to go into the whole history, but we have obviously taken up with the Foreign Secretary the revelation that people were rendered through Diego Garcia by the United States, and are awaiting a detailed response. I would be interested in your assessment of the legality and the legal obligations that apply to the UK Government when a flight going to or from a rendition, but without having a person on board, goes through UK airspace or lands on UK territory. What is your interpretation of the legal situation with regard to that?

Kate Allen: Very clear: if the British Government know what the flights are used for, they have legal responsibility to challenge. That is absolutely clear. The British Government do know, because Amnesty International and others have said that flights that have used UK airports are on a rendition circuit. We have never said that we have known that people were on those flights, but we have said that we know that those flights either picked somebody up and delivered them and have been returning, or have been involved in that rendition circuit. It is very clear that the UK Government have legal responsibility, because they know what those planes have been involved in.

Q18 Chairman: Specifically with regard to Diego Garcia, would the UK Government, in your opinion, have a responsibility to ensure that no flights involved in rendition went through the airspace or used the facilities there?

Kate Allen: Absolutely, in the same way as with UK territory. There is no difference in that sense. The Diego Garcia issue is one where the US Government came back some time later, having given assurances to the UK Government that Diego Garcia was not used, and the Foreign Secretary having given those assurances to Parliament—many had doubts but no evidence.

The US Government have now said that it happened on two occasions. One of the concerns that we have as Amnesty is that there are two men, on two separate planes, who were rendered through UK territory. We think that it is also incumbent upon the UK authorities to find out what has happened to those two men—to find out their names, where they are and what condition they are in.

It is also important that there is a proper independent inquiry on renditions. There has not been an independent inquiry. There have been inquiries by the Intelligence and Security Committee, but there has not been what Amnesty would consider an independent inquiry. That is what we would like to see now, particularly after the Diego Garcia revelations.

Chairman: Mr. Porteous, do you want to add anything?

Tom Porteous: I would just like to draw the Committee's attention to a new general comment of the convention against torture, which was written precisely to address concerns that the US and its allies were using abusive practices, including rendition and complicity in rendition, in violation of that convention. The convention against torture is pretty clear on those issues.

Sir Menzies Campbell: To allow an aircraft to refuel—whether empty of passengers or not—because it is en route to somewhere else is to facilitate it. That is very straightforward.

Q19 Chairman: I would like to move on to the related issue, which has also caused some controversy in recent years—the so-called diplomatic assurances with regard to individuals whom the British Government wish to return to their country of origin.

There is a long history, which we do not have time to go into now, but recently there have been some legal judgments in the Court of Appeal about individuals who were to be deported to Libya and to Jordan. What is your assessment of where that leaves the diplomatic assurances and what would you suggest should be done in such cases?

Kate Allen: In addition to the cases that you have mentioned, there has been a European Court of Human Rights ruling on the Saadi case. That ruling says that there cannot be a balance between national security and returning somebody to situations where they might be tortured. There cannot be that balance; people simply cannot be returned to situations where they might be tortured. In addition, domestically we have had the decision about Libya and Jordan. I understand that the Government are not going to appeal on Libya but will appeal on the Abu Qatada case in relation to Jordan.

Amnesty International's view is clear: diplomatic assurances are not worth the paper they are written on. Those assurances are sought from Governments who routinely use torture, who have signed the UN convention against torture and who, therefore, routinely break international law. It is hugely undermining to the British Government's work against torture around the world that they are, and continue to be, engaged in this attempt to remove people to countries where they might be tortured.

At the moment, the legal position and the various challenges leave the Government in the position where they will have to argue for diplomatic assurances country by country, case by case. These various judgments tell the British Government that

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they are going in the wrong direction, but there is the potential for that to continue country by country, case by case. It would be better if the British Government stopped pursuing diplomatic assurances, recognised that the ban on torture is an absolute and that there are no exceptions, and ceased going down this route. They would then regain their moral authority in the world in terms of challenging torture wherever it happens.

For us at Amnesty, this is one of those issues where we deeply regret the way in which the British Government have gone over the last few years. The diplomatic assurances and the attempt to bring torture evidence into the British courts, which the House of Lords ruled against—all those things make it extremely difficult for the British Government to do the good work that they used to do in eradicating torture.

Chairman: Mr. Porteous, do you want to add anything?

Tom Porteous: Yes. First, I agree with all that, and that the UK is acting with total disregard for the safety of those detainees when it pushes for deportations under diplomatic assurances. On the specific question of where the Court of Appeal judgment leaves the British Government, neither that judgment nor any of the Special Immigration Appeals Commission judgments that we have had so far rule that diplomatic assurances cannot work. They have not ruled them out yet, although we would like them to do so as we think that diplomatic assurances cannot work in principle. As Kate says, things will be done country by country. This leaves the British Government in an awkward position, as it will be difficult to win such cases on a case by case basis.

I also point the Committee in the direction of a more recent European Court of Human Rights judgment that came out last week. The case of *Ismoilov v. Russia* provides the best articulation yet from the European Court of Human Rights on why diplomatic assurances from states that practise torture cannot be considered reliable in a blanket sense. It is an important judgment and it shows that if any of these cases get to the European Court of Human Rights, the UK will lose.

My final point is that, as well as all the problems that my colleague from Amnesty International has just outlined, the UK has gone to every forum it can possibly go to aggressively to pursue the weakening of the international non-refoulement obligations. It has gone to the European Court of Human Rights, the Council of Europe and the EU, and done so in the knowledge that its actions will undermine the global ban on torture. We feel that that is a serious cause for concern.

Chairman: Can we move on to Guantanamo Bay?

Q20 Mr. Hamilton: Thank you, Chairman. I am sure both of you will recall that in September 2006 half the members of the Committee visited Guantanamo Bay as guests of the State Department of the United States Government. We spent one day

in Cuba—in Guantanamo and Camp Delta—and shortly afterwards, in early 2007, we published our report.

One of the things we were told at the time was that President Bush really did want to close Guantanamo as soon as possible, so we were delighted that he agreed with us. Subsequently, he has gone cold on that idea and the impression is that he would prefer to leave it to his successor. Do you think that there is any realistic prospect, first, that President Bush will see Guantanamo closed before the end of his term of office and, secondly, that any successor, whether Republican or Democrat, will close Guantanamo?

Tom Porteous: Well, you are right that Bush has indicated quite clearly that he is going to bequeath this stain on the reputation of the United States of America to his successor. Of course, we do not yet know who that successor will be, but a lot of people on both sides of the American political system—Republicans and Democrats—have made it clear that they want to see it closed. But it is still there and there are still 275 inmates in Guantanamo Bay. I think there are some real obstacles to closing it.

The UK and the rest of the EU could play a very helpful role in aiding whoever succeeds President Bush in closing that facility. The question is how they could help with what to do with those who have been cleared for release because there are no serious charges against them—let us remember that a lot of the people in Guantanamo Bay are apparently quite innocent of any crime—but who cannot be sent back to their homes because of fears for their safety in those countries.

We have already documented how people have been returned from Guantanamo Bay to Russia and to Tunisia, and have been seriously mistreated in both cases, so there is clearly a problem here. There are a number of Chinese Muslims—Uighurs, from Xinjiang province in China. Clearly, they cannot be returned to China because there is a very high risk that they will be mistreated.

Q21 Mr. Hamilton: But many, I understand, were returned to Albania by agreement.

Tom Porteous: They were.

Mr. Hamilton: Not returned, sent.

Tom Porteous: Sent to Albania. That is a useful way of dealing with the problem.

We feel that the EU should step forward and offer sanctuary to these people. As for those in Guantanamo Bay who clearly have committed crimes, they should have been charged and put on trial a long time ago. They should be tried in the US federal courts system, and we hope that that is what is going to happen. We still do not have a very clear idea of what the intentions of the various candidates are for closing Guantanamo Bay, but we feel that the EU and the UK in particular can play a useful role in offering to help close it. As I think everybody agrees, this is very damaging to the reputation of the United States, but also damaging to the international efforts to deal with the problem of terrorism.

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Q22 Mr. Hamilton: But do you not think that part of the problem here is something that was made clear to us when we were there: that Guantanamo was brought into existence as a detention camp because the United States Government regarded the people they captured as prisoners of war, to be held under the Geneva Conventions? In Europe, we regard people that we accuse of terrorism as criminals and we put them on trial through our criminal courts system. The Americans have been clear that they do not regard these people as criminals; they regard them as prisoners of war captured on the battle field, because this is a war after all. That is a real problem because, to try them in their court system, they must then decide that they are not prisoners of war, but accused of a specific crime.

Tom Porteous: In fact, they are not treating them as prisoners of war. They have created a special category for them that effectively will leave them in legal limbo, which means that their status has not really been defined properly or under due process. They do not have the privileges that are normally granted under the Geneva Conventions to prisoners of war. That is why many people describe Guantanamo as a legal black hole. If we add to that the abuse that has been suffered by many people in Guantanamo Bay, that is why everyone recognises that Guantanamo Bay has been such a mistake in the global effort to deal with the problem of terrorism.

Chairman: Ms Allen, do you want to add anything?

Kate Allen: I want just to add one very small point to the comments of Human Rights Watch with which we completely agree. The UK Government recently changed their position in relation to some of the UK residents in Guantanamo, and four came back to the UK. There are still three UK residents in Guantanamo—Binyam Mohammed, Shaker Aamer and Ahmed Belbacha. It is absolutely vital that the UK Government play a role in advocating the return of their residents. There have been discussions about two of them, but certainly not about Ahmed Belbacha. In terms of all three, we think that, as a starting point, the UK Government should make representations about those who have residency here in the UK. I completely agree with the comments of Human Rights Watch on the role of the UK, the European Union and others in assistance to close Guantanamo.

Q23 Sir Menzies Campbell: I agree with the description that it is a legal black hole. The categorisation of illegal combatant was last used in 1944 about some Japanese prisoners who fell into the hands of the United States Government. Have you derived any encouragement from the fact that the United States Supreme Court has shown a willingness to challenge the Government's categorisation and treatment of people at Guantanamo? Do you think that it is an encouraging sign or is the Administration's position—for the moment, at least—so powerful that not much is likely to change?

Tom Porteous: What has pushed the Administration to make the concessions that they have made on military commissions, for example—and we are still waiting to hear about the next Supreme Court judgment on that—has been exactly the pressure from the Supreme Court. Its work has been exemplary and it is an indication of how American democracy works, in spite of the problems that have been raised by Guantanamo Bay and other issues.

Sir Menzies Campbell: A number of us have been asked to be *amicus curiae* on the applications that have been made.

Q24 Sir John Stanley: When we went to Guantanamo, we were surprised to discover that—as I recall—between one quarter and one third of the people detained there were people whom the American Government wanted to release, but the countries from which they came would not have them. That represents a very significant proportion of people who are there. It is perfectly reasonable to say that that bears out that they should not be there in the first place, but the fact is that we had about 130 people—from memory—whom the Americans at that particular point of our visit wanted to release.

Ms Allen, you referred to the fact quite rightly that the British Government did a U-turn on the issue and were persuaded to take back the particular individuals to whom you referred. Can either or both of you give us any views about what more can be done to enable those people who are simply sitting there—because no other country will take them—to get other countries to change policy as the British Government have?

Tom Porteous: It is important that the detainees themselves should be consulted about how they feel about going back to their home countries. As I have indicated, many of the detainees come from countries where there is a serious problem with human rights, particularly torture. There is a risk that people who have been detained in Guantanamo Bay, for whatever reason, will be mistreated when they return home. We have documented how that has been the case for a number of people who have been returned from Guantanamo. As for whether countries where there is no risk of torture will accept those detainees back, certainly pressure should be put on them to accept them if there is no risk that they will be mistreated when they return.

Q25 Andrew Mackinlay: A predecessor Committee did a report on private security companies some years ago and we were also promised some legislation through a Green Paper. A Green Paper was published but nothing has happened. I would like your general views on the issue. One of the things that the Committee has been concerned about in the past is that London seems to be a capital for recruitment and marshalling of such companies, which are unregulated. There is the opportunity for denial if anything goes wrong, no tracking of individuals who might have perpetrated wrongdoing, and seemingly an absence of legislation in the United Kingdom with the territorial extent to prosecute people in private military companies who

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are either British nationals or in companies organised from the UK. Can you amplify your mutual concerns on those matters?

Kate Allen: We are very concerned about the situation of private military and security companies. You are absolutely right. In 2002, a Green Paper was published—the same year that this Committee made some very far-reaching recommendations about the way in which private military and security companies should be treated. In 2005, there was the Government review of options. Since then, there has been nothing. It is completely unacceptable. We are seeing increasing use of those companies in various parts of the world, not least in Iraq and Afghanistan. There is also a strong industry in this country, and we estimate that 70% to 85% of the companies are based in the US and the UK. Therefore, there is an absolute imperative for the UK Government to act here.

There is a situation of complete impunity at the moment. People are not being brought to account for their actions. In Iraq, companies such as Blackwater and DynCorp International have been involved in situations where civilians have been killed, yet not one allegation has been heard in a court. It is completely unacceptable that this situation is allowed to remain. Amnesty would like to see private military and security contractors being brought to justice in the UK for the crimes that they commit abroad and for there to be complete transparency and oversight over the activities of these companies. That was something that you, as a Committee, put forward as long ago as 2002. We wrote to the Foreign Secretary in March, again asking for a timetable for when there would be some moves here. We hope that the Committee will raise the matter with the Minister when you have him before you soon.

Tom Porteous: The 2002 Green Paper is rather thin on the issue of accountability which, as Kate has just indicated, is the crucial issue. Obviously, these companies tend to operate in places of weak governance and conflict where, if they or their employees commit abuses, they can get away with impunity. In Iraq, you have the additional problem that the Coalition Provisional Authority explicitly gives impunity to private military companies. That is why there has been no investigation since Blackwater, the private military company that Kate Allen just referred to, shot dead 17 civilians in September last year. There is currently no prospect of any kind of prosecution. We are calling on the Iraqi Government to lift that immunity. We think that that is essential in Iraq. We are calling on the US Government to prosecute the crimes under the Military Extraterritorial Jurisdiction Act, which enables US courts to prosecute crimes committed overseas. In the UK, we have not done the necessary research to say whether there is any legislation that could be used. If there is not, that gap needs to be filled.

Q26 Andrew Mackinlay: Just following on from that point, we need to do our homework. Perhaps you can contribute to that to see if that lacuna does

exist. In any event, even before you can make a conscious decision to make a prosecution, you must have an investigation. It seems to me that there is a void here. The Royal Military Police, for instance, would have no jurisdiction in such a case. What law enforcement agency is there in the UK to investigate a crime perpetrated by such a company or misconduct by individuals? It seems to me that there is no mechanism for such an investigation.

Tom Porteous: We are beginning to do some research on the activities of PMCs in Iraq and hopefully we will be able to get back to you with the results of that.

Q27 Sir John Stanley: It is not difficult to point to material that can be discussed in human rights terms following our invasion of Iraq. Equally, it is quite clear that there have been some very significant and disturbing human rights losses. I suggest that the biggest losers have been women. We have seen recently the utterly appalling murder by her father of a 17-year-old young lady who fell in love with a British serviceman. The father was arrested for two hours and released without charge because it was a so-called “honour killing”. It has been reported that over a hundred women have been murdered in the Basra area, for which we have had responsibility, because they were not covering their hair in compliance with the Islamic dress code. We have seen any number of illustrations of the employment and educational rights of women being curtailed. Iraq has moved from a vicious Ba’athist secular state to a sort of democracy in which sharia law appears to be holding an ever greater sway. What is your assessment of the rate at which women’s rights are deteriorating outside the Kurdish areas in Iraq and what do you think the British Government should try to do about it?

Kate Allen: I think that you have very eloquently described the situation for women in Iraq. Some promises were made to women in Iraq at the time of the US and UK intervention. Those promises have not been kept and the situation for women has deteriorated dramatically and violence has increased. You are absolutely right that provision exists in the Iraqi penal code for lenient punishment for honour killings. I think that the UK Government could take up that issue with the Iraqi Government and demand that they uphold women’s rights.

The problem is not just outside Kurdistan. There are increased numbers of so-called honour killings in that part of Iraq. Women and girls are also now at greater risk of rape by armed groups and members of the Iraqi security forces. The ability of women to be economically independent and to move about the country and their own villages or towns is very restricted. The situation for women has deteriorated massively and the UK Government need to take that seriously and address it with the Iraqi Government.

Sir John Stanley: Human Rights Watch, would you like to comment on that?

Tom Porteous: Only to say that if you go into a country as a matter of choice, dismantle its Government and create a civil war, women will be

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among the first to suffer: the most vulnerable in any society suffer in times of chaos. I would not like to think that the discussion on Iraq is only focused on the particular suffering of women without looking at the responsibility of the United States of America and the UK for creating the conditions in which women are suffering.

Another very vulnerable group—one that we consider to be probably the most serious consequence of the war—is the 4 million men, women and children who have been displaced from their homes as a result of the situation in Iraq. About half of those are displaced within Iraq and the other half are refugees in neighbouring countries. The United Kingdom has spent about £1 billion a year on the Iraq war, but has spent just a few million on addressing the problem of refugees. It has not given any bilateral support to Jordan or Syria, which are bearing the brunt of this crisis. In addition, that sends a message to Jordan and Syria that it is effectively okay just to send Iraqi refugees back to Iraq and close the door on them, because the British Government do exactly the same by forcibly returning failed Iraqi asylum seekers to Iraq.

Human Rights Watch, Amnesty and the Refugee Council started a campaign last year to get the British Government to do more about refugees. One of the issues that we focused on was the treatment of former Iraqi employees of the British Army. As a result of our efforts and those of our colleagues in the media to put the spotlight on that issue, the Government—until then they had been totally negligent in their duty of care to those people—announced a change to the policy last autumn. However, that policy has not been properly implemented, and a lot of former employees of the British Army who have put their lives on the line on behalf of the British in Iraq are still falling between the cracks and at great risk, both inside Iraq and in neighbouring countries.

We urge the Committee to put pressure on the Government to speed up the process of implementing the new policy of providing aid to those people and to do more to address the general crisis of refugees in Iraq. That is for not only moral reasons, but good, sound, practical strategic ones, because refugees spread conflict, radicalisation and instability. The last refugee crisis in the Middle East was the Palestinian refugee crisis, which is obviously still unresolved. A recent article in *The Independent*, which surveyed suicide bombing in Iraq, identified the Palestinian refugee camps in Lebanon as one of the chief sources of suicide bombers operating in Iraq.

Q28 Mr. Purchase: I want to move on to a similar matter in Afghanistan. Human Rights Watch has pointed out that the sins against women, if I may put it that way, such as violence, forced marriage and setting fire to people, in fact got worse during 2007. It is an incredibly difficult situation, and many abuses have been pointed out by Foreign Office reports, such as the execution of 15 people in Kabul by firing squad and the amnesty agreed by the President for Afghans involved in war crimes over

the past 25 years. It seems to me that all of that is creating a position in which violence against women in particular is just an everyday thing that people accept.

The one thing that I do want to say is that when I was there with Sir John Stanley we heard many heroic stories of NATO personnel, particularly British soldiers, moving heaven and earth to ensure that girls went to school. But in a way, that was an indication of just how badly women and girls are treated in countries that carry the Muslim religion to such ludicrous extremes. We have an amazingly difficult position in Afghanistan, which is not getting any better. What steps should the international community—I do not regard this as a British problem—take to marginalise the warlords, who exert so much pressure and influence in Afghanistan? How can we marginalise their position?

Kate Allen: I agree that it is a bleak situation, and you have described it for women. In terms of the warlords, there is a major problem. There are moves around amnesties, which we at Amnesty would absolutely oppose. It is vital that those warlords who have been involved in human rights abuses are brought to account. In Afghanistan, after 25 years of war, there needs to be a bringing to account and long-term solutions. We would like to see increased pressure in terms of building up the police, prison and court systems. That is vital, and we fear that it is not getting the degree of investment and support that is needed.

In addition, the Government of Pakistan have a role in terms of how warlords can be marginalised. They have a role in condemning the abuses by the Taliban, by preventing their territory being used by anybody who has provided military assistance in that way and by bringing to account anybody who they suspect has been involved in human rights abuses. There is also a role for the religious and community leaders, both within Afghanistan and in the wider diaspora, in terms of their influence with the Taliban and the warlords. There are those ways of helping to end the impunity.

In terms of marginalising the warlords, earlier this month we at Amnesty were at a NATO summit in Bucharest, where we drew attention to the fact that 409,000 more small arms had been imported into Afghanistan since 2002. This is a country that is already completely saturated with arms. That amount of arms going into the country is disturbing. It is interesting that there are only 182,000 members of the Afghan security forces—that covers the military, police and security forces—and there are over 400,000 additional arms going into the country. Getting control over that trade would also help to marginalise the warlords. While those arms continue to flow into the country and into those hands, life is impossible for ordinary people and civilians in Afghanistan.

Tom Porteous: There is a quite straightforward answer to the question of how to deal with impunity. There is already a road map to deal with impunity called the peace, reconciliation and justice action plan. It was initiated in December 2005 and is a

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three-year plan. I believe that it is in five stages; we are not even at stage one. There has been no pressure from the international community on the Afghan Government to implement the plan. The Committee should ask the Foreign Office whether the issue of impunity has simply dropped off the agenda. There is an important meeting on Afghanistan on 12 June. We think it absolutely vital that the issue of impunity is put right back at the front of the agenda. We hope that it will figure prominently in whatever document emerges from that June meeting in Paris. The problem in Afghanistan is not just a problem of terrorism but a problem of impunity. Unless both problems are addressed, there is not going to be a solution. It is absolutely essential, therefore, as a matter of really winning this war, that the problem of impunity is addressed. The problem is that many of the international community's strategies in Afghanistan up until now, far from marginalising the warlords, have actually empowered them.

Q29 Sir John Stanley: My colleague Ken Purchase rightly pointed out that as far as women's and girls' rights in Afghanistan are concerned, we have a long way to go. Would you agree that the comparison that needs to be made is the situation today with the situation when we invaded Afghanistan and removed the Taliban regime? We must make a comparison with when there was a Taliban regime bent on the total extinguishing of the rights of girls and women to education or to any form of employment, making them effective captives in their own home for the overwhelming proportion of their time. Against that benchmark, we have made a significant advance in women's and girls' rights since we invaded Afghanistan.

Kate Allen: It is absolutely important that women and girls have access to education. That is, and was, one of the advances for women after the removal of the Taliban. One of the difficulties now, in terms of the climate that exists in Afghanistan and the nature of the security issues that affect that country—in similar ways to what we have talked about in Iraq—is how women come under huge pressure when there is such instability in the country. One of the issues is that schools that teach girls and have women teachers are being targeted. It is increasingly unsafe for students to go to school and for teachers to teach girls, so it is not a gain that has remained: it is under massive pressure as the security situation becomes very difficult and as the human rights climate becomes bleaker—it is bleaker than it has been for many years. These things do not stay still. They do not exist in isolation from the context of what is happening in the rest of the country. They make it extremely difficult for women to exert their independence, even with the opportunity of education, or when the disbarment from education is removed.

Q30 Mr. Purchase: I have a point of clarification. I agree with what John Stanley said, and that the comparison should be with what existed before. I do not wish to cast aspersions on the motives, or interests, of Britain, NATO or America in trying to

liberate women and girls from the Taliban's appalling practices. The point that I was putting to you—and this is from your own report—it appears that after initial gains, matters are getting worse again for women and girls. I want to reiterate that we heard about the work in Afghanistan of, particularly, the British troops, which was quite heroic, as they were trying to get girls into school. However, it is clearly not enough and it appears that matters are getting worse.

Q31 Chairman: We have to move on, as we have a number of countries that we would like to focus on. Can I take you to Burma? Last year there was a huge, international media focus on the repression there, the protests by the monks and the demands for the restoration of democracy. Yet now there is almost no media coverage at all of the repression, the arrests and the clampdown that is going on. As for the international observers and representatives, as far as I know Mr. Gambari has little prospect of making any progress, and the EU special envoy, Mr. Fassino, was not even allowed to go to Burma. What is your assessment of the current human rights situation in Burma?

Kate Allen: You have described some of that assessment. The FCO's human rights report is a good one, and we recognise the work of the British Government with regard to the situation in Burma, and the strong terms in which the Prime Minister condemned the abuses taking place there. You are right about international media attention, but that reflects the fact that international pressure is not at the same level, and that it has not been maintained on the Burmese authorities. We would like to see that pressure increased.

At least 700 people who were arrested during those demonstrations still remain in prison. That is in addition to over 1,150 people who were already imprisoned as political prisoners prior to the protests, and 80 people who have disappeared—that is what our research shows. We would like the British Government to continue to press the Burmese Government to allow the access that you talk about. We want to see the UN special rapporteur and others allowed into the country. We want to see the release of those monks who are confined to their temples, and obviously we want the release of Aung San Suu Kyi, and a separate timetable for that to happen. We would also like to see the EU embargo on arms to Burma become a UN Security Council embargo, and we want the UK Government to do what they can to ensure that. We need a refocusing of international attention on the situation. The Burmese Government have, very astutely, managed some of this, and the pressure needs to be maintained.

Q32 Chairman: May I throw in another point, and then I will bring you in? Is not the real problem, given that you are Amnesty International and Human Rights Watch, that the international community is not an international community with regard to pressure in this case? I have met Association of South East Asian Nations

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parliamentarians from the Philippines, Thailand and Malaysia who are extremely frustrated about the fact that some of the neighbours of the Burmese military regime are complicit in its behaviour, and others are not prepared to speak out publicly. There is pressure in western Europe, people in north America are concerned, as they are in other parts of the world, but the real people who can make a difference are the neighbouring countries which, for their own reasons, choose not to do so.

Tom Porteous: In fact, ASEAN came out with quite a strong statement at the time of the repression of the protests last autumn, and we were pleased with that. Human Rights Watch has been doing a lot of advocacy in east Asia on Burma, as well as on other Asian issues. There is no doubt that the key players in Burma are China, India and the other neighbouring states. Any effort by the rest of the world to get China to put pressure on Burma is now off the table, because of what has happened in Tibet and the Olympics. That is not going to happen, and we must accept that.

The UK has been right out in front in calling for targeted, financial sanctions against members of the Burmese regime, and that is really good. The problem is that it is now having difficulty getting some of its traditional partners in the EU, or even the US, to get behind that in an effective way. Our feeling is that the UK should go with its gut feeling. It is going in the right direction, and it should not wait for a lowest common denominator position from the EU. It should stay out in front, push—and push hard.

The other point that I want to make is about the referendum. Human Rights Watch has a report about that coming out tomorrow. The British Government recognise, I believe, that this referendum is a total sham and should not be given any credibility whatever. Obviously, the Burmese are going to try to get a little bit of credibility for this referendum, and they will probably succeed in doing that. The British should be right out in front in undermining any credibility that the Burmese are trying to win for this referendum, because it is a complete sham and should be exposed as such in the eyes of the world. We hope that our report, which will come out tomorrow, will go some way towards doing that.

Chairman: You mentioned China. Sir John Stanley?

Q33 Sir John Stanley: Could you tell us whether you believe that China, as part of its Olympic bid, gave undertakings to improve the human rights situation if the games were awarded to it?

Kate Allen: It absolutely gave those undertakings, and it has absolutely failed to meet them. I think that we are now in a position in which we at Amnesty would say that the human rights situation in China has become worse because of the Olympics and that the way in which the Chinese regime is behaving has hardened. More people are being rounded up, and the human rights situation has become more difficult for people. There are cases that we could talk about

of people who have been arrested and sentenced to five years or more for talking about human rights at the same time as the Olympics.

What needs to happen now is a look at how our Government will decide to confront some of these issues with the Chinese Government. Over the past 10 years, there have been 16 rounds of a human rights dialogue that we at Amnesty cannot see the results of. To us, it almost feels as though the ironic result of that dialogue—all that it has achieved—is to silence public criticism of the record of the Chinese Government. We are in a situation now where events are rapidly overtaking the entry in the human rights report, and the UK Government need to toughen their stance.

It feels to us at Amnesty that the UK Government are more interested at the moment in the legacy of the Olympics for the London Olympics than in their legacy for the human rights situation of the Chinese people. We absolutely want to see that changed. We are not calling for a boycott of the Olympics—we have never called for that. What we want is to see our Government speaking out really loudly, really clearly and very publicly about their expectations of human rights in the period of the Olympics.

Now is a moment when there is the potential not for massive, earth-shattering change but for incremental change and for people in China—who are very proud of the fact that they have the Olympics, but many of whom are also fighting for human rights in their country—to see that the international community and our own Government are not standing by and watching a sporting event while executions, re-educations through labour, forced abortions and all the abuses that I could talk about for some time take place in China. It would be intolerable if this were treated as a sporting event and the British Government did not make clear their view on the human rights situation in China.

Sir John Stanley: Mr. Porteous, do you want to add to what Ms Allen has said?

Tom Porteous: I agree with it entirely. On the point about the UK Government's approach to the Olympics, we have been told for several years by human rights activists working under immense pressure in China, in Tibet or Xinjiang, or by Chinese activists in the rest of China, that they want to use the games to draw the world's attention to the human rights situation in China, which is pretty dismal. We think that that is a very good plan and have been trying to help them to do it. We think that the Olympics represent a brilliant opportunity to draw attention to the human rights situation in China.

The British Government are using the Olympic games as a means of promoting the London Olympics, which we think is an incoherent strategy. The protests in London against the torch relay ceremony showed the depth of feeling among Londoners over the situation in Tibet. We think that it will backfire on the Government if they insist on trying to use the Beijing games to promote the London games. On the contrary, the Beijing games risk tainting the London games, unless the British Government dissociate the two. We think that it is

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very important that the UK stands up at this point and makes it very clear that Gordon Brown, in particular, should not go to the ceremonies—neither the opening nor the closing ceremonies—unless the Chinese Government honour, or go some way to honouring, the pledges that they made on human rights when bidding for the Olympic games.

In addition, because of Tibet, we also think it important that another condition should be that the Chinese Government allow an independent, international inquiry into the recent events in Tibet. That should be another condition on Gordon Brown going to the opening ceremony. Given that there is virtually nil chance of the Chinese Government agreeing to such a thing, we are basically saying that he should not go.

Q34 Sir John Stanley: May I ask a specific question about Tibet? As you will have seen from a recent Committee press release, we will shortly be taking public oral evidence from the Dalai Lama, who has made it very clear publicly that he is not seeking independence for Tibet. He has also made it absolutely clear publicly that he is a man of peace and does not in any way favour, advocate or support violence. He is simply seeking to open up a sensible, peaceful dialogue with the Chinese Government. What do you think that the British Government should do to try to support and endorse that entirely reasonable request from the Dalai Lama and to get the Chinese Government to comply with it?

Tom Porteous: First, congratulations on getting the Dalai Lama to come to give evidence to the Foreign Affairs Committee. I think that that is a very good initiative. I shall be very interested to see what he says in response to your questions.

On the question of what the British Government should be doing, all Human Rights Watch can say is that we think that the answer to the problem of the human rights situation in Tibet is an independent international inquiry. The British Government should be pushing for that, even though it is very unlikely to come about. On the political negotiations between China and the Tibetan activists, it is beyond our mandate to comment.

Kate Allen: We would recommend that the UK Government press the Chinese authorities to allow immediate access to Tibet by UN investigators and independent observers, because we need that scrutiny of what has been happening, and what could continue to happen, during this extremely tense time.

Q35 Mr. Hamilton: Before moving on to Zimbabwe, given what you have already said about whether the Beijing games should be boycotted, do you agree with what the Dalai Lama: that the games should not be boycotted? I am looking for simple answers.

Kate Allen: Amnesty is not suggesting that the games should be boycotted. We think that they provide a focus for international attention and effort to improve the human rights situation in China. Unlike Human Rights Watch, we are not calling on Gordon Brown not to attend. We are calling on him,

wherever he is—London or Beijing—to very clearly and publicly make clear his and the UK Government's view of the human rights situation in China and the kind of change that we would like to see.

Tom Porteous: We also do not support a boycott of the games. We think not only that they are a good way of drawing attention to the human rights problems in China, but that such action would be counter-productive, because the games are very popular in China and we do not want to create any sort of backlash against human rights among the Chinese population.

Q36 Mr. Hamilton: It is important that people understand that the Dalai Lama is not calling for a boycott either.

May I move us on to Zimbabwe, which has been much in the news recently? I think that it saddens all of us that Zimbabwe, after South Africa, was one of the wealthiest countries in Africa, because of its natural resources and the fertility of its land, but we now know that Zimbabwe currently has the lowest life expectancy in the world and the highest rate of orphans. Some 3,000 people or more die of AIDS-related illnesses each week. Those are shocking statistics. In a statement on 21 April, the Foreign Secretary said that "President Mugabe persists in his ambition to steal the election." The results of that election have still have not been announced, and it is quite easy to guess why.

Following a meeting with President Mugabe, President Mbeki of South Africa stated that there was no crisis in Zimbabwe. All that adds up to the most appalling abuse of democracy, of the rule of law and of human rights. We know about the destruction of people's property, the arbitrary arrests and murders of opponents of the regime. What can be done? I am not just talking about the United Kingdom, which is in a difficult position. How do we persuade regional states, such as South African and Zambia, that they must put pressure on Mugabe to at least publish the results of the election—if we can believe those results—and preferably to step down?

Kate Allen: It is extraordinary to think that it is four and a half weeks since the election and we still do not know the results. It is deeply disappointing that the UN Security Council was divided last night and early this morning over a resolution to send an envoy to Zimbabwe. It is hugely disappointing that that resolution was opposed by China and South Africa. It was supported by the UK and the US. It is hugely disappointing to see the approach of the South African Government, who have relied on quiet diplomacy. After seven years of that, Amnesty cannot see that it has achieved any progress. Such a policy is completely inappropriate for the current situation. South Africa is not the only silent African country; many others are silent at this stage.

Amnesty would suggest that it is important that the UK works through Tanzania, as Chair of the African Union, and continues to put pressure on South Africa. It must find as many ways as possible to put pressure on South Africa as the regional

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powerhouse in Africa. The UK should work through Zambia, which is already doing some good work, trying to create a regional consensus. I think that the UK Government worry that their speaking out is counter-productive. The moment for such thinking has gone. This is such an appalling situation, and it has been good to hear the Prime Minister make clear the Government's view of the election. It is important that all that happens. Those are the suggestions from Amnesty.

Tom Porteous: Zimbabwe shows what little leverage the international community can have in some situations. The international community has been relying on the Southern Africa Development Community to put pressure on Mugabe to resolve the problem. Four and a half weeks ago, SADC endorsed the elections as free and fair, even though there was nothing to warrant that. Since then, Thabo Mbeki has said, "Crisis? What crisis?" There are now some signs that SADC's unity of cowardice is beginning to fracture, and Zambia is coming out with rather stronger statements. We think that the AU should be playing a greater role. It should unite and tell Mugabe that the game is up, and that he must go. If he does not, it must think about imposing serious economic and political sanctions on him to go.

Q37 Chairman: Another country in Africa where there has been lack of progress is Sudan, and I would be interested in your assessment. We have waited a long time for the so-called hybrid force to be fully deployed. It is still not fully deployed—far from it—and the AU again is either not willing or not able to do what needs to be done. What can we do, and how can we deal these obstacles, so that we have effective peacekeeping forces, and what should the British Government be doing in the current situation with regard to Darfur and the wider question of dealing with Sudan? Clearly, there is a potential, perhaps some way down the road, in relation to unresolved issues, such as the referendum, southern Sudan and all those questions.

Tom Porteous: On Darfur, there are three main obstacles to the full deployment of the UNAMID hybrid peacekeeping force. One is the obstructionism of the Sudanese Government; another is lack of support from the international community to provide the equipment that the peacekeeping force needs, especially helicopters, and the third thing is that this is a hostile environment and there is not much of a peace to keep at the moment. Earlier this year, there were further attacks by Janjaweed militia, supported by the Sudanese Government, in parts of Darfur. The humanitarian situation and human rights situation remain appalling, which is why it is necessary to get the force deployed properly.

Clearly, one obstacle is within the reach of the international community to do something about—namely, to provide the peacekeeping force with the equipment that it needs to deploy fully. The international community must do more. There are obviously other concerns in the world and other priorities, but this is a serious humanitarian crisis

that certainly needs to be addressed. The UK has played a largely constructive role politically, but it has not stepped up to the plate with regard to equipment. It says that it has its own military problems elsewhere and therefore does not have the necessary equipment.

It is crucial that the UK and others do more to put pressure on the Sudanese Government to co-operate with the work of the International Criminal Court on Darfur. That is the way to address the problem of impunity. The Sudanese Government have been wholly unco-operative with the Court's work. The Court has issued two arrest warrants, but the Sudanese Government are not only protecting both the individuals against whom the arrest warrants have been issued, but have promoted one of them, who is a Minister in the Sudanese Government.

There is also the issue, which complicates matters, of the comprehensive peace agreement between north and south. If you remember, one reason why the Darfur crisis was not initially dealt with with the urgency it required in 2003 when the conflict broke out was concern that it would undermine the peace process between north and south. There is now a peace agreement between north and south, but that is coming under pressure in turn, partly because of the situation in Darfur. There have been worrying signs recently about implementation of the comprehensive peace agreement, and we think that it is important that the British Government get behind an international effort to ensure that that peace process stays on track.

Kate Allen: The only thing that I would add is that the conflict has spread to Chad and the Central African Republic. We have had two missions to those areas recently, and we have seen and heard about the cross-border attacks by the Janjaweed militia and other armed groups. It is hugely concerning that the conflict has spread.

Amnesty would also welcome assistance from the UK Government in gaining access to Sudan. We have been refused access. The last time that we were in Sudan, as opposed to on the borders, was in 2004. The then Foreign Secretary, Jack Straw, assisted us in gaining that access from the Sudanese Government. Any support that the Government could give us would be gratefully received.

Chairman: I am conscious of the time. I warn my colleagues that I do not intend to go on for longer than 10 minutes. We would like to touch briefly on a number of other countries.

Q38 Mr. Hamilton: Okay, I will be as quick as possible. The report of the Foreign and Commonwealth Office does not include Somalia as a country of major concern. Only three paragraphs are dedicated to it in the section on conflict prevention, yet we know that Somalia is a state that has collapsed almost completely. We know that the Union of Islamic Courts has taken control of Mogadishu. The most that members of the public tend to know about Somalia is learnt from the film "Black Hawk Down", if they have seen it. And yet, massive human rights abuses are going on, particularly in the Ogaden region, which Human

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Rights Watch has drawn our attention to. There is a massive crisis following the civil war, with 2.5 million people needing assistance or food. My question is quite an easy one. Do you think that the Government have not fully appreciated the scale of the crisis and the danger to human beings in Somalia?

Tom Porteous: Indeed, that is our conclusion. Allow me to correct you on a couple of points. The Ogaden region, in which there are serious problems at the moment, is in Ethiopia. The Union of Islamic Courts was in control of Mogadishu but was dislodged by the Ethiopian forces in early 2007.

Q39 Mr. Hamilton: And your accusation is that the Ethiopians are perpetrating human rights violations?

Tom Porteous: All sides in the conflict have perpetrated very serious abuses and violations of international humanitarian law, in our opinion amounting to war crimes. We therefore think it extraordinary that, in the section on the conflict in Somalia of the report by the Foreign Office on human rights, there is no mention of the Ethiopian presence in Somalia, let alone the conduct of its forces. We think that that is very serious. The Government are now a little more seized of the matter than they were. In our interactions with him, Lord Malloch-Brown has been more sympathetic to our views about Somalia than his predecessor.

The fact remains that the UK, the US and the EU got it wrong on Somalia when they came down in support of the Ethiopian intervention. The Union of Islamic Courts was dislodged, but there was no consideration of the humanitarian consequences of the conflict that was bound to break out. The consequences are now very clear. The humanitarian situation has been described by the UN as the worst in the world. We regard the human rights situation there as absolutely terrible.

Politically, the abuses that have been perpetrated in the course of the military operation have provided a propaganda coup to Islamist extremists in the region. Militarily, the situation is probably deteriorating. The Ethiopians are unable to get on top of the situation and withdraw, which is what they need to do, because there is no real strategy in Somalia as far as we can see.

We are calling for a commission of inquiry to look into the abuses that have taken place in Somalia. We would also like to see a mapping of the abuses that have taken place over the last decade or so. As in Afghanistan, part of the problem is terrorism, but a major part of the problem is years of impunity. That problem must be tackled. We are not saying that it will be easy to do so in the current security atmosphere. It will be very difficult, but unless that problem is tackled, the crisis in Somalia will continue to fester and to breed regional instability. So we think that the Foreign Office needs to address Somalia with a great deal of urgency and not just to see it through the prism of counter-terrorism, but to see it through a prism of accountability and human rights.

Kate Allen: Briefly, there have been 1 million dead since 1991, more than a million people displaced internally, no rule of law, and again, for women rape is just a common occurrence. I look forward to hearing the Minister's reply to your question as to why it is not a country of concern.

Q40 Mr. Hamilton: Pakistan obviously gives some cause for concern. I know that Human Rights Watch has been very worried, especially, I think, about the way in which the courts and the judges have been undermined by President Musharraf's arrest and sacking of members of the judiciary in Pakistan. Your Human Rights Watch submission claims that the UK may have been complicit in a number of human rights abuses linked to counter-terrorism in Pakistan. How confident are you that these are accurate allegations? What sort of evidence do you have?

Tom Porteous: First, there is obviously a problem here. Let me give you a little bit of context. We are trying to pull together the evidence, and obviously it is very difficult to come by, because these are serious allegations. But it is pretty clear that the US and the UK are relying rather heavily on the well-known abusive Pakistani intelligence agency, the Inter-Services Intelligence, in their counter-terrorism operations. We have documented the abuses of the ISI for many years. It has well-known links with extremist elements in Afghanistan, with the Taliban, in Pakistan and in the Arab world. In fact, it was behind the Taliban initially, as you will remember. It is one of the most brutal intelligence agencies in the world and yet the US and the UK have been relying rather heavily on it in their counter-terrorism efforts in that particular region and, as far as the UK is concerned, in its counter-terrorism efforts at home, because obviously there is a large British community of Pakistani origin.

We also know from this report, among other things, that the UK is grappling with the dilemma of what to do about evidence that is important for combating terrorism but is also suspect because there is a suspicion that it has been extracted under terrorism. It is pretty clear, reading between the lines of that section in the Foreign Office's report, that it is referring to Pakistan here. It is obviously having to deal with this problem. That is the sort of background.

When it comes to the detail, you probably read the front page report of *The Guardian* yesterday which identifies two men, British citizens, Salahuddin Amin and Zeeshan Saddiqui, who were arrested in Pakistan at the request of the British authorities. They were then allegedly—there is quite good evidence for this, not only their own statements but also medical evidence—quite brutally treated over long periods and tortured and interrogated. Now it seems that in these cases, and in a couple of other cases that we are also aware of, British Security Service officials were brought in to interrogate them during their period of detention by the Pakistani authorities.

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In these two cases, the detention appears to have been illegal—they were not charged and there was no due process—and the treatment was allegedly very brutal. We were a corroborative source for the *Guardian* story in both those cases. We are aware of two other cases where the British appear to have been involved in interrogating suspects in Pakistan who, according to their lawyers, were allegedly tortured. One of them is Rangzeib Ahmed and the other Rashid Rauf, who was allegedly an important player in the Heathrow bombing of last year.

As one of the lawyers for these men, Tayab Ali, said in *The Guardian*, “at the very worst, the British Security Service instigates the illegal detention and torture of British citizens, and at the very best turns a blind eye to torture.” It is incredible that British agents would not be aware of the kind of treatment these men could expect at the hands of the Pakistani intelligence agency. Either way, the circumstances seem to amount to complicity and collusion in the mistreatment of these men.

To conclude, there might appear in the short term to be some advantage in relying so heavily on such abusive tactics in counter-terrorism but, in the longer term, we feel that it will be a disaster, because you are just piling up the grievances and the sense of injustice that fuels radicalisation and acts as a recruiting sergeant for terrorism. Condoning torture, therefore, even if it is only implicit, is a question of national security. The other point is that, if we are going to get to the bottom of what these suspects are supposed to have done, which is a crucial question, and if we are to give them proper trials, the fact that they were tortured will prejudice that process.

Q41 Mr. Hamilton: These are very serious allegations. Have you had any response from the British Government or Government Ministers?

Tom Porteous: We have raised some of these concerns with the British Government over the past months and we have met with denials.

Chairman: I am conscious of the time. Ms Allen, is there anything you wish to add to that?

Kate Allen: Just one point: the entry in the FCO’s human rights report on Pakistan is very disappointing. It is hugely uncritical. It barely mentions the impact of the state of emergency on human rights. It is an example of a lack of consistency of approach by the FCO. Friend or foe, there should be a consistent approach when tackling human rights and not a pretence that issues do not exist.

Q42 Chairman: Thank you. I would like to briefly touch on the situation in Israel and the occupied Palestinian territories. No doubt, we will have other opportunities to talk about this issue, but what is your assessment of the current situation? The FCO says that the situation has not improved over the course of the last year. Would you regard that as an understatement?

Kate Allen: Yes, we consider that there has been a marked deterioration in the last year. A range of issues, such as the collective punishments that are

being meted out to Palestinians by Israeli actions, should be brought to an end. The issues surrounding the continuation of the settlements and the existence of the fence, or the wall, need to be brought to some conclusion. Amnesty condemn indiscriminate rocket attacks from Gaza into Israel. We think that there is a complete deterioration in the relationship between the Palestinian Authority and Hamas. Ordinary citizens are suffering as a result.

Chairman: Do you want to add anything?

Tom Porteous: Yes. The situation in Gaza is particularly bad, and we think it is important that the British Government should call it what it is: collective punishment. We had a conversation recently with a Foreign Office official, and he privately agreed that it was collective punishment, but said that for political reasons it was impossible for the British Government to say, as the EU Commissioner has done, that that is what it is. It is important to use this language of collective punishment and indiscriminate military action when talking about the situation in Gaza, whether it is a question of measures that the Israelis take against the Gazans or attacks by Palestinian militias against Israelis, which are also indiscriminate.

Q43 Chairman: What about Palestinian-on-Palestinian violence—internal Palestinian violence? Have you any assessment of that? Is that situation getting worse?

Tom Porteous: Obviously, with the split between Hamas and Fatah, it is certainly getting worse. There is not much that the UK, the EU or the US can do to exercise any sort of influence over Hamas, because they do not talk to Hamas. At least, there is no political, diplomatic leverage. I think that it is very important for the EU and the UK to use their influence over Fatah, which is considerable. The EU is providing support through a project called EU COPPS—the EU Co-ordinating Office for Palestinian Police Support—and I think that human rights should be put at the heart of that support effort.

Q44 Chairman: Can I now switch focus? In your written evidence, both of you have commented on the inadequacy of the references to Saudi Arabia in the FCO’s human rights report, and you in Human Rights Watch have specifically made comparisons with Zimbabwe in terms of the level of language used. Why do you think we pull our punches with regard to Saudi Arabia?

Tom Porteous: It is no secret; it is because of strategic, counter-terrorism, commercial and energy security interests. Saudi Arabia is a very important ally of the UK, as we saw during the visit of King Abdullah, when the red carpet was rolled out. We think it is important for the UK to engage on all those issues, but we think that the UK should also engage on the issue of human rights.

In Saudi Arabia, there is not even, really, a pretence of democracy. As we said in a report that came out last week, women there are treated as minors for the whole of their lives—they are legally treated as children. Hundreds of security detainees are held

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without charge for months or years on end. Torture is widespread. There is very little accountability for abuses by agents of the state. Critics of the Government and political dissidents are routinely harassed, whether they are on the radical Islamist side or on the moderate reformist side. Precisely because of the UK's strategic interest in Saudi Arabia, we think it important that the UK should be addressing squarely these questions of reform, because the long-term stability of that country depends, we feel, on progress with regard to human rights.

Kate Allen: I would just like to add to that picture. The use of the death penalty has increased in the last year. In 2006, we saw 39 people executed. In 2007, the figure was 158. That included the execution of Dhahian Rakan al-Sibai'i, a 15-year-old who was beheaded on 21 July last year. We at Amnesty International campaigned to stop that execution, obviously unsuccessfully. As has been said, torture is routinely used. The highest number of lashes imposed that we have know of was on two men accused of sodomy who received 7,000 lashes. We know of at least three people who had their right hand amputated above the wrist.

Trade and security issues are important, but these abuses take place within the Saudi regime. The UK Government need to raise these issues with the Saudi Government and not just in the Two Kingdoms' Dialogue. Again, it is difficult with these dialogues. When they have no set ambitions, they go on and on and become an excuse for a lack of public debate and accountability for Governments who treat their people in such an appalling way.

Chairman: I am going to move to another continent.

Q45 Andrew Mackinlay: For speed, I will just mention the countries: the Maldives—small but important, but remote; out of sight and out of mind—Colombia and Iran. If we have no more time, can I just bounce those three off them?

Kate Allen: Can I get back to you on the Maldives?

Tom Porteous: I do not have any comment on the Maldives. I do not know much about it.

Q46 Andrew Mackinlay: Okay. Colombia and Iran are big things, are they not?

Tom Porteous: Kate, shall I do Colombia and you do Iran?

Chairman: Can you do Colombia?

Tom Porteous: I will do Colombia and Kate can do Iran to save time.

The important issue the Committee should focus on is UK military aid to Colombia. We think the British Government could be doing more to use aid as a lever for improvements in the record of the Colombian military. The military has a record of being associated with paramilitaries, which are responsible for very serious abuses. It also has a record of being involved in extra-judicial executions. Those paramilitaries have been involved in the

assassination of large numbers of trade union activists over recent years. That should be of concern for the Labour party in particular but also for anyone who cares about human rights. The problem is that the military aid the British Government grant to Colombia is unconditional with regard to any kind of human rights improvements. We think that that sends a bad message. The military in Colombia will go on getting these military goodies without having to do anything in return with respect to human rights. So we would very much like the British Government to make its aid conditional on an improvement.

In fact, the UK seems to be being saddled with a policy that even the American Government have moved beyond. After the Democrats took control of Congress last year, they froze some military aid to Colombia on human rights grounds. We think that the UK should at least get back into step with the policy of the Americans.

Chairman: Iran.

Kate Allen: The entry in the human rights report remains critical of Iran and highlights serious deterioration. Amnesty would agree with that. Again, talking about the death penalty, in 2007, at least 335 people were executed, including at least six child offenders. So far this year, 80 people have been executed, including at least one child offender.

Torture continues. There are also huge concerns about the nature of trials and the way in which people are dealt with. In terms of arrests and detention, human rights defenders, political activists and minority communities are targeted.

Freedom of expression continues to be under real pressure, including access to the internet and press freedom. Many newspapers have been shut down. NGOs are harassed. As I said earlier in terms of women organising, there is a campaign for equality, which women in Iran are very bravely pursuing. The aim is to collect 1 million signatures calling for an end to legalised discrimination against women, and many of the women involved in that have been arrested and imprisoned. It is a bleak situation.

In the absence of an EU-Iran human rights dialogue, the UK Government continue to work through international partners and NGOs, and also through the UN, to maintain a spotlight on the country. We hope that work will continue.

Chairman: Thank you.

Q47 Sir John Stanley: As you may have seen, we had a full-scale debate in Westminster Hall two or three weeks ago regarding our last report on Russia. We covered a number of human rights issues in that debate. I want to focus on just one of those. In a country where, sadly, human rights seem to be going backwards, one of the few flickerings of hope is the enormous courage of a limited number of people in the media who are determined to write as accurately as they can—to write, in particular, because television is pretty well blocked and radio is mostly blocked as well—about what has gone on under the Putin regime and what will now go on under his successor.

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A number of those people have lost their jobs and some have been kicked out of the country. Some, sadly, have died in unknown circumstances, and there would appear to be strong circumstantial evidence that the fact of their having written critical comments about the Putin regime was not unrelated to their deaths. What, if anything, do you think the British Government can do to try to support this small group of very, very brave people who are standing up in the media for—and putting themselves at personal risk for—freedom of expression in Russia?

Tom Porteous: I think the British Government are not in a very good position to take the lead in the EU on speaking out firmly to the Russians on the issue of freedom of expression, because of the poor relationship at the moment, for various reasons with which you are familiar, between the UK and Moscow. However, I think that, behind the scenes in the EU, the UK should be encouraging its EU partners to speak out very clearly on these issues and to send a very strong message to Russia that this kind of treatment of the media—this kind of quiet but rather lethal restriction and repression of freedom of expression—is something that the EU takes very seriously, and will put at the front of its dialogue with Russia.

Unfortunately, this is not the only problem in Russia. There is also a severe crackdown on civil society, also rather quiet but rather lethal. They have been tying up NGOs in endless bureaucracy so that they cannot get on and do their work. There is also, of course, the problem in the north Caucasus, which remains in spite of the fact that the war fighting in Chechnya has come to an end. The conflict is there, and it is spreading from Chechnya into the rest of the north Caucasus, so there is a strategic issue there as well.

There is one flicker of light, which is that the President-elect, Dmitry Medvedev, has pledged to uphold the rule of law, but, unfortunately, if you look at his history and the history of his career, he has been a very close associate of Putin and closely connected to Putin's policies over the last few years. In fact, Putin himself, when he came to power, made exactly the same pledges, which were, sadly, disappointed. However, the pledges have been made and the EU should build on those and insist that those pledges should be honoured.

Kate Allen: I have a very small point to add. At Amnesty, we obviously work with many individuals who are under pressure. We have worked with journalists who have been working in Chechnya and we have had them here in the UK. We have brought them to the attention of the UK Government, and

on a very individual level there is a cloak of protection that can be given to individuals when that takes place and when support is seen to be given to individuals who are working in that way.

Q48 Sir John Stanley: You referred earlier to the very serious human rights abuses that have taken place in the Democratic Republic of the Congo and the abuses you were referring to were African against African, basically. I just want to highlight another issue because, very sadly, some of the abuses that have taken place there have been committed from within the UN contingents.

We have had very serious allegations of sexual abuses and, more recently, we have had allegations of abuses and exploitation of minerals and illegal mineral trading of the country's minerals by both the Indian contingent and the Pakistani contingent. Could you give us your perspective on how adequate or not you judge the UN's present capacity to look honestly, objectively and rigorously at disciplinary failures and possible criminal activities by members of UN contingents? Because any military force that is unable to do this will never be able to stand up for human rights.

Tom Porteous: The UN has the capacity but it does not necessarily have the political will to conduct the necessary investigations. In fact, in the case of the recent scandal over the trade of arms for minerals by certain contingents within the United Nations Mission in the Democratic Republic of the Congo, there was an investigation—there were several investigations; there were several reports, but they were suppressed. Each time the matter went up the chain of command, the report was watered down. That is why, in the end, it had to come through the media rather than through the internal processes of the UN, because it was clear that the UN was trying to whitewash this whole situation. But we hope that with this kind of media attention, this will actually shame the UN into taking the rigorous action that is required to deal with this issue.

On the issue of sexual abuse, the UN does have more political will to act, because these are very serious taboos and so we are more hopeful. On the issue of corruption, the UN really needs to get its act together and find the political will to do what it is perfectly capable of doing.

Chairman: Thank you very much. We are grateful to Ms Allen and Mr. Porteous. Once again, we have covered a large area, and this has been very helpful to us. Next week, the Minister, Lord Malloch-Brown, will be giving evidence to us and we will also be pursuing our inquiries later when we come to write the report. Thank you very much.

Further memorandum from Amnesty International

ADDITIONAL INFORMATION FOR FAC AND CORRECTIONS TO TRANSCRIPT

I enclose the additional information requested by various members of the Foreign Affairs Select Committee at the evidence session on 30 April, and some amendments to the text of the hearing.

1. *Maldives*

In response to the enquiry by Mr McKinlay on the human rights situation in the Maldives, I enclose the section on the Maldives from the Amnesty International Annual Report 2007. This details the situation in the country in 2006–07. Amnesty International will be releasing a statement on the Maldives in mid-June which I will send to you as soon as it becomes available.

2. *Overseas Territories*

Unfortunately, we have little amplifying work on women's rights issues in Britain's overseas territories.
28 May 2008

Annex

MALDIVES

Taken from the Amnesty International Report 2007

Head of state and government: Maumoon Abdul Gayoom
Death penalty: abolitionist in practice
International Criminal Court: not ratified

Political freedom continued to be undermined by the slow pace of constitutional reforms. More than 100 people were arbitrarily arrested ahead of public rallies. Scores of them were believed to be prisoners of conscience. At least six political prisoners were sentenced to terms of imprisonment. Police reportedly used unnecessary force while detaining political activists who offered no resistance. Torture and other ill-treatment continued in custody. Several long-serving prisoners of conscience were released.

BACKGROUND

In March, President Maumoon Abdul Gayoom announced the government's Roadmap for the Reform Agenda Ushering In a Modern Democracy. It promised a new constitution by June 2007 and the first multi-party elections in October 2008.

In September, the Maldives acceded to the International Covenant on Civil and Political Rights (ICCPR), the Optional Protocol to the ICCPR, and the International Covenant on Economic, Social and Cultural Rights.

Resistance from conservative elements within the government and disruptive moves from the opposition threatened to derail political and judicial reforms.

FREEDOM OF EXPRESSION

Scores of government critics were accused of breaking the law while peacefully expressing their views or attending rallies.

- Member of Parliament Ahmed Shafeeq was briefly detained in April for attending a peaceful rally in Malé. He was reportedly severely beaten at the time of arrest and admitted to hospital. No investigation was carried out.
- More than 100 people were detained in advance of a planned anti-government protest scheduled for 10 November in Malé. The riot police also prevented people from leaving the islands for the demonstration. A boat full of opposition supporters was allegedly raided by the police and all passengers detained. Scores of detainees were held for weeks without charge, while at least 22 were released after being charged with apparently unsubstantiated, politically motivated criminal offences.

Intense pressure on the media to refrain from publishing articles critical of the government continued. Journalists ignoring this pressure were harassed, detained or charged with criminal offences.

- Aminath Najeeb, editor of the Minivan newspaper, received a summons in May to appear before the criminal court, apparently as part of the government's attempt to close Minivan. Before the summons, she was harassed by masked men circling her house.
- Mohamed Yooshau, Imran Zahir and Ibrahim Manik were detained for weeks at various times during the year. Abdulla Saeed (Fahala) was sentenced to 20 years' imprisonment for carrying drugs which were believed to have been planted on him by the police after his arrest.

UNFAIR TRIALS AND PRISONERS OF CONSCIENCE

Courts continued to sentence political activists to terms of imprisonment.

- Ahmed Abbas, a political cartoonist, designer of Maldivian banknotes and prominent critic of the government, was sentenced in November to six months' imprisonment without knowing he was being tried. His conviction related to his remarks in a newspaper in August 2005. He only found out about his conviction by chance, when checking the government's website. Fearing ill-treatment, he sought sanctuary in the UN building in Malé but had to leave after government pressure. He was then detained by the police and transferred to the prison island of Maafushi. He was believed to be a prisoner of conscience.
- Several prisoners of conscience were released. Ahmed Ibrahim Didi and Naushad Waheed were released in February and Jennifer Latheef was released in August. Chairperson of the Maldivian Democratic Party, Mohamed Nasheed, was released in September.

TORTURE AND OTHER ILL-TREATMENT

Police tortured and otherwise ill-treated detainees arrested while taking part in peaceful demonstrations.

- 16-year-old Moosa Afaau was reportedly grabbed around his neck by a plain-clothed officer in February while watching a street rally. He was reportedly dragged to the ground, his trousers were pulled down and he was hit with a baton on his thighs and genitals. He was then taken to a police station, tied to a chair and punched in the face every time he fell asleep. No one has been held accountable.

AI REPORTS/VISITS

Report

- Maldives: Renewed repressive measures against the opposition (AI Index: ASA 29/010/2006)

SOMALIA

Somalia has been without an effective central government since President Siad Barre was overthrown in 1991. Years of fighting between rival warlords and an inability to deal with famine and disease have led to the deaths of up to one million people.

In early 2006 Thousands of civilians fled as the UIC fought a warlord coalition in Mogadishu. The UIC took over Mogadishu in June and most of the south and central areas of Somalia later. Throughout 2006, the TFG had little control. Conflict between the UIC and the TFG, supported by the Ethiopian army, broke out in December. The UIC were defeated and the Ethiopian force entered Mogadishu and placed the TFG in power. Fighting continued in the southwest of the country.

Somalia's internal crisis has been further exacerbated by the tension caused by Ethiopia and Eritrea's support of opposing sides in Somalia (respectively the TFG and the Islamic Courts). An AU peacekeeping mission, AMISOM, has only been partially deployed, with first Ugandan and now Burundian forces. The UN Secretary General presented in his report to the Security Council on 14 March 2008 a contingency plan for a UN integrated peacekeeping mission to Somalia, dependent on a broad-based political agreement.

MAJOR ISSUES

Security and Justice

- *Security.* The humanitarian crisis in southern and central Somalia is largely fuelled by widespread abuses and violations of human rights. The violence in Mogadishu is worsening, and is extending to other regions of south/central Somalia, and Puntland.
- *Justice and rule of law.* With the exception of the self-declared autonomous Somaliland region, there is a near total absence of the rule of law and effective institutions of governance, in spite of the UNDP rule of law program to assist the Transitional Federal Government (TFG) in establishing a functioning police and judiciary.

- *Death penalty.* Death sentences were imposed by Islamic courts in the south until the end of 2006, and continue to be imposed by ordinary courts in Somaliland, where six people were executed in 2006, and three in 2007.

Freedom of expression

- *Journalists.* The threat to Somali journalists trying to report on the continuing conflict is the worst it has been since 1991. Eight journalists were killed in 2007, and at least one more was killed this year. Journalists regularly receive death threats when they report on casualties suffered by any parties to the conflict. Threats are typically delivered by calls to mobile phones, with the number of the caller withheld, although in many cases the caller has identified himself as an officer of the National Security Agency (NSA) of the TFG. Other journalists have been arrested multiple times by TFG forces or the Ethiopian military.
- *Human rights defenders.* Some HR defenders and members of civil society organisations have fled from Somalia/gone into hiding after repeated death threats and attacks. HR activists have been largely silenced in Southern Central Somalia and Puntland.

Internally displaced people

- *Refugees.* The UN estimates that there are more than 1,000,000 internally displaced people in Somalia. Conditions in camps and informal settlements are dire, with significant hunger and lack of medical services. There is obstruction and extortion of humanitarian agencies so very little international assistance reaches the most vulnerable. Displaced Somalis face banditry, rape and death on the road while fleeing from the conflict, and large numbers die in smugglers boats that leave from Bossaso north to Yemen. The border with Kenya is still officially closed, although greater numbers of Somalis have been able to flee south into Kenya.

Women

- *Violence against Women.* There is widespread rape and sexual assault of women due to the conflict in Southern/Central Somalia, including by TFG forces and Ethiopian military. Displaced women are also at extreme risk of rape on the roads, with women regularly raped at ambushes or checkpoints on roads from Mogadishu north to Puntland and Somaliland. FGM is pervasive in Somalia.

Recent political developments

The bodies of 10 people were found in a mosque in the Somali capital, after two days of clashes between Ethiopian troops and insurgents in April 2008. Local residents blamed the killings on the Ethiopians, whose troops are in Somalia supporting the government against Islamist fighters. Six of the dead are religious leaders from the Tabliq Sufi sect, which is not involved in the conflict. Amnesty International has accused the Ethiopian Army of carrying out the killings and the subsequent abduction of 40 children. They have denied these claims. In the FCO Report, Ethiopia's care for the civilian population was lauded.

In May 2008 UN backed peace talks were held in Djibouti but ended without any face-to-face meetings between the government and opposition. The leader of the UIC later told journalists that he did not believe the UN process was impartial and would not seek peace through its mechanisms. He claimed that the UIC would continue to fight until they had removed the Ethiopian troops and TFG supporters from the country.

The situation remains incredibly insecure; in May alone there have been food riots in Mogadishu, attacks on police stations, and the abduction of aid workers.

Wednesday 7 May 2008

Members present:

Mike Gapes (Chairman)

Rt hon. Sir Menzies Campbell
Mr. Fabian Hamilton
Andrew Mackinlay

Mr. Ken Purchase
Rt hon. Sir John Stanley

Witnesses: **Rt. Hon Lord Malloch-Brown KCMG**, Minister of State, **Susan Hyland**, Head, Human Rights, Democracy and Governance Group (HRDGG), and **Stuart Adam**, Head of Equality and Communications Team, HRDGG, Foreign and Commonwealth Office, gave evidence.

Q49 Chairman: I am sorry for the slight delay in starting, but we had rather a lot of business to conclude. I welcome you, Lord Malloch-Brown, to your first appearance before the Foreign Affairs Select Committee in a formal capacity, as well as your colleagues— Susan Hyland and Stuart Adam—who are already known to us. We are looking at human rights with a wide scope and at a wide range of countries and issues, but this is all brought together within the United Nations system. We have now had a period in which the new system of the Human Rights Council has been in operation. The Foreign and Commonwealth Office memorandum to us and your report point out the disappointments about how the Human Rights Council is working. Given your previous and current role, I would be interested in your assessment of how we can stop what is regarded as a disproportionate and unbalanced focus on the Middle East, so that the Human Rights Council talks about other issues in the world.

Lord Malloch-Brown: Thank you, Chairman, for the opportunity to appear before the Committee. I know many of you in various incarnation and not least as members of the Committee, but it is nice to sit in front of you here rather than in discussions in New York and elsewhere.

The first thing to say about the Human Rights Council is that we believe in it enough to be engaged in a very tough, competitive election at the moment to get re-elected as a member of the council. I have been campaigning hard for that in New York and Geneva with my colleagues. One reason for that is a view that this would be a very bad time for Britain to desert the project: this is a new infant, not yet walking. You are allowed to be a member only for two terms in a row and we had originally considered stepping down for what would have been our second term and come back to be re-elected further down the road. Instead, we decided to stick with it precisely for the reason you touched on, which is that the council is weak and needs help.

We believe that a number of things are going the right way. We have just started the process of the periodic review and the UK is one of the first countries to go through that. We have been pressing consistently for a focus on a much wider range of countries than just the Middle East. Although it is true that the focus on the Middle East is disappointingly disproportionate, the fact is that less noticed issues, such as a resolution on Darfur and

other matters that many members of the council initially objected to, have been gotten through. Our view is that the voting record is more balanced and better than the general public commentary might suggest.

We have also had some success, for the first time in such a UN forum, in ensuring that there were not the votes for regionally selected countries that would normally have been nodded through because they were on a regional slate. I have in mind Belarus, which was put up last time round and which, through the activities of many non-governmental organisations here today and others, together with the British Government, was blocked from election on the grounds of its human rights record. It has been a painful and difficult business, but I urge you not yet to cast too definitive a judgment. It is work in progress and we are winning some and losing some in terms of building up the council's credibility as an institution.

Q50 Chairman: Is there any prospect that the United States could, in the foreseeable future, join the Human Rights Council?

Lord Malloch-Brown: I very much hope that it will. I come from a UN tradition that thinks that nothing important has happened on human rights without the United States at the leadership of it. It was Eleanor Roosevelt who drove the initial work on human rights in the UN in the 1940s, leading to the establishment of the Commission on Human Rights. It has been a huge blow for the credibility of the Human Rights Council that the US is not a member. Certainly, it has been a goal of ours to keep the US engaged, informed and involved so that the bureaucracy is on board to come back once there is an Administration willing to do so. I do not think that it is easy; I do not think that any of the presidential candidates will look at this as an automatic choice; they will all see downsides. The council is already significantly discredited in the editorial columns of much of the American media and is not held in terribly high regard by many American NGOs either, but it has got to be the goal of our policy to persuade a new President that the US should come back.

Q51 Mr. Horam: I have a general question following on from the Chairman's question. The more autocratic countries in the world such as

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China, Russia and many other smaller countries are getting increasingly powerful and self-confident and are resistant to the ideas of human rights and the liberal democratic tradition. They are saying, as they have said for some time but with ever more confidence, "This is none of your business; we do things our way; get out of our hair; you are hypocrites anyway because of Guantanamo and Abu Ghraib, the invasion of Iraq and so forth". What is the best way of advancing the case for human rights in this developing global climate?

Lord Malloch-Brown: I think you put your finger on a very real trend in not only the attitudes of Governments, but often of their publics as well. Do not underestimate the genuine Chinese public indignation on Tibet, for example. This is a difficult time. I would say that it is countered by the fact that when a country, such as China, becomes more of a global stakeholder, it finds that its instincts and those of its public opinion have to be counter-balanced by what it needs to do to enjoy a global reputation, which it considers critical to its global, political and commercial ambitions. For example, we have seen China being rather more helpful than before on Darfur and even, to some extent, on the margins in Zimbabwe. Similarly, we saw China being helpful when western public opinion was at its most outraged on Burma. The global engagement of countries such as China somewhat offsets their own domestic instincts on such issues, and gives you an avenue to raise their own international behaviour on human rights.

Q52 Mr. Horam: How can the UK unilaterally bring pressure to bear?

Lord Malloch-Brown: First, keep China engaged in the world. Do not force it back into a corner or cut off communications. Secondly, we are having a human rights dialogue with the Chinese twice a year. There is also a European human rights dialogue with the Chinese in which individual cases are raised, and the Chinese come back to us on them. We track progress at the institutional level, monitoring, for example, the use of the death sentence. We look at the institutionalisation of a justice system that gives more rights to ordinary citizens either to bring forward cases or in their role as defendants. All that is reinforced by the fact that no senior Minister in the British Government would meet Chinese officials around a commercial or political agenda without raising human rights issues to remind them that, for us, that remains a critically important part of the agenda.

When dealing with human rights in China, and many other countries, we must balance our complaints about their lack of progress on political and civil rights against their remarkable achievements on some economic and social rights—for example, lifting 400 million people out of poverty. Often, we do not offer them a balanced picture, which offers respect and encouragement for what they have done, while reserving our right to criticise areas in which they are still lagging.

Q53 Mr. Heathcoat-Amory: May I ask about cluster munitions, which are a particularly vicious form of weapon because a proportion of the bomblets do not explode at the time and contaminate civilian areas? Some of us have seen that in the aftermath of the war in South Lebanon. It is an horrific form of warfare and leaves a terrible legacy, contaminating civilian areas. The Foreign Office report refers to it, and we are engaged in a number of international initiatives. Will you clarify the British position? Do you wish to see a complete ban on the production, stockpiling and use of such weapons?

Lord Malloch-Brown: There are two negotiating tracks. The first is a more conventional track, which involves a wide range of Government parties. The second involves the hawks, who are pressing for a treaty—known as the Oslo process—that is as broad as possible, as soon as possible. We are part of that process. It began last year and it is hoped that a draft treaty will be ready for countries to ratify before the year is out. We are one meeting away from the completion of that process and there are some outstanding issues. One is the definition of what range of cluster munitions should be banned. At the moment we are holding to line that it is not the category of weapons per se that needs to be banned, but those weapons that cause unacceptable harm to civilians because of two particular features. Those features are first, the lack of a self-destruct mechanism and secondly, an aiming system that essentially means that they are fired blind, without those who fire them being able to see the target—something that is another cause of indiscriminate civilian casualties.

Why are we taking a narrower definition than just the whole category? There are a number of reasons. First, there are still cluster munitions in the British arsenal. They have not been used recently by the British in either Iraq or Afghanistan, due to the nature of the conflict in those two theatres. In asymmetrical warfare, where those attacking are in the midst of civilian populations and are not themselves employing heavy armament, cluster munitions are inappropriate weapons, as they are essentially supposed to be used against people in tanks and other armaments of that kind.

We were reluctant to give up the ability to use any such weapons in case we found ourselves again in a war against people using vehicles such as tanks and other equipment against us. Secondly, we were also extremely worried by the interoperability issue, and we would not want to rule out the use of weapons that other NATO members were using—I am told that that poses real military difficulties for us. Thirdly, there are issues about responsibility for dealing with the aftermath of the use of these weapons. Those are not consistent with how it was dealt with in the landmines treaty, and it opens up issues and exposes countries to unreasonable claims. These are all negotiating issues that we hope can be resolved in the final meeting of the Oslo process. Countries such as Norway, which does not have such weapons, understand our issues and, in the

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desire to get a universal treaty that we can all sign, will come sufficiently far towards us so that we can have a meeting of minds and get a treaty.

Q54 Mr. Heathcoat-Amory: Can you comment on a specific, cluster munitions system called CRV-7? It is helicopter launched and the British forces possess it, but it does not self-neutralise or self-destruct. It entails exactly the hazards against civilians that I instanced. How can we argue plausibly for a worldwide ban on these weapons, when we are going to retain precisely the type of weapon that can cause damage to civilian areas? It is inconsistent. I understand that we do not want to do something that NATO allies do not do, but this is a weak argument. This is an urgent matter. It is a real weapons system that causes unimaginable grief after a war has ended. Should we not take a lead on this in any Foreign Office policy that calls itself ethical?

Lord Malloch-Brown: Of the two issues that I raised earlier, one was the self-destruct mechanism, which you rightly say the CRV-7 does not have. The second was the issue of line of fire, so that someone can see who they are targeting. It is when neither of those conditions are in place that we believe the weapons count as so-called “dumb” cluster munitions. We feel that because this example does not have that second feature, it can be used responsibly. It is used as nine shells in a weapon that has more rounds in it and is fired, as you say, from a helicopter. There is a debate about whether it is properly called a cluster munition or a sub-munition. This is way beyond my technical level of knowledge, but we are looking at the issue because we would not want this treaty to fail on a point such as that. At the moment, it is in the Army’s armoury, so to speak. It is not being used currently, but at the moment it has a retirement date of 2020. We are looking at it and I take the point.

Q55 Mr. Illsley: You used a phrase earlier that these weapons would be used responsibly. I would suggest that it is a contradiction in terms that any cluster munitions could be used responsibly, even if used in a battlefield scenario. When the battle has moved away, the area will be populated by civilians at some point.

Lord Malloch-Brown: You can tell that I am not entirely comfortable with this argument either. These CRV-7s apparently have a less than 2% failure rate, which means that only a very small proportion of them would be lying on a battlefield unexploded. The M85s that were used in southern Lebanon had something like a 25 or 30% failure rate and were used in crowded civilian areas. The battle context was different and the failure rate very high.

In the House of Lords, I used the term “unacceptable casualties”, which falls into the same category as “responsible”. That term was derived by the Oslo process because ultimately all weapons are dangerous; you never want to use them and there are nearly always tragic, collateral casualties among innocent civilians. It is always a matter of balancing

what weapon you think it is reasonable to use and what weapon is likely to minimise, although unfortunately never eliminate, civilian casualties.

Q56 Sir Menzies Campbell: May I ask you about the issue of interoperability? The only other NATO country that we are talking about is the United States. Is there anything to indicate that the United States might be willing to abandon cluster munitions? If not, the interoperability issue will persist without a time limit.

Lord Malloch-Brown: I think that Germany and France also have cluster munitions, but we should double-check that. It is not only the US, but that is the country that is least willing to move on the issue. France and Germany are in a position rather akin to our own.

Q57 Sir Menzies Campbell: On the process, if interoperability is a determinant, the position of the United States is something over which we do not appear to have much influence. If we are concerned with continuing to be interoperable with the United States, that concern would persist irrespectively.

Lord Malloch-Brown: If you got to the point of having a reasonable treaty ready for global ratification that took a balanced view on some of these issues and was not just a complete blanket ban with a very broad definition of what counted as a cluster munition, to the point that the US and others felt that their ability to wage conventional warfare against a conventional opponent would be compromised, our profound hope is that we could carry the US and others with us.

Q58 Sandra Osborne: May I ask about the issue of rendition? When it was revealed in February that two detainees had been transported on US flights that had refuelled at Diego Garcia, the Committee wrote to the Foreign Secretary asking a number of questions. He said, “We do not consider that an empty flight transiting through our territory falls into this category”. By “this category”, he meant rendition. What legal advice have the Government taken on whether they have a duty in relation to flights on the way to or from rendition when there is no a detainee on board?

Lord Malloch-Brown: Obviously the case of Diego Garcia shows that we do indeed conclude that we have a duty. I think that our policy is clear—it is not just that we ourselves do not render people in breach of legal obligations, but we consider all circumstances in requests for rendition through the UK or the overseas territories. We would grant permission only if it was in accordance with our domestic law and our international obligations. That is why we are so anxious to ascertain whether our territory has been used for other cases of rendition.

Q59 Sandra Osborne: Yes, but the Foreign Secretary is suggesting that as long as the flight is empty—as long as it is going to and from—it may as well be going to and from and that is more or less okay.

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Lord Malloch-Brown: I do not think that it is more or less okay, but there is a limit to what we can do effectively to monitor empty planes, whose purposes it is not really reasonable for us to investigate. If an American military flight requests refuelling or access and is empty of any passengers, I am not sure that it is possible for us to demand what it might be doing on its return flight.

Q60 Sandra Osborne: Do you not think that Amnesty and Human Rights Watch have a case now in calling for a public inquiry, given the public concern about the issue and that those two cases emerged, even though certain of the Committee had previously had assurances that it was not happening?

Lord Malloch-Brown: Obviously, from the Foreign Secretary downwards, and the Prime Minister as well, we were all pretty shocked that those assurances, given in good faith to the Committee and to the House, had proven inaccurate. That is why, in the Foreign Secretary's conversations with Condi Rice, we secured a commitment that we would submit a list of all flights about which there were suspicions—that is, any flights whose details were given to us by Amnesty, Human Rights Watch and others—to the US and would ask them to give us an assurance that there was not any such activity around any of those flights. I think we should wait for the outcome of that. We have made it clear that we would publish both the list of flights we submitted and the responses that we got. We should wait until that is over to see what, if any, steps are necessary after that.

Q61 Chairman: Has that list been sent yet?

Lord Malloch-Brown: About to be. Shortly.

Chairman: Okay. Well, we will no doubt pursue that in the near future. Thank you very much.

Lord Malloch-Brown: I am sure you will.

Q62 Sir John Stanley: Minister, you will have read, as we have read, that water-boarding involves the pinioning of a detainee to a board, so that they are incapable of movement, then filling up the detainee's lungs with water, so that they are terrorised into revealing information under imminent fear of death by drowning. You will also know that it is the American Government's view that this is not a form of torture. Indeed, President Bush has made specific provision to be able to authorise water-boarding, should it become necessary. The British Government rightly regard this as a form of torture. Could you tell us what steps the British Government are taking to persuade the American Government that water-boarding is indeed a form of torture, that it should not be engaged in by any civilised country and that the information so obtained, under such extreme duress, may well not be very reliable in any event?

Lord Malloch-Brown: First, we have made it clear in the House of Commons and in all appropriate contacts with allies that in our view water-boarding is torture—period. There is no ambiguity about that. We are very clear, just as we have also been very clear

that Guantanamo Bay should be closed. Our position on this is right, and we have conveyed that to the US. Certainly in any UK court proceedings, any information found out by torture would be utterly dismissed, out of hand, and found not admissible. Our position is clear. Obviously, it is for the US to arrive at its own decisions having heard the view of ourselves and other allies.

Q63 Sir John Stanley: Minister, are you aware of any other interrogation techniques, apart from water-boarding, currently sanctioned by the US authorities that we would regard as torture?

Lord Malloch-Brown: Can I have any help?

Susan Hyland: We are aware of the variety of techniques that have been discussed in the US, and have stated publicly our view on water-boarding.

Lord Malloch-Brown: I am not aware of other methods being used, but I know that there are active congressional efforts in the US still to subpoena various officials to get more details of what indeed is current US Government practice. But I am only aware of the speculation in the media.

Q64 Sir John Stanley: I was not clear from your official's answer whether she was giving me a yes, or a no. I should be grateful, Minister, if you could write to the Committee with an answer to that question and if you could give us details of any other interrogation techniques known to the British Government that we would regard as torture and which are currently sanctioned by the US.

Lord Malloch-Brown: I am happy to do so.¹

Q65 Chairman: Can I move to another country where there are strong allegations that torture is practised. It is not just a question of definitions, but there is no ambiguity. The evidence that we have received from Human Rights Watch criticises the Government's report and states that it "remains notably silent on the hundreds of disappearances of terrorism suspects in Pakistan" and suggests that the "UK has been complicit in the illegal detention, forcible transfer to the UK and . . . torture of some terrorism suspects".

Can you give us your assessment of the role of the Pakistan Inter-Service Intelligence agency, and assure me that it does not use torture in its interrogation methods?

Lord Malloch-Brown: In the case of Pakistan, we made it absolutely clear at every level of government, both the previous Government and this one, that we view torture as an absolutely abhorrent and inappropriate technique for extracting information. Obviously, we pressed extremely hard for return to civilian, democratic government to the extent that that strengthens but, as for individuals, we have looked into allegations made in the report and, behind the issue of hundreds, those of six nationals—if I am right—were specifically raised.

We have looked into those cases and, of them, two were joint British-Pakistan citizens who we gained consular access to because we were concerned about

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their situation. They made no complaints of ill treatment when we met them, until after their release. A third individual was a UK national who complained similarly only after his release of his treatment in detention. We are vigilant when cases are brought to our attention, and we are concerned to use our consular access to ensure that there is no torture. Our position is that we do not know of any cases of torture.

Q66 Chairman: Can I just clarify matters? You said six individuals. I am not sure whether it was six or five, but how many of those individuals have we sought consular access to?

Lord Malloch-Brown: As for the five or six, I do not want to mislead you on numbers. We got access to three. One of them, Siddiqui, because he was a British citizen, we saw twice. It was only after his release that he claimed to have been mistreated. We then raised those allegations with the Pakistani authorities.

Q67 Chairman: Why did you not get access to all of them?

Lord Malloch-Brown: Because of the other five cases, all were joint Pakistan-UK citizens. In such cases the bar for demanding access is higher, in that we need to be convinced—as they are after all under their own domestic jurisdiction—that indeed there is a reasonable concern. So we got access to two. Let me also be clear that—

Q68 Chairman: Sorry, is it two or three?

Lord Malloch-Brown: We got access to one UK national and two Pakistan-UK joint nationals.

Chairman: So in total three?

Lord Malloch-Brown: In total three.

Q69 Chairman: That was consular access?

Lord Malloch-Brown: Yes.

Q70 Chairman: How many of those others were seen by other British officials, other than on the basis of consular access?

Lord Malloch-Brown: The other three are unnamed, so we are not sure who they are.

Q71 Chairman: Perhaps we can have a note on that, to clarify, because there have been lots of stories, including the report in *The Guardian*. I know that there are some legal issues here and I do not want to go further than that at the moment, but I would be grateful if we could have some clarification in writing, and we can perhaps pursue it afterwards. On the more general point, your report discusses the dilemma that you face, as to whether evidence that may have been obtained through torture should be relied on, and how it could be used. Is that a particular problem with regard to information obtained from Pakistan?

Lord Malloch-Brown: I do not think that it is a particular problem in the sense that wherever evidence was obtained, if we felt that it had been obtained through torture we would not use it. We are as conscious as anyone of the allegations, and we

absolutely deny the charge that we have in any way outsourced torture to Inter-Services Intelligence as a way of extracting information, either for court use or for use in counter-terrorism.²

Q72 Chairman: Is that because you think that the ISI does not practise torture?

Lord Malloch-Brown: Let me put it this way, we think that the return of civilian government and hopefully the strengthening of civilian control over the ISI, which we hope will give a lot more transparency to its methods, is an extremely good development in Pakistan.

Q73 Chairman: But it is clear, is it not, that for several years the ISI was involved in practices that would be regarded as torture?

Lord Malloch-Brown: I do not know how much is clear about Pakistan, but I think that it would be fair to say that we have certainly been extremely concerned about ISI behaviours for many years.

Q74 Chairman: Are you not prepared to go further and say that there is evidence that the ISI has used torture?

Lord Malloch-Brown: I do not know. Am I prepared to go further? This answer is not really going to help, but Pakistan has ratified the UN convention against torture—

Chairman: I am asking about their practice.

Lord Malloch-Brown: I know. All I can say is that we are extremely concerned. We have certainly not run frontally into evidence of torture, but we think that the ISI's methods could do with a lot of opening up and a lot of transparency.

Chairman: Okay. I will leave it there for now.

Q75 Mr. Horam: On diplomatic assurances, we have this memorandum of understanding between the UK Government and various countries, including Libya and Jordan, about people we wish to deport to them not being tortured in any way, yet the Government have now lost a couple of high-profile cases in the Court of Appeal over deportations of suspected terrorists. Does that not mean that the diplomatic assurances are worthless? What are the Government going to do about the situation they find themselves in?

Lord Malloch-Brown: Those Court of Appeal cases were obviously setbacks, but they were very case-specific. The assurances were thought not to be adequate in those countries at this time. We still have other cases that are moving ahead, so I do not think that the policy is dead. We do think that the courts have set the bar high, and frankly that is probably a good thing.

Q76 Mr. Horam: Right. What happened in those cases could be repeated in further cases. You might come up against exactly the same decisions by the Court of Appeal, because presumably the circumstances will be pretty similar in the cases that you bring forward. Given that, do you not think that

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it would be better simply to accept that this is an absolute bar on the possible return of deportees to a country where torture is practised?

Lord Malloch-Brown: With some of the deportee cases, accepting that individuals who have done—or incited people to do—terrible things here in the UK are on our hands indefinitely is not a reasonable Government policy. There will be cases where we will prevail, but we are a country of laws and courts. The fact that we lose a couple of cases shows the strength of the procedures, rather than invalidating them all.

Q77 Mr. Horam: Does it not mean that you should look more closely at the memoranda and understand what actually happens in those countries?

Lord Malloch-Brown: Again, the courts have accepted the process as legitimate. They were careful to say that it was the particular conditions, in Libya in one case, and Jordan in the other, relevant to the individuals, which determined their decision.

Q78 Mr. Horam: Have you won any cases at the Court of Appeal?

Lord Malloch-Brown: These were the first cases to reach the Court of Appeal, so the answer is no.³

Q79 Mr. Horam: So far, you have lost every case?

Lord Malloch-Brown: We have lost the two cases that we have had so far.

Q80 Mr. Illsley: What is your response to the suggestion from Human Rights Watch that the UK is trying to undermine the laws on non-refoulement, returning a person to a country that employs torture? The example it quotes is the case of Saadi v. Italy. We sent more lawyers to that case than the Italians did.

Lord Malloch-Brown: I am sure that the latter point is true. In a globalised world where we are trying to deal with cases of this kind, we must go on pressing to find a way of returning people that functions legally and works. For it to work legally, there must be the assurance that any individual being returned will have proper protection of their rights. The alternative is to accept that we are stuck with people who have this kind of history, and that is not a politically acceptable solution.

Q81 Sir Menzies Campbell: You describe these cases as having been setbacks.

Lord Malloch-Brown: Yes.

Sir Menzies Campbell: For some people, they might represent progress. Can I ask about the agreements in general? It is one thing for two Foreign Secretaries to enter into an agreement of that kind. However, in a police station, 50 miles from the capital of the country to which we have sent an individual in reliance of one of these agreements, what possible confidence can we have that under all circumstances, those who have custody of that person will treat them in accordance with the agreement?

Lord Malloch-Brown: I did just want to pick up on one point made by Eric. The Saadi case was with Libya, not Italy. That is the kind of issue that it would be nice to win, so that we could see whether we could indeed create a regime of assurances that could be monitored and that worked. I take the point—it is not a defeat to lose some of these cases at Court of Appeal level. It shows that the process is genuinely subject to our courts and to legal review, at least until the suspect leaves the territory.⁴

Q82 Sir Menzies Campbell: Have these cases been appealed?

Lord Malloch-Brown: No.

Q83 Sir Menzies Campbell: You are not taking them to the House of Lords?

Lord Malloch-Brown: We may be appealing on one of them.

Sir Menzies Campbell: Perhaps you could let us know about the detail.⁵

Q84 Mr. Hamilton: Minister, you will be aware, I am sure, that in September 2006, half the members of this Committee were allowed to visit Guantanamo Bay and Camp Delta as part of the first foreign parliamentary visit ever, with the help of the State Department. One of the things that we were told there was that many of the detainees, whom the Americans wanted to return to their countries of origin, would not be accepted by their countries of origin. One explanation was that those countries did not agree or believe that they were their own nationals. They could not prove it one way or the other.

The other problem was people like the Chinese Muslims, the Uyghurs, whom the Americans believe, probably with good reason, would be tortured and treated badly if they were returned to China. In that case, the Albanian Government agreed to accept those Uyghurs and accommodate them in their own country, which I imagine would be a rather strange culture shock.

The point remains that there are detainees who remain simply because no country would take them. I wondered what we could do to help with this process, either as the United Kingdom itself, or through the European Union. Until those detainees are found somewhere to live, Guantanamo will continue to exist. We heard at the time that President Bush agreed with our assessment that Guantanamo should be closed. Unfortunately, it would seem that he has gone back on that and it is likely to be the next President who closes Guantanamo. None the less, it will remain there as long as there are detainees to fill the prison camp.

Lord Malloch-Brown: We think that this is in a sense a self-made problem. Once you take people out of normal legal process and put them in something like Guantanamo, it becomes very hard to undo and get them back into a proper legal process that allows conventional solutions between the US and other

³ *Note by Witness:* I said that the Jordan and Libya cases were the first to reach the Court of Appeal. Some Algerian cases have also reached the Court of Appeal so this is incorrect.

⁴ *Note by witness:* I refer to the Saadi cases as being “with Libya, not Italy”. Saadi was against Italy so this is incorrect.

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countries about whether people should be returned. We have probably more than carried our weight on this. We requested the return of the so-called five British residents, although as you know, not all of them had a right to live here. We were trying to do our bit to deplete the case load. Certainly we have kept a careful eye on others. You will recall that there are at least two who might have come back but did not. We are trying to work with the US wherever we can be helpful to bring down that case load. We remain concerned about their habeas corpus rights in the meantime.

Q85 Mr. Hamilton: Are other European countries offering to accommodate some of those detainees, whether or not there is a relationship between the detainee and the European Union country?

Lord Malloch-Brown: I will need to get back to you on that. I do not know.

Q86 Mr. Hamilton: Could you also get back to us on whether you are working with other EU member states to try to resolve the problem collectively?

Lord Malloch-Brown: Yes. I am told that we have been talking to other European countries about the possibility of taking other non-citizens, so we are certainly engaging with them. I could give you more detail on exactly what that amounts to.⁶

Mr. Hamilton: Thank you.

Q87 Chairman: You said that you had requested the five non-British citizens but only three of them have come. As far as I understand it, the Americans are reluctant to release the other two.

Lord Malloch-Brown: That is correct, due to security concerns.

Q88 Chairman: So on the one hand the Americans are saying that they want people to take people and on the other hand they are not.

Lord Malloch-Brown: Yes. I do not think that you could possibly argue that the reason Guantanamo remains open is solely that there is nowhere to put people. That is one factor but there are also, in American eyes, hard-core security cases for which they have not found another solution.

Chairman: Our report said that some of the people there are extremely dangerous. There are hundreds of people there—or there were, because some have been released—and this is clearly an issue that we will come back to in future.

Q89 Andrew Mackinlay: This Committee and its predecessor Committee, eight or nine years ago and in subsequent reports, recommended that there should be regulation of private security companies operating or recruiting from the United Kingdom. Jack Straw and Denis MacShane made promises before this Committee that this would be addressed, and there was a Green Paper, but nothing happens. Why not? Who is obstructing this from coming forward? When will it come, and is there not great

concern that the United Kingdom is going to be substantially embarrassed at some stage if it has not regulated private security companies?

Lord Malloch-Brown: You are absolutely right: the delay has not been acceptable, and we are hoping that on our watch David Miliband and I will solve this persistent irritant. I have to say that I do not think that the delay has been because of any aberrant desire to prevent regulation. It has had more to do with the fact that regulation is quite tricky for an international business where most activities take place offshore. There is concern about how we can develop a regulatory structure that is credible and effective enough without just driving companies, if you like, offshore to register somewhere else.

Since the review was completed in 2005, we have looked very carefully at the different options, which are self-regulation through a trade association, national regulation based on export control and national regulation based on a kind of company licensing system. Something that I added to that was that we have considered how we could move towards international regulation because of the feeling that this was very hard to treat as just a domestic British problem. We are now in the late stages of trying to get agreement across Whitehall on a way forward on this, so I hope that relief is in sight.

Andrew Mackinlay: That is good news.

Chairman: Can we now move on to some specific countries? Malcolm Moss.

Q90 Mr. Moss: The UN estimates that there are some 2 million Iraqis displaced internally and up to another 2 million who have fled to nearby countries, particularly Syria and Jordan, which seem to have borne the brunt of the refugee crisis. This Committee's report on global security and the Middle East recommended that the Government should provide financial assistance to those two countries, but in their response the Government rejected that recommendation. Why do the Government continue to set their face against financial assistance for both Syria and Jordan, which are bearing the brunt of what for them is a considerable humanitarian problem?

Lord Malloch-Brown: We are giving assistance, but we are giving it through organisations such as the UN High Commissioner for Refugees and the International Committee of the Red Cross. I completely agree with you. This is a major burden on both countries and on their social services—health and education—as well as the economy more generally. In the case of Syria particularly, a country about which we have many reservations, obviously we have chosen to try to give assistance through those intermediaries in ways that we hope will target the refugee beneficiaries directly, rather than through general budget support. I think that we need to keep this under review, because, frankly, I think that the world as a whole needs to be more generous to the refugees in those two countries than it has been so far.

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Q91 Sir John Stanley: Minister, clearly, getting rid of Saddam Hussein was a substantial human rights plus from many standpoints, but equally it has to be faced that following our invasion some very serious human rights reversals have flowed directly from it. One, just to referred to by Malcolm Moss, is the millions of people who have been displaced from their homes. The other one, which I attach huge importance to, as I am sure you would, is the fact that women's rights in many parts of Iraq are now going backwards and look set to be going backwards further. We have all been appalled by the recent cases of so-called honour killings, whereby a father can murder his daughter, be taken into police custody for a few hours and then be released without charge. We know that 100-plus women in the Basra area, for whom we have some human rights responsibility, quite apart from security responsibility, have lost their lives for failing to comply with Islamic scarf requirements and so on. How important is this issue to the British Government and what are they doing to stop the degradation of women's rights taking place under our noses in Iraq, when we still have responsibilities there?

Lord Malloch-Brown: For all Saddam Hussein's appalling record on other aspects of human rights, you are correct that on women's rights he was relatively progressive. I have heard many Iraqi women make that case to me since the invasion, including a Minister who then lost her life shortly afterwards in the violence. It is an issue that one must be vigilant about. What a terrible consequence it would be if the rights of women were set back.

You refer to Basra, which is where there has been an upsurge of honour killings and the reasons cited have been provocative dress, not the headscarf and so on. All of that is very concerning, but a clear commitment was recently made by the Iraqi police service in Basra to ensure that women's rights are observed and respected in the south and that included the establishment of a female police unit. Further, officials at our embassy in Baghdad are on notice to raise this as regularly as they can with Government officials. Obviously, your colleague the right hon. Ann Clwyd, as the Prime Minister's special envoy for human rights in Iraq, has made a big point of raising the issue at all levels whenever she visits the country.

Q92 Sir Menzies Campbell: Is there any way that we can hold the Iraqi Government's feet to the fire on this? It is one thing to get promises, it is another to see that they are implemented.

Lord Malloch-Brown: Yes, we can monitor and track and we absolutely have to do so because after all we have a few things to hold them to. There are projects, some of which we support, on judicial reform to try to enhance the capabilities of the ministries of human rights and women, as well as the judiciary itself. The Iraqi constitution has decent provisions in it for the protection of women and above all else, Iraq is not Afghanistan: this is not a traditional, conservative society where you are trying to root out a centuries-old tradition, but a

country that has known a secular respect for women. We absolutely can use our place as a prime supporter of the country to insist that these issues are met.

There has been an upsurge in killings in Basra. We hope that it is not a long-term phenomenon and that it can be contained by these statements by the police and their efforts to address it. We hope that this is not going to grow into a major issue and we will do everything we can to stop that happening.

Q93 Mr. Moss: Human Rights Watch claims that NATO and US-led forces killed at least 300 civilians in Afghanistan in 2007. Why does the FCO human rights report not even mention that this was a concern?

Lord Malloch-Brown: Good point. Would either of my officials like to answer why it is not in the report?

Stuart Adam: I cannot give you an answer on that—I will check with the desk and get back to you.

Chairman: We will perhaps get a letter.

Lord Malloch-Brown: Absolutely, we are happy to do that.⁷

Q94 Mr. Moss: May I also ask why the international community has failed to implement the peace, reconciliation and justice action plan that would, we expect, combat impunity?

Lord Malloch-Brown: I am not sure how that fits with the Afghan amnesty law, which has actually offered a lot of Afghans who were involved in war crimes a pardon or amnesty in return for their participation in the national reconciliation process. We are quite worried that that will allow impunity, and we have been monitoring all of this quite carefully, along with our EU and other international partners. Let me just come back to your first question and say that even though I cannot give you an explanation of why this is not in the report, we are obviously extremely concerned in general about civilian casualties in Afghanistan as a result of ISAF or other US military actions. As part of ISAF, we make sure that each of these incidents is investigated very thoroughly.

Q95 Mr. Illsley: In Burma, the situation is well documented, and the report maintains that the UK has played a leading role in drawing attention to what is happening there. Amnesty has argued—prior to what happened at the weekend—that the UK should perhaps take the lead in imposing financial sanctions against Burma, presumably targeted at the regime rather than the ordinary public. Since the cyclone has occurred, there are debates and questions about whether aid should be provided. We are now getting a contradiction, because on one hand we are talking about financial sanctions against a regime and on the other we are trying to work out how we can get aid to those who are suffering. Do you have a view on those points or an update on where we are in relation to that?

Lord Malloch-Brown: First, I shall give an update. We committed £5 million yesterday, but for that to be effective the Burmese authorities must show a

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much greater willingness to allow international assessment and operational teams into the country to distribute aid. As of this moment, even members of the initial UN assessment team have not been granted visas to enter the country. Classically, the Government want to be given the aid and allowed to distribute it themselves, but we just do not think that they have the capability to do that properly, let alone the will. The last thing we want to do is make humanitarian aid conditional, but we just do not see how the emergency supplies are going to get out and be distributed where they are needed across the country without a strong international presence. If that occurs, it will at least have the temporary effect of opening up the country to foreigners in a way that has not happened for a long time.

There was a similar phenomenon in Kashmir briefly after the earthquake, when people crossed the line of control between Pakistan and India in a way that had not happened in a generation, so there might be some similar beneficial effects from this in Burma. More broadly, the 10 May vote on the constitution in our view represented the fact that the Burmese authorities were buckling down, closing the hatches and resisting pressure even for international human rights change, let alone political change.

Q96 Mr. Horam: I imagine that you are watching the situation in China closely, given the imminence of the Olympic games and all that goes with that. Amnesty International has argued that the Olympic games have actually resulted in China becoming more repressive, partly because of the situation in Tibet. Is there any evidence that China has become more repressive since the Olympic games became a feature on the world scene?

Lord Malloch-Brown: I know the Amnesty report, respect it and have heard Kate Allen, who has given evidence to this Committee, make the argument. It is a bit more complicated, and you have to weigh the pros and cons. Yes, there have evidently been clearances to allow Olympic facilities to be established, and goodness knows whether community rights were as well respected as they might have been. There were no hearings of the sort that will no doubt surround the development of Olympic infrastructure here in London. However, I see it as a net gain for openness because it led to a situation in which press access was at least temporarily granted to the whole country. We will have to see whether it is now provided to Tibet. We are assured that it will be. I think that China felt that it was on its best behaviour to impress the world.

In general, the Olympics was a key stepping stone in the process of engaging China in the world. All that has happened in Tibet, leading finally to the resumption of talks between the Dalai Lama's representative and the Chinese authorities, would not have happened if the Olympics had not been on the way. I think that it has been a win for human rights, but I recognise that there are negative arguments as well.

Q97 Mr. Horam: Human Rights Watch argues that the Prime Minister should make his attendance at the games conditional on progress on human rights. Do you agree?

Lord Malloch-Brown: I do not know what the benchmark would be. We have been extremely clear in our messages to the Chinese that, first, the Dalai Lama appears to have met the conditions that they set of renouncing violence and calling not for independence, but for Tibetan autonomy; and, secondly, that on the basis of that, they should resume their negotiations with him. They have done so. I am not sure what the realistic further demands would be. Our view has been that we must not go down the road of highly conditioning our attendance at the Olympics. I think that we have got that right.

Q98 Mr. Horam: You do not think that we should go down this road.

Lord Malloch-Brown: No, I do not think that we should go down the road of conditioning it further. Tibet posed a huge challenge. Now that there are talks, I think that we should expect progress. We should not ease up on the Chinese and say, "You are talking. Problem over". We should be pressing absolutely consistently for the Chinese to come to some kind of accommodation with the Dalai Lama. I am not sure that suddenly saying that the Prime Minister will not go unless there is an agreement on Tibet or unless the death sentence is removed as a penalty would be constructive or helpful. We have the right mixture of pressure and continued commitment to China coming out into the world, which is best able to achieve results.

Q99 Mr. Hamilton: In fact, the Dalai Lama has made it clear that the Olympics should not be boycotted. He is fully supportive of that view.

Lord Malloch-Brown: Yes.

Q100 Mr. Hamilton: May I move on to the issue of Zimbabwe? We have finally had the announcement of the presidential election result and it would appear that the Movement for Democratic Change candidate, Morgan Tsvangirai, won 47.9% of the vote. One has to question why it took nearly six weeks to get that result. As we know, that falls short of the 50% required to win and there will be a run-off. There are various rumours that the run-off will be either in the three weeks required by the constitution or even in a year's time.

I know that Great Britain does not have a lot of influence in Zimbabwe; in fact, we have quite a negative influence. However, this is an affront not just to democracy, but to human rights because of the way that supporters of the MDC are being attacked, murdered and tortured. How can anybody, including the South Africans, justify the view that this was a free and fair election? More importantly, how can we act, not the United Kingdom by itself, but perhaps with the EU or as a world community through the UN? How can we show that it is unacceptable to masquerade as a democracy and to abuse the human rights of

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ordinary Zimbabweans day in, day out? We need to put pressure on Zimbabwe. What can we do? Finally, are we going to withdraw the honorary knighthood that was given to Robert Mugabe many years ago? That is trivial, I know, by comparison.

Lord Malloch-Brown: We cannot accept an outcome that is a perversion of democratic and human rights values. The fact that it took them nearly six weeks to count the vote leaves one very little confidence in the accuracy of the vote. On the other hand, the fact that the MDC itself only claimed a paper-thin win of 50.3% does not make it enormously easy for us to stand up and say, “Morgan Tsvangirai won beyond any reasonable doubt on the first round”. We are all in a bit of a dilemma in that there is no doubt that the cleanest constitutional outcome of this terribly flawed, first-round process is a second round that is adequately monitored both for the fairness and integrity of the vote, but also for the conditions in the run-up to the election, particularly the personal security of MDC supporters.

The first goal is with SADC, the United Nations and the AU to say that, if there is to be a second round, there must be a greater intensity of foreign presence there to make sure that there is a reasonable chance that it will take place.

Q101 Mr. Hamilton: That is surely highly unlikely. How can the international community ensure that there is that presence? Robert Mugabe and Zanu-PF simply will not allow it.

Lord Malloch-Brown: We have to set an international expectation and commitment to a certain standard, which if it is not met—in other words, if observers are turned away or there is not reasonable media access to the election—the international community meets the logic of its own standards and says, “This was not a free and fair election. We do not accept the Government that have come out of that election”. In other words, we must prevent a situation when Mugabe can steal a second round. If there is to be a second round, it has to be free and fair. If that were the case, it seems inevitable that Morgan Tsvangirai would win by a large majority. If it were not a free and fair election, the international community then says, “Basta—enough. It is over”. We cannot allow a third alternative.

Q102 Mr. Hamilton: What sanctions are there? We have seen the most appalling abuses of human rights in Zimbabwe, yet the international community seems powerless to do anything especially in the face of the South Africans supporting the current Government.

Lord Malloch-Brown: In two regards, the first round was quite a progress over the past. For the first time at least since the '90s, Mugabe did not get away with making the British Prime Minister of the day his real opponent. Last time, there were apparently posters of Tony Blair in Harare. This time, his opponent was Morgan Tsvangirai and he had to explain himself on the economy and the political deterioration of the country—and he lost. As a consequence, today it is no longer an issue of Britain versus the world on

Zimbabwe; it is Robert Mugabe versus the world. Actually, there is a much higher degree of unity in the international community on the matter than is necessarily apparent publicly. We find tremendous support among the regional leaders in SADC for the view that the result cannot be allowed to stand. There is a preference on its side for a fair, democratic second round to create the best constitutional solution rather than aborting that process.

I do not hear from the South Africans or anyone else that the situation is now just to confirm Robert Mugabe in power. There has been a massive diplomatic shift, and we have to build on that new alignment to make sure that the outcome is that the Zimbabweans finally have a decent Government and we can all invest in the recovery of the country. We are in a better shape to get that than we have been for many years, not because of the brilliance of the British or South African diplomacy, but because ordinary Zimbabweans have basically surprised us all. They had the guts and the chutzpah to vote for an opposition under incredibly difficult conditions of coercion and suppression of free speech and, despite the fact that between a quarter and a third of the country had been pushed out into exile in the region and could not vote, those guys won.

Q103 Mr. Hamilton: And the knighthood?

Lord Malloch-Brown: Obviously this is just about the least-deserved knighthood out there. I do not know what was in anyone’s mind when it was given to him, because it came on the back of the period when the massacres were taking place in Matabeleland—the really big human rights abuses were actually those killings in the '80s. But there is an argument of time and place. At this moment, that runs the risk of throwing us back into the old tracks of Britain versus Zimbabwe, old colonial whatever, and debts to settle. I think, time and place.

Q104 Chairman: There is an outstanding reply due from the Foreign Secretary to a letter I wrote on behalf of the Committee. We look forward to that reply in the near future.

Lord Malloch-Brown: In fairness to us, the letter came just last week. I know that it is a recommendation that you have made before as a Committee. Perhaps we should have seized the moment and done it then, but now is probably not the most opportune moment.

Q105 Chairman: We look forward to the response. I am conscious of time. We are going to go on only for 10 minutes more. That means that we cannot cover all the countries that we would have wished to. We will have to write to you on some of them.

Why is Somalia, where there are serious problems and human rights abuses, not listed as a major country of concern? Linked to that is the role of Ethiopia—both what is happening in Somalia, where Human Rights Watch talked about very grave abuses, and with the Ogaden region of Ethiopia, where the organisation also points out what it regards as an omission in the Foreign Office report.

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Lord Malloch-Brown: Obviously, Somalia is covered in the Foreign Office report.

Chairman: Only briefly.

Lord Malloch-Brown: I would acknowledge insufficiently—I plead guilty as charged. The extenuating circumstances that I would point to, however, are, first, with a report by a Government, we have a standard of evidence that we have to satisfy ourselves is being met. In this particular case, the allegations against Ethiopian soldiers—which form part of your concern and have been made again this week—are stoutly denied by the Ethiopians. I received a letter from the Ethiopian ambassador just yesterday, asking to meet me, before this hearing, to rebut the allegations. There was a statement out of Addis by the Government in the same regard. We need to look at the new claims and weigh them against the assertions made, in order to meet our responsibility on the facts.

Let me just say that, even if we are guilty as charged in terms of the report, we were very active in the Human Rights Council in adopting a resolution on 20 March this year for an independent expert and requesting the Office of the High Commissioner for Human Rights to strengthen its presence in Somalia in order to improve human rights work there. The UK, also in March 2008, used the Arias formula at the Security Council in New York to enable governments and non-governmental human rights organisations not on the Council to speak at a Council meeting on Somalia, precisely to raise human rights and humanitarian issues. We have quite a good track record in general of trying to promote NGO human rights concerns on Somalia. If I may—forgive me, Mr. Chairman—I have one strategic, structural point. The worst thing for human rights in Somalia has been, over the past 14 years or so, the absence of a Government. In that sense, our work with this admittedly imperfect transitional Government, to help it both build up judicial institutions and establish its authority, is intended to create that very threshold requirement for human rights, which is state institutions. We do not apologise for trying to do that.

Q106 Sir John Stanley: Minister, will you confirm the Government's position on whether Israel's policy towards the Palestinian population as a whole in Gaza of interrupting energy supplies, and blockading food supplies, medical supplies and other essentials of life, is contrary to international law?

Lord Malloch-Brown: I certainly will, in the sense that we have made repeatedly clear our extreme concern about the humanitarian situation. The Foreign Secretary has been in frequent touch with his Israeli counterparts about that. We are willing to be a very generous supporter to Gaza and are very clear that what concerns us, above all, is the current failure by Israel to allow movement and access, and the squeezing of energy and other vital supplies that are needed for Gaza. Of course, that is as well as our objections to the continued construction of settlements and the barrier in the West Bank. Let me also say, for the record, that we are obviously

equally concerned about Hamas-sponsored rocket attacks against Israeli civilians. But yes, we think that the actions by Israel are deeply damaging and that they indeed contravene its obligations.

Q107 Sir John Stanley: Thank you. As you have confirmed that the Government's position is that the measures are contrary to international law, can you tell the Committee in which court you consider the issue can be made the subject of legal proceedings?

Lord Malloch-Brown: Our position is clear. We have, on a number of issues, declared Israeli action to be excessive, disproportionate and against international law. We have chosen not to take the next step of saying which court and under which terms, and we have no intention of sponsoring any effort to take Israel to any international court. We do not think that that would be the way forward, and we are extremely nervous about the political symbolism of such an act. We do not think that pursuing that kind of strategy would contribute to the necessary building of trust and peace-building steps between the two sides.

Q108 Sir John Stanley: Why would it not be a perfectly reasonable step for Britain, along with other members of the international community, simultaneously to initiate appropriate legal proceedings against Israel for a clear violation of international law, and against Hamas for an equally serious violation of international law by firing rockets into Israeli civilian settlements?

Lord Malloch-Brown: First, one would have to decide which court and on which grounds. As far as I know, neither Israel nor Hamas is a signatory to the International Criminal Court, and I am not sure that the actions would even fall within the ICC's jurisdiction. Even if you could find a court that had jurisdiction, the issue really is that this is a problem that begs a political solution. We would press for success with the Annapolis process, backed by the Quartet, which put out a good statement when it met here in London last Friday expressing concern on exactly those points. An effective political process with a strong political will behind it strikes us as the best way forward.⁸

Sir John Stanley: None the less, perhaps you could let us have a note as to your legal view of which court could respond to a judicial application in respect of violations of international law by both the Israelis towards Gaza, and Hamas towards the civilian population in Israel.

Q109 Sandra Osborne: Your report says that the pace of reform in Saudi Arabia will need to be acceptable to its Government and religious leaders. That would meet the standards of some of the most repressive and reactionary elements of Saudi society. Those same authorities authorised the sentencing of a woman to 200 lashes after she had been gang raped. Why should changing this behaviour have to be acceptable to them?

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Lord Malloch-Brown: This is more a judgment that runs through the whole report and the British Government's approach to human rights. We think that, in many cases, the way to secure improvements is not by finger-wagging alone, but by working with the grain of changes in such countries to build up their human rights capacity in a way that Governments who enjoy absolute power gain sufficient confidence to let go of it and create space for independent human rights institutions.

In that sense, there are improvements in Saudi Arabia. There have been announcements of plans to create new supreme and appeals courts. There was the National Society for Human Rights report, which highlighted a number of concerns. There is a new royal decree allowing Saudi women to stay in hotels unchaperoned. These are very modest steps,

but they are going in the right direction. We think that we get a bigger bang out of engaging in pressing for reforms than by putting Saudi Arabia in the international dock on this. When Kim Howells was last there in February, he called on the authors of the NSHR report and raised individual human rights cases with the Deputy Foreign Minister.

This is a process of critical engagement, not of blind adulation and flattery. We have to ensure that such issues are raised, but we have made the judgment that out-and-out opposition will not do it.

Chairman: Lord Malloch-Brown, Stuart Adam and Susan Hyland, thank you for coming today. There are one or two other areas that we will pursue in correspondence with you, but we have covered a wide range of issues and countries. We have found this sitting very valuable. Thank you very much.

**Letter to the Head, Parliamentary Relations and Devolution Team, Foreign and Commonwealth Office
from the Committee Specialist**

The Committee thanks Lord Malloch-Brown for giving evidence to its inquiry into the FCO's *Annual Human Rights Report 2007*. Due to time constraints, there were a number of questions that the Committee was unable to put to the Minister orally. I would therefore be grateful if the FCO could provide brief written answers to the questions set out below:

1. Does the Government accept that the Convention Against Torture obligation of *non-refoulement* is absolute and that there should never be a balancing exercise with national security when there is a risk of torture?

2. Does the Government accept the claim that UK is not providing equipment needed for the UN-AU hybrid mission in Darfur to deploy as quickly and effectively as possible?

3. Why are issues relating to women's human rights not explicitly included in the FCO's policy goals?

4. Does the Government support the introduction of mandatory mechanisms to ensure international businesses protect human rights?

Lord Malloch-Brown has undertaken to write to the Committee on a number of issues related to his evidence. I would be grateful if the FCO could also respond to the following questions that relate to his evidence:

5. What legal advice has the Government taken with regard to its obligations in relation to flights that may be on the way to, or from, a rendition but without a detainee on board? Please could the Committee be provided with this advice?

6. Does the M85 sub-munition fall outside the Government's definition of "dumb" cluster munitions given its self-destruct mechanism?

7. Lord Malloch-Brown told the Committee the Government supports the work of the UNHCR in Syria and Jordan in aiding Iraqi refugees. In its response to the Committee's Report on Global Security: The Middle East, the Government noted the UK contributed US\$52 million to support the work of UNHCR worldwide in 2006. How much money did the Government earmark specifically for UNHCR's work in Syria and Jordan in 2006 and 2007?

I would be grateful if the Committee could receive a response to these questions by Thursday 29 May 2008.¹

12 May 2007

¹ Ev 66

**Further memorandum from Rt. Hon Lord Malloch-Brown KCMG, Minister of State,
Foreign and Commonwealth Office**

During my oral evidence session on the Foreign and Commonwealth Office's 2007 Annual Human Rights Report, which took place on 7 May, I undertook to write to the Committee with further information about a number of questions.

Question 64, on the question of US interrogation techniques

We have not conducted an exhaustive analysis of current US interrogation techniques but we expect all countries to comply with their international obligations. As the Foreign Secretary said on 12 February 2008, we consider waterboarding to be torture.

Questions 70–71, on the question of how many of the British and dual nationality detainees held in Pakistan were visited by British officials, other than on the basis of consular access

We have a duty to respect the privacy of the individual in discussing consular cases. We cannot discuss any of the details which would not otherwise be in the public domain. This includes the disclosure of information which relates to a small number of individuals where details about an individual might be deduced, for example when put together with other publicly available information.

Since 2000, we have been aware of six cases of British or dual British/Pakistani nationals having been detained on suspicion of terrorist offences in Pakistan. The British High Commission in Islamabad established the nationalities of all six individuals—four dual British/Pakistani nationals and two mono-British nationals. British officials sought and were granted access to the two mono-British nationals. Priority was given to the welfare of the detainees.

Consular access was not sought in each of the six cases as four of the individuals were dual Pakistani-British nationals in the country of their other nationality. The Pakistani authorities are under no obligation to inform us of the detention of a dual Pakistani-British national nor to allow consular access. We have also requested, but are yet to be granted, consular access to one dual national on exceptional grounds in accordance with our published policy on the death penalty.

Question 83, on whether the Government will be appealing the (deportation with assurances) cases

The Home Secretary has sought leave direct from the House of Lords to appeal the Court of Appeal Decision in the Jordanian case (Abu Qatada). We have yet to hear whether or not permission will be granted by the House of Lords (the Court of Appeal refused permission to appeal).

After careful consideration, the Home Secretary decided not to seek to appeal the other two Libyan cases. Deportation action in those cases and in a further 10 Libyan cases has been discontinued.

Question 86, on European countries and Guantanamo

The UK Government believes that Guantanamo Bay should be closed. The US Government is aware of our position and we welcome their recent steps to reduce the numbers of those detained there and to move towards the closure of the detention facility. These steps have included an increased emphasis on engagement with third countries over the transfer and resettlement of those detained. In order to offer practical and concrete support to US efforts, in August 2007 the Foreign Secretary and Home Secretary requested the release and return from Guantanamo Bay of five individuals who had previously been lawfully resident in the UK. In reaching this decision we gave full consideration to the need to maintain national security. Further to this request three of the individuals were returned to the UK in December.

The Albanian Government has taken in a number of former detainees from Guantanamo who have no direct ties to Albania. In addition, the UK Government has spoken, and will continue to speak, to allies both within Europe and outside about taking similar steps to reduce the numbers of those detained at Guantanamo Bay. I hope the Foreign Affairs Committee will appreciate that these discussions are sensitive and it would not be appropriate to name specific countries.

Question 93 on Afghanistan

The FCO Annual Human Rights Report reports the issue of civilian casualties on page 126. No reference is made to the number of civilian casualties caused by International Security Assistance Force (ISAF) and international forces due to the lack of verifiable data of these incidents. Taliban accounts should not be taken at face value, as they deliberately aim to mislead.

We remain confident that International forces are doing everything possible to minimise civilian casualties. Any loss of innocent lives is a tragedy and UK forces, ISAF and Operation Enduring Freedom (OEF) forces take these incidents very seriously. The targeting process, weapons selection, doctrine, training and rules of engagement of the Allied forces are all in line with international humanitarian and human rights

law and the Law of Armed Conflict. In September 2007 in response to a letter from Afghanistan's Defence Minister Wardak, ISAF and OEF introduced new processes and timelines for investigations. During his speech at the NATO summit in Bucharest in April 2008 President Karzai thanked Commander ISAF for his engagement on this issue.

By contrast, the Taliban take no such measures when they indiscriminately target civilians with suicide bombs or improvised explosive devices. They use public buildings, including schools, hospitals and mosques, in built up civilian areas as bases and boltholes. And they have not shied away from using civilians—even children—as human shields.

The UK and ISAF remain alert to the issue and will continue to do all they can to protect civilians in Afghanistan.

Question 108, on a legal view as to which court could respond to judicial applications in respect of violations of international law by both the Israelis and Hamas

In the case of individual criminal liability by any individuals for grave breaches of the Geneva Conventions then national courts may have jurisdiction.

The Rt Hon Lord Malloch-Brown
Minister of State

28 May 2008

**Letter to the Committee Specialist from Head, Parliamentary Relations Team,
Foreign and Commonwealth Office**

Thank you for your letter of 12 May containing a number of follow-up questions to Lord Malloch-Brown's 7 May appearance before the Foreign Affairs Committee.

Lord Malloch-Brown has replied separately to the Chairman of the Committee on points raised during the hearing.

Does the Government accept that the Convention Against Torture obligation of non-refoulement is absolute and that there should never be a balancing exercise with national security when there is a risk of torture?

Article 3.1 of the Convention Against Torture is quite clear that no State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture, and the Committee established by Article 17 has made it equally clear that, where this is the case, no other considerations can be taken into account.

Whether or not there are substantial grounds for believing that a person would be in danger of being subjected to torture is a judgement that has to be made on the basis of the circumstances of the individual case, including any specific information and any assurances provided by the receiving State.

The Government has made it clear that, if there is a real danger that an individual will be subject to torture on return, we will not deport them, even if we have a framework agreement on assurances in place.

Does the Government accept the claim that the UK is not providing equipment needed for the UN-AU hybrid mission in Darfur to deploy as quickly and effectively as possible?

On 19 March, the Prime Minister announced a contribution of £4m towards pre-deployment training and equipping for African countries contributing troops to the UN-African Union joint peacekeeping mission in Darfur (UNAMID). This money is for essential equipment including armoured personnel carriers and communications kit. The money is being channelled through the "Friends of UNAMID" forum in New York—a group of donors including the USA, Canada, Netherlands and France working closely with the UN Department for Peacekeeping Operations to ensure African troop contributors receive the training and equipment required for deploying to Darfur.

We continue to work in support of the UN, African Union and international partners for the earliest possible deployment of an effective UNAMID. It is however disappointing that more offers have not been forthcoming from those with spare capacity to meet the need for helicopters.

Why are issues relating to women's human rights not explicitly included in the FCO's policy goals?

The promotion of all human rights—including women's rights—and good governance are, and will remain, a vital part of this Government's international agenda. The new policy goals do not downgrade their importance. Human rights are essential to achieving all the new policy goals, for example, in countering the risk of violent extremism and in preventing and resolving conflict.

Our gender commitments include: tackling all forms of gender based violence; full implementation of UN Security Council Resolution 1325 on Women, Peace and Security; encouraging ratification of UN human rights instruments to which we are party, including Convention on the Elimination of all forms of Discrimination Against Women; achievement of all the Millennium Development Goals (MDGs) including MDG 3 (promoting gender equality and empowerment of women) and MDG 5 (improving maternal health).

Does the Government support the introduction of mandatory mechanisms to ensure international businesses protect human rights?

The UK does not support the introduction of specific mandatory mechanisms to ensure businesses protect human rights. We believe that, at present, voluntary mechanisms and other non-legal approaches have more to offer in this field. States have an obligation to protect their populations from human rights abuses, which is why HMG is keen to mobilise international opinion to support practical political initiatives and encourage private sector good practice. We have supported initiatives bringing together governments, NGOs and businesses to facilitate the promotion of human rights, since we believe this to be the most effective way to address this important issue. For example, we led the development of the Kimberley Process, an international initiative with 48 participants designed to stop the world wide trade in illicit/conflict diamonds.

What legal advice has the Government taken with regard to its obligations in relation to flights that may be on the way to, or from, a rendition but without a detainee on board? Please could the Committee be provided with this advice?

Legal advice given to the Government is confidential and we are therefore unable to disclose the contents of any such advice.

Does the M85 sub-munition fall outside the Government's definition of "dumb" cluster munitions given its self-destruct mechanism?

The UK variant of the M85 sub-munition does fall outside the Government's definition of a basic or "dumb" cluster munition because of its self-destruct mechanism.

Final negotiations on a text of an international Convention on cluster munitions are taking place in Dublin (19–30 May). I will write to you again after the Diplomatic Conference in Dublin to let you know the outcome of these negotiations.

Lord Malloch-Brown told the Committee the Government supports the work of the UNHCR in Syria and Jordan in aiding Iraqi refugees. In its response to the Committee's Report on Global Security: The Middle East, the Government noted the UK contributed US\$52 million to support the work of UNHCR worldwide in 2006. How much money did the Government earmark specifically for UNHCR's work in Syria and Jordan in 2006 and 2007?

The DFID Iraq programme contributed £3 million to UNHCR's 2007 Iraq Situation Supplementary Appeal. This appeal covered Iraq, Syria, Jordan and other countries in the region hosting Iraqi refugees. We did not earmark our contribution for specific areas/countries within that appeal. We contributed another £3 million for UNHCR's 2008 Iraq Situation Supplementary Appeal. Again, we did not earmark our contribution. We did not give a direct contribution to UNHCR's 2006 Iraq appeal.

28 May 2008

Further memorandum from Head, Parliamentary Relations Team, Foreign and Commonwealth Office

HUMAN RIGHTS INQUIRY—FAC QUESTIONS: CLUSTER MUNITIONS

In my letter of 28 May I undertook to write further after the Dublin Diplomatic Conference on cluster munitions, following up my answer below.

“Does the M85 sub-munition fall outside the Government's definition of “dumb” cluster munitions given its self-destruct mechanism?”

The UK variant of the M85 sub-munition does fall outside the Government's definition of a basic or “dumb” cluster munition because of its self-destruct mechanism.

Final negotiations on a text of an international Convention on cluster munitions are taking place in Dublin (19–30 May). I will write to you again after the Diplomatic Conference in Dublin to let you know the outcome of these negotiations”.

As the Prime Minister announced on 28 May, and Lord Malloch-Brown confirmed in the House of Lords on 3 June (*Hansard* Columns 78–80), the United Kingdom has withdrawn from service all its cluster munitions. This includes the M85 sub-munition.

The conference ended on 30 May with the adoption of the text of a new Convention on Cluster Munitions, a copy of which I enclose, and which is available on the conference website: <http://www.clustermunitionsdublin.ie/pdf/ENGLISHfinaltext.pdf>. Under the new Convention the M85 sub-munition is prohibited.

Richard Cooke
Head, Parliamentary Relations Team

9 June 2008

Thursday 22 May 2008

Members present:

Mike Gapes (Chairman)

Rt hon. Sir Menzies Campbell	Mr. Malcolm Moss
Mr. Fabian Hamilton	Sandra Osborne
Mr. John Horam	Rt hon. Sir John Stanley
Mr. Eric Illsley	
Andrew Mackinlay	

Letter to the Clerk of the Committee from the Office of Tibet

It was nice meeting you the other day to discuss the invitation from the Foreign Affairs Committee to His Holiness the Dalai Lama for a hearing on Tibet. As discussed, I had forwarded the invitation letter to His Holiness' Office in Dharamsala, India, and enclosed please find His Holiness' letter to the FAC Chairman. The Rt Hon Mike Gapes, MP.

Kindly present this letter to Mr Gapes as soon as possible for it also contains some requests that require his and his Committee's immediate attention and action, especially in the light of the life and death situation the Tibetan people in Lhasa and other parts of Tibet are facing under the repressive policies and violence from the Chinese authorities.

I look forward to working with you and your office and please feel free to contact or call me anytime.

Representative of His Holiness the Dalai Lama
for Northern Europe, Poland & the Baltic Countries
7 April 2008

Letter to the Chairman of the Committee from His Holiness the Dalai Lama

Thank you for your kind invitation of 25 March 2008 to address the Foreign Affairs Committee on 2 May during my visit to London. I am pleased to accept your invitation and look forward to meeting you and your colleagues and sharing my thoughts on various aspects of the Tibetan situation under China's rule and the sincere efforts that I have been making for many years to resolve the Tibet issue. I believe that my Middle Way Approach takes into consideration the long-term stability and well being of both the Tibetan and Chinese peoples. Moreover, I am committed to resolving this issue through non violence, dialogue and accommodation.

I believe the recent protests and, demonstrations are a manifestation of the deep-rooted resentment not only of the Tibetan people in the Tibetan Autonomous Region (TAR), but also in the outlying traditional Tibetan areas now incorporated into Qinghai, Gansu, Sichuan and Yunnan, where there exist substantial communities of ethnic Tibetans. Unfortunately, the Chinese authorities have been using these protests to create racial divisions between our two peoples. In this regard, I have made an appeal (copy enclosed) to the Chinese people explaining that we are not anti-Chinese and outlining our relations over the past many centuries.

I appeal for your continued support in calling for an immediate end to the current crackdown, the release of all those who have been arrested and detained and the provision of proper medical treatment to the injured. I would also request you to encourage the sending of an independent international body, to investigate the unrest and its underlying causes, as well as allowing the media and international medical teams to visit the affected areas. Their presence will not only instil a sense of reassurance in the Tibetan people, but will also exercise a restraining influence on the Chinese authorities.

With my prayers and good wishes.

3 April 2008

An Appeal to the Chinese People from His Holiness the 14th Dalai Lama

Today, I extend heartfelt greetings to my Chinese brothers and sisters round the world, particularly to those in the People's republic of China. In the light of the recent developments in Tibet, I would like to share with you my thoughts concerning relations between the Tibetan and Chinese peoples, and to make a personal appeal to you all.

I am deeply saddened by the loss of life in the recent tragic events in Tibet. I am aware that some Chinese have also died. I feel for the victims and their families and pray for them. The recent unrest has clearly demonstrated the gravity of the situation in Tibet and the urgent need to seek a peaceful and mutually beneficial solution through dialogue. Even at this juncture I have expressed my willingness to the Chinese authorities to work together to bring about peace and stability.

Chinese brothers and sisters, I assure you I have no desire to seek Tibet's separation. Nor do I have any wish to drive a wedge between the Tibetan and Chinese peoples. On the contrary my commitment has always been to find a genuine solution to the problem of Tibet that ensures the long-term interests of both Chinese and Tibetans. My primary concern, as I have repeated time and again, is to ensure the survival of the Tibetan people's distinctive culture, language and identity. As a simple monk who strives to live his daily life according to Buddhist precepts, I assure you of the sincerity of my motivation.

I have appealed to the leadership of the PRC to clearly understand my position and work to resolve these problems by "seeking truth from facts", I urge the Chinese leadership to exercise wisdom and to initiate a meaningful dialogue with the Tibetan people. I also appeal to them to make sincere efforts to contribute to the stability and harmony of the PRC and avoid creating rifts between the nationalities. The state media's portrayal of the recent events in Tibet, using deceit and distorted images, could sow the seeds of racial tension with unpredictable long-term consequences. This is of grave concern to me. Similarly, despite my repeated support for the Beijing Olympics, the Chinese authorities, with the intention of creating rift between the Chinese people and myself, assert that I am trying to sabotage the games. I am encouraged, however, that several Chinese intellectuals and scholars have also expressed their strong concern about the Chinese leadership's actions and the potential for adverse long-term consequences, particularly on relations among different nationalities.

Since ancient times, Tibetan and Chinese peoples have lived as neighbours. In the 2,000 year-old recorded history of our peoples, we have at times developed friendly relations, even entering into matrimonial alliances, while at other times we fought each other. However, since Buddhism flourished in China first before it arrived in Tibet from India, we Tibetans have historically accorded the Chinese people the respect and affection due to elder Dharma brothers and sisters. This is something well known to members of the Chinese community living outside China, some of whom have attended my Buddhist lectures, as well as pilgrims from mainland China, whom I have had the privilege to meet. I take heart from these meetings and feel they may contribute to a better understanding between our two peoples.

The 20th century witnessed enormous changes in many parts of the world and Tibet, too, was caught up in this turbulence. Soon after the founding of the People's Republic of China in 1949, the People's Liberation Army entered Tibet finally resulting in the 17-Point Agreement concluded between China and Tibet in May 1951. When I was in Beijing in 1954-55, attending the National People's Congress, I had the opportunity to meet and develop a personal friendship with many senior leaders, including Chairman Mao himself. In fact, Chairman Mao gave me advice on numerous issues, as well as personal assurances with regard to the future of Tibet. Encouraged by these assurances, and inspired by the dedication of many of China's revolutionary leaders of the time, I returned to Tibet full of confidence and optimism. Some Tibetan members of the Communist Party also had such a hope. After my return to Lhasa, I made every possible effort to seek genuine autonomy for Tibet within the family of the People's Republic of China (PRC). I believed that this would best serve the long-term interests of both the Tibetan and Chinese peoples.

Unfortunately, tensions, which began to escalate in Tibet from around 1956, eventually led to the peaceful uprising of 10 March 1959, in Lhasa and my eventual escape into exile.

Although many positive developments have taken place in Tibet under the PRC's rule, these developments, as the previous Panchen Lama pointed out in January 1989, were overshadowed by immense suffering and extensive destruction. Tibetans were compelled to live in a state of constant fear, while the Chinese government remained suspicious of them. However, instead of cultivating enmity towards the Chinese leaders responsible for the ruthless suppression of the Tibetan people, I prayed for them to become friends, which I expressed in the following lines in a prayer I composed in 1960, a year after I arrived in India: "May they attain the wisdom eye discerning right and wrong, and may they abide in the glory of friendship and love". Many Tibetans, school children among them, recite these lines in their daily prayers.

In 1974, following serious discussions with my Kashag (cabinet), as well as the Speaker and the Deputy Speaker of the then Assembly of the Tibetan People's Deputies, we decided to find a Middle Way that would seek not to separate Tibet from China, but would facilitate the peaceful development of Tibet. Although we had no contact at the time with the PRC—which was in the midst of the Cultural Revolution—we had already recognized that sooner or later, we would have to resolve the question of Tibet through negotiations. We also acknowledged that, at least with regard to modernization and economic development, it would greatly benefit Tibet if it remained within the PRC. Although Tibet has a rich and ancient cultural heritage, it is materially undeveloped.

Situated on the roof of the world, Tibet is the source of many of Asia's major rivers, therefore, protection of the environment on the Tibetan plateau is of supreme importance. Since our utmost concern is to safeguard Tibetan Buddhist culture—rooted as it is in the values of universal compassion—as well as the Tibetan language and the unique Tibetan identity, we have worked whole-heartedly towards achieving meaningful self-rule for all Tibetans. The PRC's constitution provides the right for nationalities such as the Tibetans to do this.

In 1979, the then Chinese paramount leader, Deng Xiaoping assured my personal emissary that "except for the independence of Tibet all other questions can be negotiated". Since we had already formulated our approach to seeking a solution to the Tibetan issue within the constitution of the PRC, we found ourselves well placed to respond to this new opportunity. My representatives met many times with officials of the PRC.

Since renewing our contacts in 2002, we have had six rounds of talks. However on the fundamental issue, there has been no concrete result at all. Nevertheless, as I have declared many times, I remain fully committed to the Middle Way approach and reiterate here my willingness to continue to pursue the process of dialogue.

This year the Chinese people ate proudly and eagerly awaited the opening of the Olympic Games. I have, from the start supported Beijing's being awarded the opportunity to host the Games. My position remains unchanged. China has the world's largest population, a long history and an extremely rich civilization. Today, due to her impressive economic progress, she is emerging as a great power. This is certainly to be welcomed. But China also needs to earn the respect and esteem of the global community through the establishment of an open and harmonious society based on the principles of transparency, freedom, and the rule of law. For example, to this day victims of the Tiananmen Square tragedy that adversely affected the lives of so many Chinese citizens have received neither just redress nor any official response. Similarly, when thousands of ordinary Chinese in rural areas suffer injustice at the hands of exploitative and corrupt local officials, their legitimate complaints are either ignored or met with aggression. I express these concerns both as a fellow human being and as someone who is prepared to consider himself a member of the large family that is the People's Republic of China. In this respect, I appreciate and support President Hu Jintao's policy of creating a "harmonious society", but this can only arise on the basis of mutual trust and an atmosphere of freedom, including freedom of speech and the rule of law. I strongly believe that if these values are embraced, many important problems relating to minority nationalities can be resolved, such as the issue of Tibet, as well as Eastern Turkistan, and Inner Mongolia, where the native people now constitute only 20% of a total population of 24 million.

I had hoped President Hu Jintao's recent statement that the stability and safety of Tibet concerns the stability and safety of the country might herald the dawning of a new era for the resolution of the problem of Tibet. It is unfortunate that despite my sincere efforts not to separate Tibet from China, the leaders of the PRC continue to accuse me of being a "separatist". Similarly, when Tibetans in Lhasa and many other areas spontaneously protested to express their deep-rooted resentment, the Chinese authorities immediately accused me of having orchestrated their demonstrations. I have called for a thorough investigation by a respected body to look into this allegation.

Chinese brothers and sisters—wherever you may be—with deep concern I appeal to you to help dispel the misunderstandings between our two communities. Moreover, I appeal to you to help us find a peaceful, lasting solution to the problem of Tibet through dialogue in the spirit of understanding and accommodation.

With my prayers,

28 March 2008

Witness: His Holiness the Dalai Lama gave evidence.

Q110 Chairman: Good morning. Today is about the human rights inquiry that we do every year. As part of that, we take evidence from time to time from different individuals and organisations. Because of the importance of the issues relating to Tibet and China, and the visit of His Holiness the Dalai Lama, we thought that we would take the opportunity to have a public evidence session with him to explore those issues.

Your Holiness, I am pleased that you found the time during your very busy visit to this country to come before our Committee. What is your assessment of the human rights situation in Tibet in the light of the recent protests?

The Dalai Lama: First of all, I want to thank you and the Committee for extending the invitation to come here. It is a great honour. Thank you.

On human rights issues, after 10 March, I think there were initially genuinely peaceful demonstrations. Then, according to Chinese information, some violence was involved, which is very sad. As for the scale of the demonstrations, they took place not only in the autonomous region of Tibet, but major demonstrations took place outside the autonomous region in four Chinese provinces: Qinghai province—that, actually, is my birthplace—Gansu province, Sichuan province and Yunnan province.

Although it is very difficult to get precise information, generally arrests still continue. After arrests, there has been severe torture, which is very serious.

I want to mention to you the main reason why it is important to go deeper. Why did these demonstrations happen? That is important. For the last 50 or 60 years, human rights violations were always there—sometimes a little lenient, sometimes more harsh. Basically, there has been a kind of rule of fear, a rule of terror. That is the real cause. Also, there has been a violation of religious freedom, which is very serious. Then, there have been environmental issues.

Q111 Chairman: Can you give some indication of the specific human rights abuses that you think have happened in Tibet in recent weeks?

The Dalai Lama: One thing that I personally feel is rather sad and very painful is that when they arrest, they torture severely before asking questions—they simply torture. One example, I think, was in Qinghai province. In one monastery—I think that a few hundred monks were there—in the beginning, three monks demonstrated and were arrested. Then more monks appealed for their release. Again, they were arrested and severely tortured. Among them was the

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old abbot of the monastery who was over 80 years old. He was a great scholar. He also got a beating, and his leg was broken as a result of torture. When I heard that story, I found it really painful.

Q112 Chairman: Can you envisage a situation in which the widespread calls for an international investigation into the events in Tibet would be accepted by the Chinese Government?

The Dalai Lama: That I do not know. Right from the beginning—after this crisis had happened—it was very difficult to get clear information. Also, the information was always different. There were different versions of the story. Therefore, I appealed to the international community to send respected people as observers to the area to carry out a thorough investigation: first, to find out the causes of the problem; and secondly, as the Chinese Premier himself had publicly accused us and said that the crisis had started from outside, to establish whether or not we had a connection. I wanted them to come to my place at Dharamsala to check all our files and documents and also the speeches that I have given from time to time to Tibetans who have come from Tibet. All those things are recorded and can be checked.

Chairman: I want to bring in some of my colleagues now.

Q113 Mr. Horam: I understand your point, your Holiness, that it is necessary to try to get some international investigation of the facts because we know too little. Am I right in thinking that you personally called for such an international investigation?

The Dalai Lama: Yes.

Q114 Mr. Horam: Will you raise your call for an international investigation when you meet the British Prime Minister Gordon Brown tomorrow?

The Dalai Lama: Yes, I will.

Mr. Horam: Good.

The Dalai Lama: Do you think it would be appropriate to ask him?

Mr. Horam: I think so, absolutely. We would strongly support it.

The Dalai Lama: Then I will do it, certainly. You all approve, so I will ask him.

Q115 Mr. Horam: The international aspect of this is that China has signed the United Nations covenant on civil and political rights, but it has not ratified it. Is that something that you could raise with Gordon Brown when you see him tomorrow? Surely it is important that China, which has signed the covenant and therefore made some token gesture, takes it right through and ratifies it. Is that something that you will be willing to bring up with Gordon Brown?

The Dalai Lama: Of course, this terminology is hard to memorise, but I understand the meaning. I want to raise the matter. China is under an obligation because it has already signed.

Q116 Mr. Horam: Do you think that it would be helpful if China ratified the covenant at this particular time? Would it be helpful to the Tibetan situation?

The Dalai Lama: In the long run, certainly, yes. For example, the genuine autonomy that we seek is actually in the constitution, and particularly in what is called the white paper on the rights of minorities. On paper—very nice. If these points were actually implemented on the spot, there would be no reason to complain. But there is always a huge gap between what is on paper and practice on the spot. In reality, there is always this gap. That is why I really feel that independent and objective study or investigation on the spot is helpful even to the Chinese leaders to know the reality.

Q117 Mr. Horam: Do you hope to raise this with the Prime Minister, Gordon Brown, tomorrow, and do you want him to raise it with the Chinese Government?

The Dalai Lama: That, I think, is up to him.

Mr. Horam: Thank you very much.

Q118 Sandra Osborne: Your Holiness, do you have an estimate of the number of Tibetan people who were killed and the number who were detained during the recent protests?

The Dalai Lama: That is very difficult. You see, there are different versions, and also, because of the crisis in many places, we really do not know—it is very difficult.

Q119 Sandra Osborne: Some of the Tibetan rioters attacked members of the Han Chinese community. Do you accept that some innocent civilians were killed by the Tibetan protesters?

The Dalai Lama: Yes, the Chinese Government carried that kind of information. Actually, I think that overall, the Tibetans initially carried out the demonstration according to the non-violent principle. Then, in some individual cases, their emotion became serious and out of control. Of course, it is very possible that some unfortunate things happened. If anyone suffers, Tibetan or Chinese, it is the same—they are human beings. Our concern, our sympathy, and our condolences go to everybody.

Now, for example, this earthquake has taken place. The monks in one big monastery near Lhasa have suffered very much in recent months at the hands of the Chinese crackdown. However, monks in that monastery, after this earthquake happened, collected some money for help for the victims. Also, our organisation in India, in Dharamsala, actually made an appeal to all Tibetans outside Tibet, to stop demonstrations in front of Chinese embassies in different countries. Also, we held some prayer meetings for the thousands of victims of the earthquake. I personally feel very sad now because, as a result of the one child policy, many of these schoolchildren are the only child of their parents, so their life is so precious. You can imagine how much

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pain is in the minds of those parents. It is very sad. Because of that I think that Tibetans genuinely implement non-violence.

Q120 Sandra Osborne: I understand that you threatened to resign as the leader of the Tibetan Government in exile if the violence from the protesters did not stop. Why did you do that, and what would have been the result if you had resigned?

The Dalai Lama: I cannot stop individual views or individual action. I myself am totally committed to the promotion of democracy—freedom of expression. Some among the Tibetan community in India are very critical of our approach. Some are also quite critical of me for being too lenient or soft. Some Tibetans, mainly inside Tibet, also seem very critical of Buddhism. I do not want to do so, and I do not have the right to stop these expressions. I cannot say “Shut up!” I do not want to do that. Therefore, my best weapon is to warn that if violence becomes out of control my only choice is to resign.

Q121 Mr. Hamilton: Your Holiness, as China becomes more powerful as an economic force within the world, and therefore more politically powerful, do you think that it will become more difficult to reach a peaceful negotiated solution for genuine autonomy for Tibet and the Tibetan people?

The Dalai Lama: In a way, yes. Also, on top of that the Government are deliberately promoting nationalism and Han chauvinism, unlike in previous times. During the 1950s, Chairman Mao spoke against Han chauvinism and local nationalism—against both. It was quite well balanced. In recent decades, they are against only local nationalism; the word “Han chauvinism” is no longer there. So when there was some sort of crisis regarding China’s relationship with Japan or France recently there was too much emotion. It is difficult.

At the same time, the last 60 years’ history of the People’s Republic of China can be looked at from another angle. I usually describe Mao’s era, Deng Xiaoping’s era, Jiang Zemin’s era, and now today Hu Jintao’s era. There is change. In Mao’s era, the emphasis moved more to ideology. In Deng Xiaoping’s era, the emphasis was more on economy. In Jiang Zemin’s era, according to the new reality the Communist party is no longer a party for working-class people. Now a wealthy community is also there. They are also influential. Therefore, the party should represent all sections of the community under his idea of “Three Represents”. Then Hu Jintao emphasises harmony. This shows the leadership acting according to a new reality. So in some way it is quite realistic.

So, economically, China now has diplomacy and interaction with the outside world and that is very necessary and important. Chinese leaders really want to be good members of the whole world. The Chinese have an ambition to become a superpower. They already have a big population, a big army and military power. Now, economic power is also there. Fourth is moral authority in order to become a

respected superpower. Moral authority—respect from the rest of the world—is very important in order to have a more effective role.

Therefore, from that angle, there is always the opportunity or chance for the leadership to take a realistic approach. First of all, it is important, as was initially stated, to seek truth from fact—that is very important. Fact must be real fact. Sometimes I doubt whether the leadership really seeks truth from real fact. One example is that recently—a few months ago—in the autonomous region of Tibet, the party secretary expressed that the Tibetan people are so loyal to China’s Communist party that they consider it to be a Buddha. Suppose that is fact. Policy based on that kind of a fact is very difficult.

Q122 Mr. Eric Illsley: Your Holiness, on your website you mention the issue of cultural genocide, and you refer to the fact that two thirds of Tibetan people now speak Chinese, and that unintentionally—or perhaps intentionally—China is now taking over much of that Tibetan culture. That policy has gone on for many years. How long is it likely to be before that two thirds becomes a total encroachment on Tibetan culture?

The Dalai Lama: One example is that, at present, the population of the capital Lhasa is 300,000, according to recent information. Two thirds are Han Chinese. Therefore, in Lhasa, Tibetans have already become a minority. So, in their daily life, Chinese language is more important and useful than the Tibetan language. Because of the whole atmosphere, their way of thinking and way of life is changing—even the food style is changing. That is one example. On the overall population in the autonomous region of Tibet, I do not know—we need more research and investigation. It may be half a million, but I do not know how many Chinese there are. Last year, I heard some information, but I do not know whether it was reliable or not. That information was leaked from a military source in Lhasa. According to it, after the Olympics, 1 million Chinese are going to settle in the autonomous region of Tibet. So far, the Chinese population in the Tibetan community has been manageable—it is okay. Sometimes I jokingly say that our Chinese brothers and sisters can provide us with good food, and we Tibetans can provide them with spiritual food. That is good. There are many Buddhists among the Chinese. Those Chinese who respect the Tibetan culture and Buddhism are okay, and they are welcome if the number is okay, but it is better for those who really feel that Tibetans are dirty and smell bad to go.

All that will depend on the policy. The national trend is that if there is a good opportunity, more and more Chinese, voluntarily or not, will come to Tibet to work and make money. Such national trends are not that dangerous, but on top of that, officials deliberately, to control the Tibetan community, say that Tibetans in Tibet should be an insignificant minority. Inner Mongolia has the same autonomous region status as Tibet. The local population is around 4 million, but there are more than 20 million

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Chinese. Therefore, discounting whether it is intentional or unintentional, some kind of cultural genocide is taking place.

One method that is intentional is the restriction on study in Tibet, particularly of the religious word, and in monasteries and nunneries on political education. That is very serious. They intensified political study in the monasteries and nunneries. Those are intentional means. Unintentional means refers simply to the fact that the population is overwhelmed by Han Chinese. It must depend on the policy.

Q123 Sir John Stanley: Your Holiness, about 18 months ago, some members of the Committee were allowed by the Chinese authorities to do what they have always denied you—to visit Tibet. I should be grateful if you could tell us whether you think there is any possibility that the Chinese authorities will in future lift their ban on your going to Tibet?

The Dalai Lama: I think possibly, certainly. Since direct contact was renewed in 2002, there have been six round-table talks, but the Chinese Government never announced them. After a meeting, some foreign journalist asked about it and the Foreign Ministry spokesman spoke of some trusted or close friend of the Dalai Lama being in China casually, so a casual meeting was held—that kind of response. However, the Chinese Government officially announced the recent meeting, and in reality the initiative came from the Chinese side through private channels, so we responded immediately. Not only did the Government announce it publicly, but President Hu Jintao acknowledged it publicly. That acknowledgment was also in the Chinese Xinhua news for the Chinese domestic readership. Then the President also expressed his seriousness about the talks. The time and date of those seventh formal round-table talks is now fixed for the second week of next month. These are new developments, unlike previous events. Therefore, the ban may be lifted one day.

Q124 Sir John Stanley: Your Holiness, you just referred to the recent meeting between your representatives and officials of the Chinese Government, and you believe that there are some grounds for optimism that that might produce a change of policy towards the people of Tibet. However, there is also the possibility—I wonder whether you consider this to have any substance—that the current talks that have been initiated by the Chinese Government are simply a public relations exercise to try to quieten the issue on the world scene until the Olympic games are over. Do you believe that that is the case?

The Dalai Lama: Yes, it is possible. There are two possibilities. One is simply to show the outside world that there is a meeting, but then show no more serious interest after the Olympics. Hopefully, the large-scale crisis in all different sorts of areas, mainly outside the autonomous region of Tibet, will raise big questions.

Then there is the possibility of looking more carefully at the situation. I think I already mentioned the possibility of looking at a deeper level at what has caused this, while the Government are pouring in billions of Chinese dollars. There is certainly a lot of construction and development. In spite of that, much resentment comes from the Tibetan side. Why? This is a big question. It brings an entire review of the policy of the past 50 or 60 years regarding minorities. There is a real possibility that reality and a realistic approach will be accepted. Then I think the problem could be solved, particularly given President Hu Jintao's emphasis on building a harmonious society. We fully support and agree with that, but harmony must come from trust—trust very much based on equality and mutual respect. So, for various reasons, I think that there is a possibility to accept the reality, and accordingly, a more realistic approach may start.

Here I think that the international community also has an important role to play in reminding our Chinese brothers and sisters. After all, a solution must be found between the Chinese and the Tibetans—no one else. The support of the Chinese people is essential. Some writers and intellectuals have already written very objective assessments and articles. That is a really hopeful sign. Unfortunately, however, after this crisis, many ordinary Chinese people have got the impression that Tibetans are anti-Han Chinese. It is not the case.

We have always respected our Han brothers and sisters. I am Buddhist. Whenever I give Buddhist teachings to Chinese Buddhists, I always make a salutation to them, because Buddhism reached Tibet in about the seventh century, but it reached China about three centuries earlier. From that viewpoint, our Chinese Buddhist brothers are the senior students of Buddha, and we are the junior students. So we have a moral obligation to respect them. I always make salutations at the beginning of teaching. It is also a little joke or teasing for them, because as far as knowledge is concerned, the junior student may be a little better.

The urgent thing is to eliminate this baseless impression among our Chinese brothers and sisters. So I suggested when I was in America, and also just this morning when I met some Tibetans, and in Germany when I met some Chinese people, that the time had come to create Sino-Tibetan friendship groups. That is very important. The Government have denounced me. They consider me almost to be a demon or wolf. Okay, no problem! Still I am a human being. But if millions of Chinese really feel that the Dalai Lama is something like a demon, I feel a little sad.

Q125 Mr. Hamilton: My colleague, Sir John Stanley, mentioned our recent visit to Tibet, to Lhasa, during which we went to Tsedang and the Sera monastery. While we were there, it became evident that some of the guides showing us around were great admirers of yourself, but were too frightened to say anything, which was a source of great sadness. I am sure that you have reflected on that already. My question refers to your commitment to non-violence, which

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we all know about, and your middle way of autonomy, but not independence, for Tibet. Do you think that the violence that we saw in March in Lhasa shows that some Tibetans do not agree with your middle way and non-violent approach?

The Dalai Lama: Yes. Some Tibetans outside and inside Tibet really are critical of our approach. The longer it takes before we get any concrete results, the more frustration increases. So, there is now some direct criticism towards me. That is understandable. Initially, I had plenty of reasons to argue with them, but now they say that there is no improvement and no concrete response from the Chinese Government, so my reasons become weaker. So, I think the Dalai Lama's popularity among Tibetans may be now reduced. Okay, no problem. I am already in a position of semi-retirement. Since 2001, we have an elected political leadership. Now, if these complicated politics carry on by themselves, I can retire completely. My lifelong commitment is the promotion of human value, with no national boundary, and the promotion of religious harmony, also with no national boundary. I am fully committed to those two things until my death. So, when I completely retire from the political or national struggle, that will give me more time and energy to dedicate to these two fields.

Q126 Mr. Moss: Your Holiness, it would seem that, despite what I might call your new claims for autonomy for Tibet, the Chinese authorities still believe that your real agenda is independence. They cite in evidence the fact that you have said in the past that you want to expel the Han Chinese and the military from Tibet, and the fact that, at one time, your claims for territorial integrity embraced about a quarter of the land mass of China. Do you now believe that Tibet is an inalienable part of China?

The Dalai Lama: I think the world knows that we are not seeking independence. Sometimes, I jokingly tell people that both sides have some mantra or recitation. I say, "We are not seeking independence, we are not seeking independence." That is my recitation. I think I have said it a thousand times. The Chinese say, "Tibet is part of China, Tibet is part of China." That is their recitation. So, just mere recitations are not very effective. So, we have to work. I am a Buddhist monk. In all my contact, what I really feel, I express. I have no interest in, and do not practise, saying something and keeping in mind something different. Right from the beginning, when the middle way approach started, some of my own colleagues said, "Oh, this is too honest. Better to demand something higher and then, through talks, to come down." I opposed that. No, that is not good; that is hypocrisy. It is better to say what we really want; to tell them clearly what we want—no more, no less. Make that clear—that is my approach. However, if I am a type of demon, then maybe it is possible to say something and have two faces, or three or four faces. People should investigate. They should check, that is all.

So the Chinese accuse us of wanting a greater Tibet, but we on our side have never said that. All Tibetan ethnic groups in different areas have the same

culture, are the same Tibetans, have the same Buddhist faith, and speak basically the same language, although of course there are different dialects. So the threat to their culture, their religious faith faces all those areas. That is why there is now this crisis. Expressed clearly, Tibetans are concerned about their own culture and rights. The Chinese constitution also recognises those different Tibetan ethnic groups, in different areas. So the constitution arranges autonomous regions, autonomous prefectures, autonomous districts and autonomous counties. The constitution accepted the right of self-rule, recognising different ethnic groups with their own different cultures.

I always describe myself not as a ruler of Tibet, just as the free spokesman for 6 million Tibetan people. Since they trust me, and all are facing a similar problem, we have to speak on behalf of those people. The Chinese say that we have the idea of a greater Tibet and after serious discussion the detailed proposals will come. We are simply showing them our real concern for the preservation of Tibetan culture and Tibetan Buddhism.

Actually, as I mentioned earlier, among the Chinese there are many Buddhists. Therefore, the preservation of Tibetan Buddhism is important for the interest of the People's Republic of China as a whole. After all, we are not seeking separation. Tibetans' rich cultural heritage and Buddhist tradition enrich the culture and religious tradition of the People's Republic of China.

Recently I met a Chinese group in America. One Chinese reporter asked me this question about seeking independence and I asked her, "Where do we state that? When did we state it?" No answer. How can we expel all the Chinese? Even before 1950 there were a few Chinese in Tibet, and we always considered them good traders, and good brothers.

Q127 Mr. Moss: Can I follow up by asking what, in your model of autonomy, is the separation of responsibilities for governance? What responsibilities do you see the Chinese retaining within the autonomous region?

The Dalai Lama: Defence and foreign affairs should be handled by central Government. Culture, education, the environment and the economy, essentially, the Tibetans can handle better, because they have fuller knowledge. In those fields, Tibetans should have the authority.

Q128 Chairman: Can I take up something that you just said about preserving Tibetan culture? Tibet has changed a great deal in the past 50 years. There has been a lot of investment in roads and different kinds of buildings. There has also been the migration to which you referred. One of the Chinese Government's arguments is that the old Tibet was feudal, and that a return to the past would bring back the old social structures. What is your response?

The Dalai Lama: As early as 1952, soon after I took responsibility, I started a reform committee, which already carried a programme of reform. Then, of course, in 1954, I went to mainland China. It was a

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very happy moment. Then, in 1956, I went to India. Soon after, the crisis started, in early 1956. After 1959—after our Administration went into political asylum in India—we started at once to work for democratisation. Since 2001, as I mentioned earlier, we already have elected political leadership.

Also, in 1963, we made a draft constitution for the future of Tibet. One clause mentioned that the Dalai Lama's power could be abolished by a two-thirds majority of the people's deputies. As far as the future is concerned, in 1992 I made a clear official public statement that when the day came to return to Tibet with a certain degree of freedom, I would hand over all my legitimate authority. The Tibetan establishment outside Tibet, including the elected political leadership, has no right to ask for certain privileges. All functions should be carried by Tibetans who are already working there. Not a single Tibetan dreams of the restoration of the old system.

Q129 Chairman: Thank you. We are very short of time. Can I ask you quickly about the Olympics? You have said that you are against a boycott of the Olympics. You have also said that you did not call for the British Prime Minister not to attend the Olympic games. Are there any circumstances in which your attitude to the Olympic games and to attendance would change?

The Dalai Lama: No change. Tibetan issues and the Olympics are two separate things. I fully supported the Olympics from the beginning, because they provide a connection with 1.3 billion of humanity, particularly our Han Chinese brothers and sisters, who are proud of the Olympics. We must respect their wishes and their feelings. The Chinese people still got the impression that the Dalai Lama and the Tibetans were against the Olympics, so there was much irritation and emotion, but there has been no change.

Q130 Mr. Horam: May I return to your meeting tomorrow with our Prime Minister, Gordon Brown—

The Dalai Lama: Okay. Another opportunity to seek your advice.

Mr. Horam: Exactly, and we would be very glad to give it. You must conduct the meeting exactly as you wish, but we would be happy to give you advice.

When you came here and Tony Blair was Prime Minister, he received you at No. 10 Downing Street, and when you went to America last year, President Bush received you in the White House. Do you think that Gordon Brown should receive you at No. 10 Downing Street in your political capacity?

The Dalai Lama: For me there is no difference. As long as there is a meeting and we can talk, that is important. The venue does not matter. My first meeting with President Clinton, and perhaps also the second, was a drop-in. While I met Vice-President Al Gore, the President dropped in. That does not matter. I do not care. When I meet a person, I do not care about their status or background. It does not matter whether they are a President, Prime Minister or beggar. There is no difference. I always meet people on the level of human beings. You are parliamentarians and politicians—

Mr. Horam: We are human beings too.

The Dalai Lama: My firm belief is that whatever the issue, it is of first importance to think and talk on the level of human beings. We must understand other people's interests, rights and points of view.

Q131 Mr. Horam: None the less, the fact is that such things matter in the international political context, as we all know. Small things matter. They may not matter to you, but they matter to the Chinese and the British. May I ask you, your Holiness, whether you think that the British Government is doing enough to help you in your human rights struggle?

The Dalai Lama: Not enough. Even the Indian Government is not doing enough. But how much can they do? That is another big question. There are limits, even for the European Union and the United States. In every field there is a Buddhist concept of interdependency. There is no absolute identity. Everything is interdependent, so there is support, but in spite of genuine concern there is a limit on action, and it depends on many other factors. That is a fact.

Q132 Mr. Horam: You made an important point in your previous remarks when you said that a country's moral authority was important, and that as China grew in economic and political power, it should remember that moral authority is a very important part of international power. Do you think that the Chinese authorities understand that point?

The Dalai Lama: Not now. Perhaps after five or 10 years, the new generation will be more educated.

Q133 Mr. Horam: But not now. You do not think that they understand it now?

The Dalai Lama: That is difficult to say. The best thing is to wait and see.

Chairman: Thank you, your Holiness. We have found this a very valuable session. We are very grateful to you and your colleagues for coming before us today.

May I ask the members of the public to remain in their seats so that his Holiness can leave with his colleagues and then we will clear the room afterwards. May I thank you all for your interest and for coming today.

The Dalai Lama: Thank you very much.

Written evidence

**Letter to the Head, Parliamentary Relations and Devolution Team,
Foreign and Commonwealth Office from the Clerk of the Committee**

At its meeting yesterday, the Committee considered the Government's response to its Report on the Human Rights Annual Report 2006. The Committee welcomes the positive and helpful overall tone of the response. It has asked me to write seeking further information on a number of points arising from the responses to some of the conclusions and recommendations.

First, the response refers to the proposal to produce "a more tightly focused Report" for 2007. The Committee notes that the FCO will be consulting with "key stakeholders", including the Committee, and seeks assurances that the tighter focus will lead neither to a loss of detail nor to a reduction in the breadth of coverage of the Report.

The Committee wishes to receive an update on the latest position with respect to the proposed international treaty on trade in conventional arms.

The Committee asked the Government to confirm whether US aircraft used in rendition operations had called at airfields in the UK or its Overseas Territories en route to or from a rendition and that it make a clear policy statement on this issue. The response does not comment on the point raised by the Committee and instead restates known policy on the use of airfields by aircraft involved in a rendition. Yesterday's report by the Intelligence and Security Committee notes that "on up to four occasions since 9/11, aircraft that had previously conducted a rendition operation overseas transited UK airspace during their return journeys (without detainees on board)." This is very similar to the issue raised by the FAC.

The Government's published response to the ISC is again silent on the issue. The Committee wishes to know whether the Government was informed by the US authorities that on up to four occasions since 11 September 2001, aircraft that had previously conducted a rendition operation overseas transited UK airspace during their return journeys, and if so, what response it gave.

The Committee welcomes the statement in the response that it will be invited to a discussion on the UK-China Human Rights Dialogue, and looks forward to receiving the invitation.

The Committee wishes to receive an update on the Government's assessment of the human rights situation in Saudi Arabia.

The Committee wishes to receive an update on the Government's assessment of the human rights situation in Zimbabwe.

I hope you will be able to reply to this letter not later than 3 October.

26 July 2007

**Letter to the Clerk of the Committee from the Head, Parliamentary Relations and Devolution Team,
Foreign and Commonwealth Office**

Thank you for your letter of 26 July about the Government's response to its Report on the Human Rights Annual Report 2006, where you sought further information on a number of points arising from the responses to some of the conclusions and recommendations.

ANNUAL HUMAN RIGHTS REPORT, 2007

The FCO's 2007 Annual Report on Human Rights will be launched in March 2008. In response to the Committee's first recommendation on our 2006 report, the new structure will emphasise our work on human rights in the context of each of the Government's international strategic priorities, human rights in the international system and countries of key concern. It will focus on our policy and activities in these areas. We have taken the Committee's views into account when planning for the next edition.

PROPOSED INTERNATIONAL TREATY ON TRADE IN CONVENTIONAL ARMS

In December 2006, working with Argentina, Australia, Costa Rica, Finland, Japan and Kenya, the UK secured agreement to a UN Resolution to take forward work on an Arms Trade Treaty. 153 States supported this proposal, 24 States abstained, with only the US voting against.

The UN process has two stages:

- i. The UN Secretary General has called for views on the initiative during 2007.
- ii. In early 2008 a Group of Governmental Experts (GGE) will be established by the UN to examine the "feasibility, scope and draft parameters" of a treaty, before reporting back to the UN in October 2008.

The UK continues to lobby other countries to participate in this process. A large number of countries have already submitted their views to the United Nations (more than 90 by July 2007). The UN is making this consultation process transparent by publishing as many of these comments as possible on their website.

The UK government is also working with industry and with NGOs to raise awareness of the benefits of an Arms Trade Treaty and will participate fully with the UN process through the GGE and in international fora as appropriate.

US AIRCRAFT USED IN RENDITION OPERATIONS

Your letter asks whether US aircraft used in rendition operations have called at airfields in the UK or its Overseas Territories en route to or from a rendition operation. You further refer to the Intelligence and Security Committee (ISC) Report on Rendition and its reference to the allegations made by Stephen Grey in his book "Ghost Flights", including that "on up to four occasions since 9/11, aircraft that had previously conducted a rendition operation overseas transited UK airspace during their return journeys (without detainees on board)". The ISC concluded that "The Committee has not seen any evidence that might contradict the police assessment that there is no evidential basis on which a criminal inquiry into these flights could be launched". (Conclusion GG p.62)

You ask whether the Government was informed by the US authorities of the four flights referred to. The answer is no. There are more than two million flights through UK airspace annually. The ISC report concluded that "We consider that it would be impractical to check whether every aircraft transiting UK airspace might have been, at some point in the past, and without UK knowledge, involved in a possibly unlawful operation. . . ." (Conclusion HH p.62). The Government agrees that it would not be possible to check every flight—instead an intelligence-led approach is employed. If individuals on board are reasonably suspected of committing criminal offences, or if there are reasonable grounds to suspect that an aircraft is being used for unlawful purposes, then action can be taken.

As has previously been explained, our policy on rendition is clear. We have not approved and will not approve a policy of facilitating the transfer of individuals through the UK to places where there are substantial grounds to believe they would face a real risk of torture. If we were requested to assist another State in a rendition operation, and our assistance would be lawful, we would decide whether or not to assist taking into account all the circumstances. We would not assist in any case if to do so would put us in breach of UK law or our international obligations.

SAUDI ARABIA

The Human Rights situation in Saudi Arabia remains poor. We continue to express concern about reports of torture and ill treatment of prisoners; corporal and capital punishment; restrictions on freedom of religion, expression and assembly, and discrimination against women and non-Muslims.

However the situation overall is improving. In May 2007 the National Society for Human Rights (NSHR) published its first annual report since its conception in 2004. This comprehensive report was a significant step forward.

The Government has confirmed that it continues to review educational materials to remove/revise disparaging references to other religious traditions. Furthermore, the Government allowed for unprecedented media coverage and criticism of the mutawwas'een (Religious Police), after growing concerns from the public. The Majlis Al-Shura (Consultative Council) voted against expanding the jurisdiction of the Religious Police calling for them to receive additional training.

As we have stated before, reform is a long-term process in Saudi Arabia. The annual UK/Saudi Arabia "Two Kingdoms" conference provides a bilateral framework for frank and honest dialogue on issues such as economic reform, education, youth issues, culture and media dialogue. The next Two Kingdoms dialogue will be held on 29 October 2007 at Lancaster House.

We are committed to encouraging Saudi Arabia to improve its human rights record and to adhere to international human rights standards, bilaterally and through EU and UN fora.

ZIMBABWE

The Government remains deeply concerned over the deterioration of human right in Zimbabwe. The Government of Zimbabwe has continued the campaign of violence and intimidation against opposition figures, human rights activists, and ordinary citizens. In response to the use of violence and arbitrary detention against peaceful demonstrators on the 25 July, the Secretary of State for Foreign Affairs issued a public statement of condemnation.

We continue to stress the importance of respect for the rule of law and for the human rights and fundamental freedoms for all Zimbabweans with both our EU and African partners. The Committee will be aware of efforts made by the Government to raise Zimbabwe with the wider international community. Much effort was directed toward engaging with leaders of Southern African Community (SADC) countries prior to the SADC Summit held in Lusaka during August.

The UK, with support from other EU and international partners, has ensured that Zimbabwe's misgovernance has been raised again during the UN Human Rights Council 6th Session. The UN High Commissioner for Human Rights, Louise Arbour raised Zimbabwe during her opening address on the 13 September. The UK contributed strong language to the Presidency statement on behalf of the EU making clear our continued concern regarding the situation in Zimbabwe.

The Prime Minister made a statement regarding Zimbabwe on 19 September detailing the Government's intention to press for the UN Security Council to more regularly review the situation and to dispatch a humanitarian mission to Zimbabwe. These points were raised during our intervention at the UN Security Council Summit in New York on the 25 September.

4 October 2007

**Letter to the Chairman of the Committee from the Head, Parliamentary Relations Team,
Foreign and Commonwealth Office**

The Foreign Affairs Committee has long taken a keen and detailed interest in the appalling situation in Burma. I know that members of the Committee will, therefore, have been closely following the events there over the past fortnight. It is, of course, a rapidly changing situation both in terms of events on the ground and the international response to those events. The Foreign Secretary intends to submit a written statement to the House on Monday 8 October. In the meantime I wanted to write to you setting out what the UK has been doing since the crisis began and the action we are now taking.

In the middle of August reports came through of popular protests against a dramatic rise in fuel prices—a measure that had severe implications for the already impoverished Burmese people. The protests were swiftly followed by arrests of pro-democracy activists, in response to which I issued an immediate statement calling for their release (FLAG A¹). During his visit to China at the end of the month, my colleague Lord Malloch-Brown raised Burma with his opposite number, Zhang Yesui. On 2 September the Prime Minister made a comprehensive statement in which he made clear that the UK would push for urgent and co-ordinated international action on Burma (FLAG B²); a commitment followed through by the Foreign Secretary when he raised this issue at the Gymnich six days later.

As the extraordinary images of tens of thousands of monks and ordinary citizens marching through the streets of Rangoon began to filter out of Burma, the Foreign Secretary appeared on television expressing our solidarity with the protesters and warning the regime that it would be judged by how it responded to this peaceful movement.

Sadly the response of the regime—which it tried, unsuccessfully, to hide from the outside world—was one of violence and brutality. The security forces turned their guns on unarmed demonstrators. We cannot be sure how many have been killed, but as the Prime Minister has said, we believe that it is likely to be far more than the regime has admitted so far. Monks and opposition leaders have been beaten and arrested. Many remain in detention and in appalling conditions. Our Ambassador in Rangoon and his team, working under difficult conditions, continue to monitor and report on the situation. A dedicated crisis team has been established in the Foreign and Commonwealth Office's emergency response centre.

Our strategy has been to build and strengthen the international condemnation of the regime and its actions, particularly among Burma's closest neighbours. In the past few days, the Prime Minister has discussed Burma with President Bush, Premier Wen Jiabao, Secretary General Ban Ki Moon and other world leaders. The Foreign Secretary took the opportunity presented by the gathering of foreign ministers at the UN in New York to press both European and Association of South East Asian (ASEAN) colleagues. That personal engagement helped lay the foundations for a strongly worded statement by ASEAN nations (FLAG C³) in which they expressed their revulsion for the actions of the regime, as well as for an equally strong letter from the Chair of ASEAN, the Singaporean Prime Minister to the head of the Burmese junta. I have been in contact with a number of ASEAN colleagues to explain our position and to urge them to remain firm in their support for regional and international action.

¹ Ev 80

² Ev 81

³ Ev 81

At the same time we have mobilised the full resources of our diplomatic network in order to help galvanise that regional and international response. On Thursday 27 September, we instructed all of our overseas posts to explain our position to their host governments and to lobby for effective action. We have also been pushing hard in multilateral forums. We call for a Special Session of the UN Human Rights Council on Burma. It was held yesterday, with both the EU and the UK FLAG D⁴) condemning the regime's actions in the strongest possible terms. The resulting resolution was forceful and unequivocal (FLAG E⁵): and was adopted unanimously by all 47 members including near neighbours of Burma such as China, India, the Philippines and Indonesia. The Council decided to send the Special Rapporteur on Human Rights in Burma, Professor Sergio Pinheiro, on an urgent mission to the country to report on the human rights situation; and it made clear that the international community strongly deplored the continuing violent repression of peaceful demonstrations in Burma—including beatings, killings, and arbitrary detentions—and called on the regime to release all political detainees and to lift all restraints on peaceful political activity.

Within the EU we have been working with our partners to strengthen sanctions against the regime. Earlier today the Committee of Permanent Representatives (COREPER) met to discuss this issue. There was widespread support not only to strengthen existing measures but also to look for new measures that will add to the pressure on the regime. The GAERC on 15 October should announce a package of tougher sanctions. These will aim to have an impact on the regime itself and those that benefit from its policies, not the ordinary people of Burma.

There has, understandably, been a lot of focus on the role that China can play in resolving the current crisis. China is not the only country that needs to play a significant part in the global response—India, Russia and the ASEAN nations are all important. But there is no doubt that China has a unique ability to bring about positive political change in Burma. We have focused on engaging with them to urge restraint and dialogue with political opposition. In addition to the Prime Minister's conversation with Premier Wen, the Foreign Secretary has spoken to Foreign Minister Yang Jiechi. Our Ambassador in Beijing, with his French counterpart, has also lobbied the Chinese government. The Chinese do recognise that they are one of the few countries who have meaningful influence over the leaders of the military regime: and that a year before they host the Olympic Games, the world will be watching to see how they use that influence. They have already facilitated the visit of the UN Secretary General's Special Envoy to Burma, Professor Ibrahim Gambari. We hope they will continue to support the wider efforts to promote peace and stability in Burma.

The Government has set out what should happen next. Firstly, an end to the violence and the release of all political detainees with the regime giving its full co-operation to Professor Gambari to put a process of genuine reconciliation in place. That process must have Daw Aung San Suu Kyi playing a central role. It will need to include the leaders from opposition and minority groups, and it will need to have international legitimacy. That would give a chance to address the concerns of the monks and other demonstrators without further violence or bloodshed. We are glad that Professor Gambari was able to meet Aung San Suu Kyi as well as members of the Military junta. Aung San Suu Kyi alone holds the moral and political authority to bring together all Burmese including the ethnic groups and all elements of the democratic opposition.

The focus of our efforts in the next few days will be to build support for this process in the international community and to increase the pressure on the Burmese regime to recognise it as the only course of action they can take. At the same time we will continue to look at what further action we can take within the European Union to exert influence on the regime: and we will do everything we can to ensure that the ongoing tragedy in Burma remains at the top of the international agenda.

Finally, in the commentary surrounding events in Burma there has been some discussion, and some inaccurate comment, about levels of UK trade and investment. I draw colleagues' attention to the statement by the Secretary of State for Business, Enterprise and Regulatory Reform, John Hutton MP which said that:

“The Government discourages trade and investment with Burma.

The Government wants UK businesses to source goods from markets other than Burma, especially in sectors which the ruling elite are involved. Timber, gems and precious metals in particular are businesses that have links to the regime.

Every business that has dealings with Burma should consider very carefully the harmful consequences of directly or indirectly enriching a government in Burma that has a brutal human rights record.

UK businesses have negligible investments in Burma and imports from the country are falling away rapidly.”

3 October 2007

⁴ Ev 81

⁵ Ev 82

FLAG A

BURMA: ARRESTS OF DEMOCRACY ACTIVISTS (22/08/07)

Commenting on the arrests of a number of Burmese democracy activists last night, FCO Minister, Meg Munn said:

“The British Government condemns the detention of a number of Burma’s ‘1988 Generation’ student leaders on the evening of 21/22 August. Those detained, and their colleagues, have exercised their right to peaceful protest at the harsh economic burdens being heaped on the long-suffering Burmese people. We support their call for the restoration of democracy and genuine political dialogue. We urge the Burmese government to free them immediately”.

FLAG B

BURMA: CRACKDOWN ON PEACEFUL DEMONSTRATIONS (02/09/07)

Statement by the Prime Minister, Gordon Brown:

“I deeply deplore the Burmese government’s violent suppression of peaceful demonstrations. I call upon the Burmese authorities to release immediately all those detained merely for protesting at the hardship imposed on them by the government’s economic mismanagement and failure to uphold fundamental human rights. I also reiterate the British Government’s call for the release of all political prisoners, including Nobel Prize winner, Aung San Suu Kyi who has now spent almost 12 years of her life under house arrest.

As the lives of ordinary Burmese people continue to deteriorate, it is all the more important that all countries and organisations with an influence over the regime impress upon the generals the need for an early transition to democratic rule, full respect for human rights and genuine national reconciliation.

I support calls for the grave situation in Burma to be considered by the UN Security Council at the earliest opportunity. I also call for the UN General Assembly to address this issue.

We give our full support to the efforts of the UN Secretary-General’s good offices mission. It is time for the UN human rights bodies to give this alarming situation the attention it so patently deserves.

I am asking the Foreign Secretary to discuss this issue with our European partners next week.

I will seek an early opportunity to raise the situation in Burma with my counterparts in the key regional countries and with our partners in the EU and the US.”

FLAG C

BURMA: STATEMENT BY ASEAN CHAIR

Singapore’s Minister for Foreign Affairs, George Yeo, New York (27/09/07)

The ASEAN Foreign Ministers had a full and frank discussion on the situation in Myanmar at their Informal Meeting this morning in the UN and agreed for the Chair to issue this Statement. They were appalled to receive reports of automatic weapons being used and demanded that the Myanmar government immediately desist from the use of violence against demonstrators.

They expressed their revulsion to Myanmar Foreign Minister Nyan Win over reports that the demonstrations in Myanmar are being suppressed by violent force and that there has been a number of fatalities. They strongly urged Myanmar to exercise utmost restraint and seek a political solution. They called upon Myanmar to resume its efforts at national reconciliation with all parties concerned, and work towards a peaceful transition to democracy. The Ministers called for the release of all political detainees including Daw Aung San Suu Kyi.

The ASEAN Foreign Ministers expressed their concern to Minister Nyan Win that the developments in Myanmar had a serious impact on the reputation and credibility of ASEAN. They noted that Singapore’s Prime Minister Lee Hsien Loong has spoken to his ASEAN counterparts over the past day, and will be writing to Senior General Than Shwe.

The ASEAN Foreign Ministers gave their full support to the decision of UN Secretary-General Ban Ki-moon to send Special Envoy Ibrahim Gambari to Myanmar. They welcomed FM Nyan Win’s assurance that a visa would be issued to Mr Gambari in Singapore. They asked the Myanmar government to cooperate fully and work with him. Mr Gambari’s role as a neutral interlocutor among all the parties can help defuse the dangerous situation. The Ministers urged the Myanmar government to grant him full access to all parties in Myanmar, as they had done in the past.

FLAG D

HUMAN RIGHTS COUNCIL: UK INTERVENTION

Statement by Nick Thorne, Ambassador and Permanent Representative of the United Kingdom (02/09/07)

Thank you Mr President. I fully support the statement made by the Permanent Representative of Portugal on behalf of the European Union. And we welcome this Special Session of the Council.

The UK—like so many in this room—has been appalled by the recent events in Burma. The Burmese regime has tried to hide its violent suppression of its own people from the outside world. But it has failed. We have seen all too vividly the depths of its brutality: monks and opposition leaders beaten and arrested; guns turned on peaceful demonstrators; civilians killed on the streets. We cannot know how many have died already but we fear, as others do, that the loss of life is far greater than the regime has admitted. As we meet today, there are continuing reports of further large-scale arrests and of beatings, killings and disappearances in Rangoon and other cities.

The sense of revulsion is strong throughout the world: condemnation of the regime has been clear and forceful both here in Geneva and in the UN Nations Security Council and General Assembly in New York. We urge the Burmese regime to heed the voice of the international community, to end the violence and to engage in a process of national reconciliation.

Those of us who have followed the human rights situation in Burma, recognise this most recent and terrible crisis as a product of a deeper tragedy in that country: the state has been responsible for systematically abusing its citizens' fundamental human rights over four decades. Forced labour, arbitrary killings, the use of child soldiers and rape as a weapon of war, unlawful detention and displacement—from all of which minority communities suffer disproportionately—are commonplace. There are severe restrictions of freedom of assembly, freedom of speech and freedom of religion. The reports of the UN Special Rapporteur, Professor Pinheiro have documented these manifold abuses in great detail.

The government of Burma has not only deprived its people of their basic human rights, but driven them deeper into poverty as they enrich themselves on their country's natural resources. We are therefore concerned by the pleas from the World Food Programme and other humanitarian actors about their ability to gain access to all parts of Burma. Humanitarian assistance must not be made hostage to politics.

We call again on the regime to end these widespread abuses of human rights, to lift all restraints on peaceful political activity and to respect fundamental freedoms and an independent media.

There are two immediate steps that the regime must take. First to end the violence. But, just as importantly, the regime must now give its full co-operation to UN Special Envoy Ibrahim Gambari to put a process of genuine reconciliation in place. That process must have Daw Aung San Suu Kyi playing a central role, and include leaders from opposition and minority groups. And it will need to have international legitimacy and support. All with influence on the regime must press them now to agree to this.

I welcome and support ASEAN's latest statement expressing revulsion to the Burmese regime over reports that the demonstrations are being suppressed by violent force and calling upon them to resume efforts directed at national reconciliation. Burma's neighbours have a unique ability to influence the future of that country. It is right that they should be so actively involved.

I thank the High Commissioner for her statement this morning and welcome the focus and attention that she and her office are rightly placing on Burma. I also thank Professor Pinheiro for his comments and assessment of the situation. We encourage him to visit Burma immediately to further assess the situation and to meet with the regime and opposition groups to help facilitate a reconciliation process. We strongly urge the Burmese regime to grant immediate access to him and to all other special procedures of this Council who have requested visits. I look forward to Professor Pinheiro's interim report to the 3rd Committee on 24 October, and his further update to this Council in December.

It has become commonplace in recent days to say that the world is watching Burma. It is. But let us not forget that Burma is watching us too. The Burmese regime is looking to see whether we have the courage of our convictions. The Burmese people are looking to us for hope and support at a time of dark desperation. We must respond. And we must succeed. We will only do so through united action from across the UN membership.

FLAG E

BURMA: RESOLUTION OF THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

Passed by consensus (02/09/07)

Situation of Human Rights in Myanmar

The Human Rights Council,

Recalling GA res. 61/232 and CHR res. 2005/10,

Deeply concerned at the situation of human rights in Myanmar,

Recalling that everyone has the right to take part in the government of their country, directly or through freely chosen representatives, the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association, (based on UDHR art. 21, 19 and 20)

Strongly deplores the continued violent repression of peaceful demonstrations in Myanmar, including through beatings, killings, arbitrary detentions and enforced disappearances, expresses condolences to the victims and their families, and urges the Government of Myanmar to exercise utmost restraint and desist from further violence against peaceful protesters;

Urges the Government of Myanmar to ensure full respect for human rights and fundamental freedoms, to end impunity and to investigate and bring to justice perpetrators of human rights violations, including for the recent violations of the rights of peaceful protesters; (based on OP4a CHR2005/10 and on OP3e GA61/232)

Urges the Government of Myanmar to release without delay those arrested and detained as a result of the recent repression of peaceful protests, as well as to release all political detainees in Myanmar, including Aung San Suu Kyi, and to ensure that conditions of detention meet international standards and include the possibility of visiting any detainee; (based on OP4c and OP4f CHR2005/10 and on 3f GA61/232)

Urges the Government of Myanmar to lift all restraints on peaceful political activity of all persons by, inter alia, guaranteeing freedom of peaceful assembly and association and freedom of opinion and expression, including for free and independent media, and to ensure unhindered access to information for the people of Myanmar; (based on OP3 g) GA61/232 and on OP4b CHR2005/10)

OP4bis Welcomes the decision of the Government of Myanmar to receive a visit by the Special Advisor of the United Nations Secretary General Ibrahim Gambari, and calls upon the Government of Myanmar to cooperate fully with him.

Urges the Government of Myanmar to engage urgently in a national dialogue with all parties with a view to achieving genuine national reconciliation, democratisation and the establishment of the rule of law; (based on OP4h CHR2005/10 and on OP4a GA61/232)

OP5bis Encourages the Government of Myanmar and the Office of the High Commissioner for Human Rights to engage in a dialogue with a view to ensuring full respect for all human rights and fundamental freedoms;

OP5ter Urges the Government of Myanmar to cooperate fully with humanitarian organizations, including by ensuring full, safe and unhindered access of humanitarian assistance to all persons in need throughout the country;

Requests the Special Rapporteur on the Situation of Human Rights in Myanmar to monitor the implementation of this resolution, including by seeking an urgent visit to Myanmar, and to report to the resumed sixth session of the Human Rights Council, and in this respect urges the Government of Myanmar to co-operate with the Special Rapporteur;

Requests also the Special Rapporteur on the Situation of Human Rights in Myanmar to inform the General Assembly at its 62nd session on progress in this regard;

Decides to remain seized of this matter.

Submission from Amnesty International UK

**WESTMINSTER HALL DEBATE ON THE REPORT OF THE FOREIGN AFFAIRS
COMMITTEE ON HUMAN RIGHTS, 11 OCTOBER 2007**

THE SITUATION IN MYANMAR

OVERVIEW

The current situation

Over a week after the launch of the violent crackdown mass arrests were continuing, including after the visit of UN Special Envoy Ibrahim Gambari, and many of those recently arrested are unaccounted for. It remains extremely difficult for anyone to confirm details about who has been arrested, where they are held, why and under what circumstances. This uncertainty is partly as a consequence of restrictions on Internet and phone connectivity. Random searches for cameras and mobile phones are reportedly taking place in Yangon, with occasional arrests of people who carry such equipment. The authorities have acknowledged 10 deaths, including a Japanese video journalist. However, it is feared that the actual number of fatalities is far higher.

Amnesty International believes that at least 1000 people have been arrested in Yangon alone, the majority of them monks. Mass arrests are also reported from other towns and cities across the country. This is in addition to at least 150 other persons arrested in August at the onset of the protests. Numerous key figures in the National League for Democracy, the main opposition party, and other activists are among those arrested. On 4 October Myanmar state television (MRTV) reported that a total of 2,093 people had been arrested in connection with the protests, 692 of whom were said to have been released.

The demonstrations

During the crack down on demonstrations, Myanmar security forces raided monasteries and attacked peaceful demonstrators, firing live bullets as well as tear gas and beating protesters with batons. At the onset of the protests, in August, over 150 protestors were arrested by police and members of the state-sponsored Union Solidarity Development Association (USDA). Beatings and intimidation by members of the USDA and other paramilitary forces were then reported and Amnesty International believes the and other detainees are at risk of torture or other ill-treatment.

Myanmars appalling human rights record must be seen as a backdrop to the recent demonstrations, although the protests were initially sparked by a sharp increase in fuel prices, which led to an increase in commodity and transport prices. Access by independent observers and international human rights organizations to many parts of the country continues to be denied.

AMNESTY INTERNATIONAL RECOMMENDATIONS TO THE UK GOVERNMENT

The UK government should:

Urge the Myanmar authorities to immediately and unconditionally release the thousands of people recently detained for participating in peaceful assemblies as well as all long-standing prisoners of conscience.

The Myanmar government has a duty to account for the whereabouts of those detained who must not be held in secret locations. The government must guarantee their safety from torture or other ill-treatment, particularly as abuse of detainees, especially during interrogation and pre-trial detention has long been widespread in Myanmar, entrenched by a culture of total impunity.

Urge the international community, including all relevant bodies of the United Nations, led by the UN Security Council to take resolute action to address ongoing grave human rights violations in Myanmar and hold the perpetrators to account.

The UN Security Council must sharpen its focus on the situation in Myanmar and the threat it poses to peace and security by expressing its deep concern about the grave human rights situation. The Council should visit the country itself to engage in dialogue to improve peace, justice and human rights, and should keep the situation regularly under close review.

As suggested by the resolution unanimously adopted at a special session of the UN Human Rights Council, the Special Rapporteur on the Situation of Human Rights in Myanmar must continue his important task by documenting the human rights situation including seeking to visit the country as soon as possible and must report to the Human Rights Council (UNHRC), the General Assembly and the Security Council.

Countries that have particular influence over Myanmar, such as China, India, Japan and ASEAN countries—need to increase the pressure on the Myanmar authorities to release immediately those detained for participation in peaceful protests.

Press for a UN arms embargo on Myanmar.

The UK government already supports an EU embargo on Myanmar. However it is imperative that the principle suppliers of arms to Myanmar—China, India, Russia, Serbia, Ukraine and ASEAN nations—prohibit supply of military and security equipment to Myanmar. Amnesty International has urged the United Nations Security Council to immediately impose a comprehensive and mandatory arms embargo on Myanmar.

Urge the international community must work to address the long-standing human rights crisis in Myanmar.

11 October 2007

**Submission by Amnesty International UK to the Foreign and Commonwealth Office Consultation:
New Diplomacy-Challenges for Foreign Policy**

AMNESTY INTERNATIONAL

Amnesty International is a worldwide membership movement. Amnesty International's vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. In pursuit of this vision, Amnesty International's mission is to undertake research and action focused on preventing and ending grave abuses of these rights.

Amnesty International welcomes the opportunity to comment on the thinking on a new diplomacy within the Foreign Office and the foreign policy challenges facing the UK today. The global challenges facing the UK are both many and disparate. We would identify three broad interlocking challenges: insecurity, inequality and interdependence. Most obviously, insecurity stems from the threat of terrorism and armed groups, but it also derives from the dangers of poor governance, availability of weapons and poverty. Poverty also lies at the heart of inequality, as do resource disparities, gender imbalances and conflicts between individuals and minorities on the one hand and states and powerful multinationals on the other. Finally, interdependence now means that what the UK does affects the rest of the world, and what happens many miles away can have serious and far-reaching consequences for British interests. One theme common to all these challenges is human rights abuse.

FCO PRIORITIES

Our primary concern is that promoting human rights should once again be made a core strategic priority at the FCO. The government urgently needs to reassert the UK's standing in the world and this will require principled leadership and vision. What the UK is seen to do around the world is important. With many countries looking to the UK, it really matters if the UK compromises its position on human rights.

Human rights should be asserted as a core part of the foreign policy framework. Instead of allowing human rights to be the scapegoat of populist appeals, the enduring worth and importance of human rights should be reasserted. This would include recognition that promoting human rights both domestically and internationally is in the UK's best interest; there is no just or durable alternative framework. This approach would work to undermine the disingenuous logic behind arguments that human rights are somehow superfluous in this time of heightened security threat and are a luxury that can be disposed of as soon as people feel threatened.

The issues identified by the Foreign Secretary (tackling the causes and consequences of extremism, radicalisation and conflict; shaping a sustainable global response to the challenge of climate change and the need for low carbon economic development; and building a more effective EU to help build prosperity and security) all have a human rights dimension. To take just the first, human rights have an important role to play in resolving some of the conflicts around the world and in the approach adopted by the UK government. Setting clear human rights benchmarks will be essential if there is to be any end to the bloodshed in Iraq. The Iraqi government, and those who support it, must work to disarm the militias, reform the police, review the justice system, stop sectarian discrimination and ensure the equal rights of women. To date, the Iraqi government has shown little commitment to protect the human rights of all Iraqis. The Iraqi police force is feeding violations rather than restraining them, while the justice system is woefully inadequate. Similarly, human rights will be key to any lasting resolution of the conflict between Israel and the Palestinians. No truce will survive and no political process will succeed in the Middle East if impunity is not addressed, and human rights and security of people are not prioritised. As the most influential EU member on Middle East policy, the UK must demand concrete and measurable action from Israel and the Palestinian Authority.

Human rights should always be a priority in the UK's relationship with key strategic partners and international players. This should hold true whether this entails telling difficult truths to close allies or pushing unpopular agendas with obstinate international states. Taking the example of China, in the run up to the Olympics, it is critical that the UK government press China to uphold commitments made when it won the bid to host the games. There is a time and place for quiet private diplomacy. However, at times what is required is robust and forthright public criticism of human rights abuses. In its relations with states that abuse human rights, the government should develop a dialogue with specific benchmarks against which to measure progress on abuses with an agreed timeframe.

COOPERATION ACROSS UK GOVERNMENT

It is critical that foreign policy work on human rights is not restricted to the FCO. As well as being prioritised at the FCO, human rights should be incorporated into the strategic plans of the Home Office, Cabinet Office, DFID and the Department of Business and Enterprise. There is a clear need for more joined up government in this area. Thought should also be given to how to bring together work on equalities and human rights and make it more cohesive across government. Human rights training across government (not just the FCO) should be widened and deepened and extended to advisers. A joint FCO/DFID working group could be set up to increase the impact of human rights in development work and take forward work on legally enforcing Economic Social and Cultural rights. Human rights should be a part of the whole of foreign policy and not delegated to junior ministers. The personal commitment of individual ministers to human rights is welcome, but is not an adequate foundation for the UK's human rights policy. The government's commitment to human rights should be more explicit and fully integrated.

BETTER ENGAGEMENT BEYOND WHITEHALL

It is important that the government continues to work to strengthen its engagement with NGOs, faith groups, business, academics, think tanks, trade unions and others. As the biggest human rights membership organisation in the world, Amnesty International represents a large, energetic and engaged constituency. Amnesty also has a wealth of experience and expertise on the global state of human rights, including the impact of governments' foreign policies around the world. At the same time, we are not a lone voice; we are part of a broader community of NGOs which all bring to the table knowledge of what works on human rights and ideas for how to make policy more effective.

One way to improve engagement "beyond Whitehall" would be to regularise the existing dialogue between NGOs and government, which can at times be ad hoc and varies greatly in depth and usefulness. This could include regular high-level exchanges between NGOs and the FCO to ensure that human rights remain part of its strategic thinking; regularised meetings and briefings with staff going out to foreign postings to consider how best UK posts can promote human rights (for example by upholding the EU Guidelines on Human Rights); briefings with lead civil servants ahead of key ministerial visits; and the reinvigoration of advisory panels.

The advisory panels could be a critical element of engagement, but at present their performance is patchy. The Freedom of Expression Panel has done good work, for example on human rights defenders during the UK's EU presidency. However, other panels (for example on Children and the Rule of Law) meet infrequently and have little continuity. Neither the subject areas covered by panels, nor their membership, appear as well thought out as they should be.

AREAS TO CONCENTRATE THE UK'S GLOBAL EFFORT

In addition to putting human rights at the heart of foreign policy, the UK government should concentrate its global effort on reinvigorating multilateralism and promoting the rule of law.

Multilateralism. It is critical that the government work with the international community wherever possible. To encourage other states to do the same, the government must lead reform efforts to ensure that the multilateral infrastructure is fit for purpose:

- There is a clear need for continuing reform of the UN system in order to make it more effective in addressing human rights concerns. One crucial step that could make a real difference to the way the international community tackles human rights abuses would be the development of a strong and effective Human Rights Council. The Council's success will depend on the political will of its members and its ability to establish effective mechanisms for addressing human rights. The UK government has made a positive contribution to the Council, working to ensure that it is an effective body. This is welcome but the government must continue to use its influence to build on the foundations that have been laid in its first year, ensuring that its mechanisms and procedures continue to be strengthened.

- In September 2005, the UN World Summit agreed the concept of the “responsibility to protect” and in April 2006 the UNSC adopted Resolution 1674 on the Protection of Civilians in Armed Conflict. However, the international community continues to fail to meet this responsibility; this much is clear from the situation in Darfur, where over 200,000 have died as a result of the conflict, tens of thousands of people have been killed raped and assaulted, and almost two million people forced from their homes. Darfur is the litmus test for the international community to show its resolve in addressing egregious human rights violations and to date it has failed to meet this test. The UK government must show commitment to translating the responsibility to protect into a willingness to act in all instances where states fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. It must use its influence, in particular as a permanent member of the Security Council, to ensure that prompt and decisive actions are taken to protect civilian populations in all instances.
- There is a need to develop progressive UN agreements on arms, such as the ATT, and ensure that they become strong and robust agreements based on international law.
- Women can and should play a far greater role in promoting global security. Too often they are absent from peace negotiations or multilateral fora. While women consistently suffer disproportionately from conflict and violence, they are forgotten in solutions. The government should prioritise mobilising political will to implement UN Security Council Resolution 1325 to enhance women’s role in peace and security. Working through multilateral frameworks, the government should also work to address violence against women internationally by ratifying the Council of Europe Convention Against Trafficking.

Rule of law. It is critical that the government ensure that its foreign policy is firmly anchored in respect for the rule of law:

- In its counter-terrorism strategies, the UK should reject the security approach based on fear and distrust and anchor its policies firmly in the rule of law based on justice and due process, with all this entails in terms of evidence and proof. The government should stop seeking to deport people to countries that have a known record of torture; instead it should focus on international ratification and respect for the Convention against Torture. (Similarly, the government should concentrate on developing an effective asylum policy that does not forcibly remove asylum seekers to countries that are unsafe.) The government should also investigate fully all allegations of “extraordinary rendition”, and work hard for the closure of Guantanamo Bay; it should immediately take up the cases of the UK residents still held there.
- The UN General Assembly adopted the International Convention for the Protection of All Persons from Enforced Disappearance in December 2006. This was an important step in tackling impunity and protecting human rights. Under the Convention, the widespread or systematic practice of enforced disappearance is qualified as a crime against humanity. State parties to the Convention undertake to prohibit secret detention and unofficial places of detention. Secret detention and enforced disappearance are clearly crimes under international law. The UK government has spoken in favour of this Convention, but has not yet signed it. The government should sign this Convention immediately. The UK government has also failed to make clear its position on the legality of secret detention as practiced by the US, despite President Bush’s admission that the US has a network of secret prisons which have been used by the CIA to administer an “alternative set of interrogation techniques”.
- Similarly, the government should continue to support the ICC and efforts to achieve justice and full reparations for victims under international law. Under no circumstances should the government give in to pressure for the UN Security Council to defer prosecutions and investigations, invoking Article 16 of the Rome Statute of the ICC. Invoking this article would constitute an act of political interference with the independence of the ICC prosecutor. It would have lasting, negative, effects for peace and justice anywhere where crimes under international law are committed. It would also provide those responsible for such crimes an easy means to avoid individual criminal responsibility by the simple threat to continue or to resume hostilities. The government should also continue to lobby for the ratification of the ICC Statute.
- The government should work to ensure that economic, social and cultural rights, not just civil and policy rights, are taken into account when developing policy. This means ensuring that they respect, protect and fulfil human rights in carrying out their international development and investment programmes and taking effective steps to monitor the human rights impact of their development and investment work (including their relationships with EU and UN bodies); supporting efforts taking place at the UN Human Rights Council to develop an effective complaints mechanism to provide an international remedy for victims of violations of economic, social and cultural rights who are denied a remedy in their own country and ensuring that economic, social and cultural rights are enforceable in national justice systems and regional human rights courts and commissions; and establishing strong legal frameworks to hold companies, particularly extractive and pharmaceutical companies, to account for any human rights abuses they may carry out in the course of their work.

- Multi-national corporations, which in many cases are more powerful than governments, have long resisted binding international standards. Multi-nationals will continue to have a huge impact on human rights. There is an urgent need for global standards and effective accountability. There needs to be a recognition across government of the need for greater regulation. One case in point is the proliferation of private military companies; there is a pressing need for regulation of this sector. There is also a strong case for active engagement in internet governance initiatives. Government engagement is required to support the development of a vibrant global civil society by ensuring that the internet remains a tool of expression not repression.

September 2007

**Letter to the Chairman of the Committee from the Minister of Trade, Portfolio on Africa,
Department of Trade and Industry**

During the Westminster Hall debate on 15 June on the Annual Human Rights Report I undertook to give the Foreign Affairs Committee a general update of the work in and around my portfolio on Africa.

There remain many human rights problems in Africa. Some of these relate to conflict (eg arbitrary arrest; detention without trial; use of child soldiers) and we are working hard with partners in both the EU and the UN to help resolve conflicts and deal with the consequences. Other human rights problems in Africa are more indicative of an abuse of power—clampdowns on democratic institutions (including civil society) and freedom of expression, excessive use of force, lack of respect for rule of law and independence of the judiciary.

Our membership of both the UN Security Council and the new UN Human Rights Council gives us an opportunity to ensure that serious human rights issues are addressed and acted upon. We have been active in the Security Council on problems such as Sudan, where the UK co-sponsored Security Council Resolution 1672 (2006), which imposed targeted sanctions on four individuals from all sides to the conflict. With the Security Council we have continued work to bolster the fragile security situation in the Democratic Republic of Congo (DRC).

The mandate of the UN peacekeeping force there (MONUC) was strengthened; we reaffirmed the need for all parties to support the transition process, working towards free and fair elections; we committed the UN to continue its monitoring of the human rights situation on the ground; and adopted UNSCR 1653 which condemned the activities of the armed groups, including the Lord's Resistance Army, who continue to commit human rights abuses. The international Criminal Court (ICC) also began investigating crimes against humanity committed in the DRC. The transfer of Congolese Thomas Lubanga, the first ICC war crimes indictee, to the Hague in March 2006, sent a strong signal that grave human rights abuses will not be tolerated.

These are just some examples of our activity in the Security Council. The new UN Human Rights Council offers a further means to tackle human rights issues in Africa in a multilateral forum and I hope that the UK and other members of the Council can work together on this. As I said in my remarks to the Council in Geneva on 20 June, we should no longer assume that one region's concern must be another's taboo. We need to recognise that it is legitimate to discuss challenges and concerns in a particular state. This need not be something to resist at all costs; rather, an opportunity to address those concerns together.

The situation in Somalia was mentioned in a few interventions, so I would like to offer a few specific comments about the situation there. I share the concerns expressed by honourable Members. The rapid advance of the militias fighting for the Islamic Courts Union against the warlords has brought about a fundamental change in the Somali equation. We are alert to the risks of this conflict becoming international as regional powers feel compelled to intervene. We therefore welcomed the initiative by the League of Arab States to invite the Transitional Federal Government and Islamic Courts representatives to meet in Khartoum, and the agreement that was concluded there. We do not believe that Somalia's problems can be resolved by military means and have urged all sides to pursue dialogue and Somalia's neighbours to respect the UN arms embargo.

More generally, impunity for human rights abuses is a problem in many African states, raising questions about Africa's willingness to tackle examples of poor governance and abuse of human rights. A public message that this situation will not be tolerated needs to come from Africa Union states both collectively and individually. We were encouraged that at their Summit in Banjul on 1–2 July the AU passed resolutions on reports of the African Commission of Human and People's Rights (ACHPR) on the human rights situation in Ethiopia, Eritrea and Uganda.

Zimbabwe was given a further two months to comment on the ACHPR's report and we look forward to the AU considering Zimbabwe's response in the near future.

Our action in support of the Special Court for Sierra Leone over Charles Taylor is an example of our commitment to ensuring that human rights abusers face justice. The historical significance of Taylor's capture and trial—the first of its kind involving a former African leader—cannot be underestimated. Against the odds, the combined efforts of the international community delivered a major advance in combating impunity against those accused of war crimes, crimes against humanity and genocide.

The African Court on Human and Peoples' Rights is now set to become a reality. The protocol establishing the Court was opened for ratification in 1998 but did not receive the requisite number of ratifications until 2004. While preparations were underway to make the Court operational, the AU decided to merge the Court with the AU Court of Justice, and suspend the process until the modalities of the merger had been considered. There are several legal and practical implications of such a merger, which will take some time to regularise. It is commendable that the AU has decided to continue attempting to make the Human Rights Court functional, despite the fact that the complexities of the merger are still being considered (including the statute to combine the Human Rights Court with the Court of Justice, which has yet to be approved).

The International Criminal Court was mentioned in a few interventions during the debate. You asked me specifically how many countries have now ratified the treaty establishing the court. There are currently 100 States Parties to the Rome Statute of the International Criminal Court. The ICC Prosecutor is currently conducting three investigations into the situations in Northern Uganda (with the Lords Resistance Army), the Democratic Republic of the Congo and Darfur (following referral by the UN Security Council). He is also considering a further referral received from the Central African Republic (CAR) but has not yet announced his intention to launch a formal investigation. The Prosecutor has made clear his intention to publish periodic updates on his determinations whether or not to initiate investigations into other situations brought to his attention.

I would like finally to mention the EU Strategy for Africa, adopted at the end of our EU Presidency. As a political document, it commits all EU partners to promote human rights on the continent, to enhance African efforts to improve governance, to support the fight against human trafficking and organised crime.

Given the size of Africa and the complexity and range of the human rights problems it faces I have limited this note to comments on general human rights issues. Should you have any questions on specific countries I'm sure that you will address these to the relevant Minister, Lord Triesman, in the usual way. I am of course happy to assist the Committee and yourself in any way I can.

10 July 2006

**Letter to the Chairman of the Committee from the Chinese Ambassador to the Court of St James,
Embassy of the People's Republic of China**

I am writing to inform you that in the past two weeks, the Chinese Embassy was twice under attempted attacks by the protesters who showed tendency of violence. I have lived in the office for three days out of concern of the safety of my staff and the Embassy. Thanks to the efficient London police, the Embassy is safe. There is good understanding on the part of the Foreign Office. We also appreciate the assurance made by Foreign Secretary David Miliband during his telephone conversation with Chinese Foreign Minister Yang Tiechi I am sure things will get better.

The Olympic torch was lit in Greece on 24 March. Although the media here elaborated on the few seconds of the disturbance, the ceremony was solemn and moving. The response of the Chinese people has been very positive. The torch is arriving in London on 6 April. The route was set according to the request of the hosting country which would be responsible for the security. Though disturbance is unavoidable, the Olympic spirit will carry on.

I understand you may be concerned with the situation in Lhasa. I am especially disappointed with the series of misleading and misrepresentative coverage of the event by the media here. I have attached some examples.⁶

Representations were made in Beijing to the media agencies concerned, including Times Beijing Bureau. So far Germany's RTL has openly apologized for its misrepresentation in its website. N-TV is investigating on its own misreporting. BBC has corrected its caption which referred to an ambulance as "heavy military presence".

But they are not enough to change the biased attitude of the media which is affecting the public views. I am deeply concerned about the negative effect which will hurt the feelings of people of both countries and affect the cooperation.

⁶ See Timesonline 17.3.08; The Times, 18.3.08; Sky News, 22.3.08; BBC News 17.3.08

The challenge and difficulty make me more determined to work for promoting understanding by people, not only those who know China, but also those who do not know China well. I hope I can count on your support.

In the meantime, I wish you would make your judgment and take your political decision on balanced and complete information.

Fu Ying
Chinese Ambassador to the Court of St James
24 March 2008

Memorandum submitted by Christian Solidarity Worldwide UK

EXECUTIVE SUMMARY

This submission relates exclusively to the policies of Her Majesty's Government in relation to Burma;

Christian Solidarity Worldwide (CSW) welcomes the initiatives taken by Her Majesty's Government in response to the situation in Burma over the past year, and in particular the personal engagement of the Prime Minister and the Foreign Secretary;

CSW welcomes the commitment by the Government to support a universal arms embargo against the regime in Burma;

CSW urges the Government to explain what actions it intends to take to work to secure a universal arms embargo through the United Nations;

CSW calls on the Government to impose targeted banking and financial sanctions against members of the Burmese regime, and to work for similar targeted banking sanctions to be introduced throughout the European Union;

CSW urges the Government to work for the introduction of further measures as part of the European Union Common Position, on a rolling basis proportionate to developments within Burma, and to include a ban on new investment and a ban on investment in the oil and gas sectors;

CSW urges the Government to call on the UN Secretary-General to take charge of the UN's Burma initiative personally, to increase his personal level of engagement, and to visit Burma at the earliest opportunity to attempt to facilitate dialogue between the regime, the National League for Democracy and the ethnic nationalities;

CSW calls on the Government to provide funding and expertise to democracy and human rights projects working along Burma's borders;

CSW believes that while the Government's level of engagement with the crisis in Burma has increased significantly since September 2007, and the Government has pursued a number of welcome initiatives, the initial response to the demonstrations and crackdown in Burma when they began in August 2007 was surprisingly slow. The Government's subsequent initiatives, and the personal engagement of the Prime Minister, while very welcome, appeared to have been in reaction to growing public and Parliamentary pressure. CSW would like to see the Government adopt a much more proactive approach in the future, and remain consistently engaged with the situation in Burma at senior levels.

BACKGROUND TO CSW

CSW is an international human rights organisation specialising in religious freedom.

CSW has worked on Burma for approximately two decades, and has made numerous fact-finding visits to Burma and its borderlands.

CSW's Advocacy Officer Benedict Rogers has made over 20 fact-finding visits since 2000, including to the Karen, Karenni, Shan and Mon ethnic groups on the Thailand-Burma border, the Chin on the India-Burma border, the Kachin on the China-Burma border, and inside Burma, both to internally displaced peoples in the jungles of eastern Burma, and to Burma's major cities.

CSW has also interviewed Buddhist monks and Burmese civilians who participated in the protests in 2007 and are now in exile in Thailand.

CSW regularly briefs Members of Parliament, the Foreign and Commonwealth Office, the European Parliament, the European Commission, the US Congress and the US State Department, and has testified at hearings in the House of Commons, the European Parliament and the US Congress.

BACKGROUND TO BURMA

Burma is ruled by one of the world's most brutal and most illegitimate regimes. The military regime, known as the State Peace and Development Council (SPDC), is guilty of almost every possible violation of human rights, including:

- the imprisonment of over 1,800 prisoners of conscience;
- the continued detention of Nobel Laureate Daw Aung San Suu Kyi;
- extra-judicial killings;
- the widespread and systematic use of torture;
- the widespread and systematic use of rape as a weapon of war;
- the widespread and systematic use of forced labour;
- land confiscation;
- forced relocation;
- religious persecution, particularly against Christian and Muslim minorities;
- the use of human minesweepers;
- the forcible conscription of over 70,000 child soldiers, proportionately the highest in the world;
- the destruction of over 3,200 villages in eastern Burma;
- the internal displacement of over 500,000 civilians in eastern Burma and perhaps as many as one million in total; and
- the displacement of several million civilians who have fled to Thailand, India, Bangladesh and Malaysia, and to countries in Europe as well as the United States, Canada, Australia, New Zealand and elsewhere.

Elections held in 1990 were overwhelmingly won by the National League for Democracy (NLD), led by Daw Aung San Suu Kyi. The NLD won 82% of the Parliamentary seats. The regime, however, has ignored the results, imprisoned the victors and intensified its grip on power. Most Members of Parliament elected in 1990 were imprisoned or exiled.

In September 2007, hundreds of thousands of Buddhist monks and Burmese civilians took to the streets in protests which became known as “the Saffron Revolution”. The SPDC responded with typical brutality, and shot, beat, arrested, imprisoned and tortured hundreds of people. Many were killed, and while an exact number is unknown, it is believed to have been in the hundreds. Many bodies disappeared, and it is believed that some were cremated secretly.

THE REFERENDUM

In May 2008, the regime intends to hold a referendum on a draft constitution. The entire process is a blatant attempt to enshrine military rule and rubber-stamp the regime's authority. Neither the constitution nor the referendum contain any element of democracy or respect for human rights, and as such should not be accorded any legitimacy by the international community. The essential points concerning the process are as follows:

The National Convention, which drafted the guidelines for the constitution, involved no debate among the handpicked delegates, and none of the proposals made by the few ethnic representatives who did participate were adopted. Aung San Suu Kyi, the NLD and the major ethnic groups were excluded;

Law 5/96 imposed prison terms of up to 20 years for discussing the constitution process;

In the referendum, millions of Burmese are disenfranchised. Buddhist monks and nuns, who number 500,000, are denied the vote. Religious leaders from other faiths are also excluded. Over 500,000 internally displaced people on the run in the jungles of eastern Burma, as well as the 700,000 Muslim Rohingyas, treated as non-citizens and therefore stateless, are banned from participating. Millions living in conflict zones in the ethnic states, as well as refugees who have fled to neighbouring countries and exiles further afield, will also be excluded;

The regime refused the UN's request to allow international monitors. Anyone campaigning against the process faces a jail sentence of at least three years;

Few have seen the full constitution, which was only published very recently. It is only available in Burmese, making it difficult for those ethnic nationalities who can vote to understand what they are voting on;

Under the terms of the proposed constitution, the Commander-in-Chief of the Burma Army will appoint 25% of the national legislators. He will also appoint the Minister of Defence, who will report to him. The army chief can seize power at any point, if he happens to believe that national security is threatened. There will be no independent judiciary, and the constitution cannot be amended for 10 years;

Under the terms of the proposed constitution, political prisoners will be barred from contesting elections, and the President must be a person with military experience who has not married a foreigner. Aung San Suu Kyi, therefore, is by definition excluded from contesting future elections.

RECOMMENDATIONS

CSW believes that the efforts of UN Special Envoy Ibrahim Gambari have clearly failed to achieve any progress whatsoever towards meaningful tripartite dialogue between the regime, the NLD and the ethnic nationalities. CSW therefore urges Her Majesty's Government to take a leading role within the UN and the EU in calling for new measures to increase pressure on the regime and to support the democracy movement in Burma, including the following steps:

To call on the UN Secretary-General to take charge of the UN's Burma initiative personally, to increase his personal level of engagement, and to visit Burma at the earliest opportunity to attempt to facilitate dialogue between the regime, the National League for Democracy and the ethnic nationalities;

To propose a UN Security Council resolution, or a Presidential Statement, rejecting the regime's referendum process and mandating the Secretary-General to increase his personal engagement, including to visit Burma as a matter of urgency;

To work to secure a universal arms embargo against the regime through the UN Security Council;

To continue to urge the Governments of China, India, Russia, Japan and the Association of South-East Asian Nations (ASEAN)—in particular the Government of Singapore and the Royal Thai Government—to use their influence with the regime to move towards tripartite dialogue, and to cease providing the regime with arms and economic and political assistance;

To impose targeted banking and financial sanctions against members of the Burmese regime, and to work for similar targeted banking sanctions to be introduced throughout the European Union;

To work for the introduction of further measures as part of the European Union Common Position, on a rolling basis proportionate to developments within Burma, and to include a ban on new investment and a ban on investment in the oil and gas sectors;

To provide funding and expertise to democracy and human rights projects working along Burma's borders;

To adopt a much more proactive approach in the future, and remain consistently engaged with the situation in Burma at senior levels.

CONCLUSIONS

CSW believes that Her Majesty's Government's level of engagement with the crisis in Burma has increased significantly since September 2007, and the Government has pursued a number of welcome initiatives. CSW particularly welcomes the personal involvement of the Prime Minister and the Foreign Secretary. Prior to September 2007 Burma rarely featured in statements by the Prime Minister or the Foreign Secretary, and there are few if any known examples of personal action taken at Cabinet-level to address the crisis in Burma. Burma was always previously handled at the level of Minister of State and Parliamentary Under-Secretary of State. CSW warmly welcomes the change.

CSW notes, however, that the initial response to the demonstrations and crackdown in Burma when they began in August 2007 was surprisingly slow. The Government's subsequent initiatives, and the personal engagement of the Prime Minister, while very welcome, appeared to have been in reaction to growing public and Parliamentary pressure. CSW would like to see the Government adopt a much more proactive approach in the future, and remain consistently engaged with the situation in Burma at senior levels.

Letter to the Chairman of the Committee from Professor Li Shao

I am writing to submit evidence to the FAC in response to the Committee's call as part of its inquiry into the FCO Human Rights Annual Report 2007. I am a Falun Gong practitioner and a university professor in the UK.

OLYMPIC PRISONERS

It is a stark fact that the Olympics have been used as the biggest excuse for human rights abuses in China in the past year. Long before the opening of the Games, the Communist regime in China has created a large victim group of Olympic Prisoners.

While the atrocities in Tibet and the imprisonment of human rights defenders have featured in the headlines, there has also been a sharp intensification of persecution of Falun Gong practitioners in China in the run up to the Olympic Games in Beijing.

Between 1 January and 12 March 2008, the Falun Dafa Information Centre received reports of 1,878 specific arrests of Falun Gong adherents across most of the provinces in China. Because of the secretive nature of the arrests and the Communist regime's tight control of information, the number of reported cases reaching the outside world could be the tip of the iceberg. Furthermore, the scale of the persecution suffered by the Falun Gong adherents is probably larger than that of any other victim group.

While previously the regime would target Falun Gong adherents who distribute literature exposing its human rights abuses, the current pattern is that the security agents and the police carry out door to door arrests. The case of my wife's sister is a typical example.

MS LIANG WENJIAN—A TYPICAL OLYMPIC PRISONER

Liang Wenjian is my wife's younger sister, and a Falun Gong practitioner. She was taken away from her home in Guangzhou, China on Saturday 10 February 2007 by over ten policemen in plain clothes while her family were spending time together with two other families, who were also Falun Gong adherents, ahead of the Chinese New Year. The authority said that the gathering was illegal.

We learned two months later that Liang Wenjian and her husband Lin Zhiyong were sentenced to two years in a re-education-through-labour (RTL) camp. All others taken away from her home have received the same sentence, except an elderly lady who was given 18 months. There had been no trials and family members were not informed.

This arrest resembles numerous incidents where the regime targets Falun Gong adherents as part of its preparation for the Beijing Olympics. The RTL sentences effectively put them away till after the Games are over.

ESCALATION OF PERSECUTION BEFORE THE OLYMPICS

Within the first three months of 2008, the Falun Dafa Information Center has documented six cases of practitioner deaths occurring within days, and in some cases hours, of arrest. Among the deaths reported in 2008 was that of Mr Yu Zhou, 42, a musician who was arrested with his wife Ms Xu Na at the end of January on their way home from a performance by his band. Eleven days after their arrest, the authorities notified their family members to come to Qinghe Emergency Centre, where they found Yu already dead. The family's request for an autopsy was rejected and Ms Xu remains in custody.

There have been anecdotal but widespread evidence that authorities ordered intensification of the crackdown on the Falun Gong ahead of the Olympic Games, issuing arrest quotas and offering financial awards for information leading to arrests. Since January 2007, the Falun Dafa Information Center has documented the cases of 129 Falun Gong practitioners who died of abuse, passing away either in police custody or upon release as a result of injuries incurred while in detention.

OTHER CATEGORIES OF OLYMPIC PRISONERS

On 24 March 2008, the day when the Olympic torch was lit in Greece at an official ceremony, the regime in China sentenced human rights campaigner Mr Yang Chunlin to five years in prison for gathering 10,000 signatures to a petition "We want human rights not Olympics". The regime found Yang guilty of "inciting subversion".

Yang's fellow campaigners have also been incarcerated, as have others critical of the regime's abuses before the Games. An example is democracy activist Zhang Wen from Tianjin who has been held in a psychiatric hospital since last October.

Many more have been targeted in pre-emptive arrests and imprisonments. These include the human rights activist Hu Jia who was sentenced to three and half years on 3 April although he has not expressed opposition to holding the Olympic Games in Beijing.

CONCLUSION

The long list of Olympic Prisoners is a glaring feature of the Beijing Olympic Game, and the length of the list is increasing daily. I hope that the HMG will continue to work for the release of Hu Jia, Yang Chunlin, Liang Wenjian and thousands of others who are incarcerated as part of the communist regime's preparation for the Olympics.

20 April 2008

Further Memorandum submitted by Christian Solidarity Worldwide

INDIA

Summary:

- The abuses faced by Dalits in India could be considered not only under the theme of minorities (as in the report), but also under those of racism and contemporary forms of slavery.
- The observance of the caste system is not illegal, though laws exist to address specific abuses associated with the caste system.
- The implementation of these laws is very weak, and Dalits continue to suffer caste-based violence and labour exploitation. Such abuses are commonly perpetrated with impunity.
- Religious intolerance is widespread in India, including religiously-motivated violence against Christians, usually committed with impunity. The communal violence (principally against Christians) in the Kandhamal district of Orissa in December 2007 was particularly concerning.
- Legislative restrictions on religious freedom include state-level "anti-conversion laws" in seven states, and the religious conditionality attached to Scheduled Caste status.
- The current framework for discussing human rights abuses with the Indian government is ad hoc, and CSW recommends that the UK government makes representations to the Indian government on several specific issues.

India is not listed as one of the FCO's major countries of concern, although specific reference is made of the Dalit community on pp. 94–95 of the report, which outlines DFID- and UNICEF-led initiatives to tackle social exclusion experienced by Dalits in India. The report closely links human rights with democracy, but widespread human rights abuses continue to occur in India, as the world's most populous democracy, which CSW wishes to draw to the attention of the Committee.

CSW welcomes the reference to the social exclusion of Dalits in the report. Dalits are typically the worst victims of almost all human rights abuses in India. The abuses faced by Dalits are relevant not only to the theme of minorities, where it appears in the FCO report, but also to those of contemporary forms of slavery and racism. The relationship between Dalits and contemporary forms of slavery was recognised by FCO Minister Ian McCartney, who said on 30 March 2007, "Caste discrimination condemns millions world-wide to a life of servitude. Despite legislative advances rendering the practice illegal, caste discrimination remains a tragic day to day reality, particularly in South Asia. Individuals and communities are segregated from society, a situation all too often enforced by violence. Those of low caste are frequently restricted to employment considered demeaning or polluting, typically in sanitation, and receive very low remuneration. Impoverished, exploited, denied access to education and healthcare, politically and socially disenfranchised, victims of caste discrimination are often also victims of other forms of slavery such as bonded labour". The UN Committee for the Elimination of Racial Discrimination (CERD) has reaffirmed that "discrimination based on the ground of caste is fully covered by article 1 of the Convention" (CERD/C/IND/CO/19, paragraph 8) and issued a detailed set of recommendations to India on the issue of caste-based discrimination.

Contrary to popular misunderstanding, the caste system and the observance thereof are not unconstitutional or illegal in India. However, Indian law contains detailed provisions to prohibit or abolish numerous manifestations of the caste system, including discrimination, exploitation and associated degrading forms of labour. Article 15 of the Indian constitution prohibits discrimination on the basis of caste. Article 17 of the constitution abolishes "untouchability", a specific symptom of the caste system. The Protection of Civil Rights Act, 1955, prescribes detailed punitive provisions for the practice of untouchability. In addition, numerous laws exist to abolish various additional symptoms of the caste system, including the most degrading forms of labour associated with Dalits, as the lowest group in the caste hierarchy. The issue of caste-based violence against Dalits is addressed in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which prescribes measures for dealing with the particular forms of violence, humiliation and discrimination faced by Dalits and tribals.

However, the implementation of existing laws continues to be extremely weak, and Dalits continue to face widespread abuses. Demands by Dalits to exercise their legally-protected rights are commonly met with violence: the most recently-published government statistics showed that over 27,000 crimes against Dalits were registered in 2006, including 1,217 rapes and 673 murders. 8,581 cases against Dalits were registered

under the Prevention of Atrocities Act. However, these statistics are unlikely to represent the true extent of caste-related violence against Dalits: they commonly face discrimination in police stations, and pressure from more powerful members of “higher” castes not to attempt to seek justice. Whereas the report asserts that “criminal justice is an essential mechanism for regulating society” (p. 89), impunity is a consistent problem for Dalit victims of violence in India.

Labour exploitation is widespread in India, and a caste-based analysis reveals that it disproportionately affects Dalits and members of “low” castes. Dalits are the worst victims of bonded labour; despite being banned under the Bonded Labour System (Abolition) Act, 1976, conviction rates have been low and rehabilitation programmes only partially successful, and it is widely estimated that millions of Dalits continue to be engaged in bonded labour. The “devadasi” system provides a vehicle for institutionalised prostitution within temples, with Dalit women and minors dedicated to the temple god and subsequently serving as concubines to the priests and prostitutes for temple users. Occupations based on descent are still common in many areas, including at their worst the dehumanising practice of manual scavenging, a euphemism for cleaning human excrement with the hands. This is a task performed only by certain sub-castes of the Dalits, and attracts ostracism and humiliation. Although banned under “The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993”, it is thought at least 700,000 people are engaged in this occupation, often while employed as government sanitation workers.

Restrictions on freedom of religion, including religiously-motivated violence, which is usually committed with impunity, is a consistent problem in India. CSW documented a large number of violent reprisals against Christians in 2007, often accompanied by unsubstantiated accusations against the victims of “forcibly converting” others. The highest number of individual attacks took place in Karnataka state. However, the most concerning event as regard religious intolerance took place during the last week of 2007, when widespread communal violence broke out in the Kandhamal district of Orissa, resulting in the destruction of approximately 730 houses and 95 churches and Christian institutions, and a small number of deaths. Although some Hindu properties were among those destroyed in the violence, the government’s National Commission for Minorities reported that “there is no doubt that the Christian community and its places of worship were the principal target of attack”.

Legislation imposing restrictive regulations on religious conversions, known dysphemistically as “anti-conversion laws” are in force in Orissa, Madhya Pradesh, Chhattisgarh and Himachal Pradesh, and have been passed but not implemented in Arunachal Pradesh, Gujarat and Rajasthan. These laws, whose necessity is highly questionable, reflect and contribute towards social antagonism towards religious conversions. CSW heard testimony from Christians in Himachal Pradesh state in October 2007, including several claims that the passage of the “anti-conversion” law in the state emboldened extremist Hindu nationalist groups to target Christian activities through threats and physical violence. The incidence of violence against Christians has begun to rise significantly in Himachal Pradesh following the introduction of an anti-conversion law. CSW also heard testimony from Christians in Gujarat in October 2007, to the effect that although the law has not been implemented, its existence on the statute books is a source of intimidation for Christians and would-be converts unaware of the nuances of the procedure by which the legislation is introduced. There is little public awareness that the law is not enforceable.

Under current legislation, Dalit converts to Christianity and Islam lose their status as Scheduled Castes, and with it their eligibility for the government’s reservation system, despite recommendations made by several commissions that the religious conditionality attached to the designation of Scheduled Castes should be removed. In many Dalit communities and slum areas, Dalit converts to Christianity live in conditions virtually indistinguishable from Dalits within the Hindu and Buddhist religions, yet they are ineligible for reservations. The current configuration generates socio-economic penalties for Dalits embracing Christianity and Islam.

CSW considers that compelling reasons exist for substantive engagement with the Indian government about human rights issues. At present, a central mechanism for this is the ad hoc EU-India human rights dialogue, led by the EU Presidency, and other ad hoc exercises, such as the EU-India Experts’ Seminar on Minorities, highlighted on p. 94 of the report. However, this engagement is informal and does not necessarily provide a sufficient framework for regularly raising human rights concerns.

CSW recommends that the UK government should urge the Indian government to fully engage with the recommendations given by the UN Committee for the Elimination of Racial Discrimination in CERD/C/IND/CO/19. CSW further requests that the UK government make representations to the Indian government as follows: to take measures to address impunity, with particular reference to violence or exploitation perpetrated against the Dalit community or religious minorities; to implement measures to guarantee the independence of the police force and judiciary; to ensure that transparent and accountable commissions mandated to protect the rights of Dalits (Scheduled Castes), tribals (Scheduled Tribes) and religious minorities are operational in every state; to enforce laws prohibiting bonded labour and exploitative forms of labour such as manual scavenging; to condemn and take steps towards the repeal of “anti-conversion laws” in Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Orissa and

Rajasthan; and to adopt and implement the recommendations of the Justice Ranganath Mishra Commission for Religious and Linguistic Minorities, specifically that eligibility for membership of the Scheduled Castes should not be linked to religious status.

LAOS

Laos is not listed as one of the FCO's major countries of concern, and the report involves only discussion of Laos, in connection with Hmong refugees fleeing to Thailand, on p. 115. Although the UK does not have an embassy in Laos, it is nevertheless concerning that no specific mention is given of consistent human rights violations and the major weaknesses in the rule of law in Laos.

Serious infringements of religious freedom persist in Laos, to some extent facilitated by a poorly-developed legislative framework. There has been evidence of increased awareness in Laos of the need for progress in the area of religious freedom, particularly since hosting the Association of South East Asian Nations (ASEAN) summit in 2004. However, there also remains among some Party officials a deeply-ingrained antagonism to religious affiliation, and the persecution and harassment of Christians continues to be reported. The only legitimate framework for Protestant Christianity is the Lao Evangelical Church, and unregistered churches are particularly susceptible to harassment and arbitrary mistreatment.

In several provinces, attacks on Christian property and the forcible relocation of Christian communities by Party officials has been reported. Forcible renunciations of faith also continue to be reported.

CSW recommends that the UK government should monitor infringements of religious freedom in Laos, and make representations to the government of Laos as follows: to clearly articulate that members of any religious group are free to practise their faith according to their conscience, without the constraint of belonging to a specified religious group; to establish means for the enforcement of provisions for religious freedom at the level of local authorities; to continue to train local authorities with respect to the provisions for religious freedom, in order to ensure its full and proper implementation; to guarantee the constitutional protections for religious groups; to fulfil Laos' obligations under international law; and to bring Laos into conformity with international standards on religious freedom.

April 2008

Memorandum submitted by the British Humanist Association

ABOUT THE BRITISH HUMANIST ASSOCIATION

The British Humanist Association (BHA) is the principal organisation representing the interests of the large and growing population of ethically concerned but non-religious people living in the UK. It exists to support and represent people who seek to live good and responsible lives without religious or superstitious beliefs. It is committed to human rights and democracy, and has a long history of active engagement in work for an open and inclusive society.

The BHA's policies are informed by its members, who include eminent authorities in many fields, and by other specialists and experts who share humanist values and concerns. The BHA itself is deeply committed to human rights and advocates an open and inclusive society in which individual freedom of belief and speech are supported by a policy of disinterested impartiality on the part of the government and official bodies towards the many groups within society so long as they conform to the minimum conventions of the society.

INTRODUCTION

We welcome the opportunity to submit evidence to the Foreign Affairs Committee inquiry into the Foreign and Commonwealth Office Human Rights Annual Report 2007⁷. In this memorandum, we take the opportunity to focus on one area covered by the FCO report specifically—that of the UN Human Rights Council (HRC). We have serious concerns that the HRC has been dominated by undemocratic, political and religious interests, and that the HRC is no longer fit for purpose. We contend that, following an amendment to the mandate of the Special Rapporteur on Freedom of Expression, that the HRC now sanctions serious restrictions on freedom of expression and belief.

⁷ Hereafter the report is referred to as the "FCO report"

 SUMMARY

- We are convinced that the HRC is no longer fit for purpose.
- We believe that the recent amendment to the Special Rapporteur for Freedom of Expression's terms of reference are an affront to the very notion of human rights and prove that the HRC is no longer fit for purpose.
- We cannot see how the present structure of the HRC can allow it to fulfil its mandate.
- We urge the Foreign Affairs Committee to recommend that the UK concert with other democratic nations an agreed policy, first of attempting to bar from membership of the HRC any nation that has not ratified without reservation the key human rights instruments, and second (supposing the first action fails) of simultaneous withdrawal from the HRC accompanied by the creation of an independent human rights monitoring body.

THE WORKINGS AND STRUCTURE OF THE UN HUMAN RIGHTS COUNCIL

As noted in the FCO report, the HRC should be as “open, effective and non-political as possible” (p45). However, as is also discussed in the FCO report, due in particular to the domination of the HRC by the Organisation of the Islamic Conference bloc, the HRC is neither open nor effective, and it is highly politicised. Indeed, the FCO report makes clear a number of times that the focus of the HRC thus far has often been narrow in scope, concentrating on particular issues of interest to the alliance of Islamic countries in biased and punitive ways.

As the FCO report details, since the HRC's establishment in 2006, much of the involvement of the UK and other EU member states with the HRC has been in attempting to counter the disproportionate and highly political aims of the Organisation of the Islamic Conference bloc. This is clearly counter-productive and counter-intuitive to the very reason for having an international institution for the protection and promotion of human rights, which must be balanced, effective, united and impartial. The HRC's predecessor, the UN Commission on Human Rights, had to be replaced after being similarly subverted by Islamic interests. We consider that the HRC is no longer fit for purpose.

FAILURE OF THE UN HUMAN RIGHTS COUNCIL TO UPHOLD AND PROMOTE FUNDAMENTAL HUMAN RIGHTS

As detailed in the FCO report, the EU has continually fought attempts made by the Organisation of the Islamic Conference bloc and its allies to restrict freedom of expression and freedom of belief, especially in the context of proposals to restrict and outlaw the defamation of religion. The freedom to criticise beliefs is a fundamental human right, as enshrined in the principles of freedom of expression and speech.

At an HRC meeting on 28 March 2008, a resolution to continue the mandate of the Special Rapporteur on Freedom of Expression, Ambeyi Ligabo, was moved by Canada. The special rapporteur recently submitted to the HRC a report on violations of press freedom which included a statement that the limitations to freedom in existing human rights instruments “were designed in order to protect individuals against direct violations of their rights. These limitations are not intended to suppress the expression of critical views, controversial opinions or politically incorrect statements. Finally, they are not designed to protect belief systems from. . . criticism”.

However, an amendment was moved and carried by an alliance of Islamic governments and allies including China, Russia and Cuba, to his terms of reference to oblige him in future “to report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination . . .”. In diplomatic language, this warns him off defending the freedom of speech of anyone critical of Islam. In the debate it was further suggested that limiting freedom of speech was a way of avoiding violence by Islamic extremists.

A news release from the Organisation of the Islamic Conference referring to the amendment states:

“The OIC attaches great importance to freedom of expression and opinion. It believes that the right to freedom of expression forms the bedrock for the exercise of all fundamental rights. However, it firmly believes that rights carry with them certain responsibilities. These should not be abused to achieve negative objectives. Insults and defamation of religions and holy books cannot be justified on the pretext of freedom of expression. They undermine the principles and purposes of the UN Charter to promote friendly relations amongst nations. The OIC regrets that in recent years certain individuals and organizations have abused this right to malign and insult specific races and religions. Such acts constitute violations of Article 3 & 4 of the International Convention on the Elimination of all Forms of Racial Discrimination and Article 19 & 20 of the

International Covenant on Civil and Political Rights that prohibit any advocacy of racial or religious hatred. In this connection, the OIC, once again, condemns printing of insulting caricatures and making of hate documentaries against Islam and Muslims.

The OIC also stresses the responsibility of States to curb this trend. Incitement to hatred on religious and racial ground and defamation of religions by individuals, groups or State must not be tolerated⁸.

Following from this outrageous abuse on human rights, now mandated by the HRC, it is clear that the role of the HRC has been compromised and is no longer fit for purpose. The HRC cannot be considered as able to fulfil its obligations to uphold human rights, nor to work to protect against abuses of human rights by individual member states in an open, balanced and impartial way.

RECOMMENDED ACTION

It is clear that before the UK or any other EU member state participates in the HRC, at the minimum there needs to be serious reform of the structure, membership and workings of the HRC.

We urge the Foreign Affairs Committee to recommend that the UK Government concert with other democratic nations an agreed policy to tackle this disastrous situation.

An initial attempt may be advisable to seek an agreement in line with the UK and EU's position as set out in the FCO report, that there are expected standards of membership of the Council and that no state guilty of systematic violations of human rights should serve on the Council (p51). Such violations must include severe restrictions on freedom of expression and belief, such as punishments, including physical punishment, incarceration and the death penalty, for the defamation of religion or apostasy—penalties common across some of the member states of the Organisation of the Islamic Conference bloc where these basic human rights are illegal and criminalised. At the very least, no nation that has not ratified without reservation the key human rights instruments should be allowed membership of the HRC.

If, given the power structure within the UN, this attempt fails, we would suggest simultaneous withdrawal from the HRC by all democratic nations committed to human rights. A Human Rights Council without the support of any of the democracies would be a laughing stock and able to do less damage than it can at present. It would cease to serve the purposes it now serves for the Organisation of the Islamic Conference and in due course it might be possible to reclaim it for human rights. This drastic action should be accompanied by the creation of an independent human rights monitoring body.

CONCLUSION

We believe that the problems associated with the domination of the HRC by the Organisation of the Islamic Conference bloc and their allies as recognised in the FCO report have not only become more severe since the FCO report was published in 2007, but that there is no future for the HRC without serious and immediate reform of its workings, structure and membership.

We recommend that the Foreign Affairs Committee scrutinise the HRC and the UK's involvement in and with it, as part of its inquiry into the Foreign and Commonwealth Office Human Rights Annual Report 2007.

April 2008

Memorandum submitted by The Redress Trust

INTRODUCTION

These submissions are made in response to the Foreign Affairs Committee's call on 28 March 2008 for written submissions for the Committee's inquiry into the Foreign and Commonwealth Office's Human Rights Annual Report 2007 (the Report).

The Redress Trust (REDRESS) is an international non-governmental organisation with a mandate to assist torture survivors to seek justice and other forms of reparation. We regularly undertake cases on behalf of survivors and our special expertise in matters relating to torture has been recognised by a variety of national and international fora.

On 10 March 2008, REDRESS wrote to the Secretary of State for Foreign Affairs following his oral statement to Parliament on 21 February 2008. The letter was copied to the Prime Minister, the Secretary of State for Justice, the Secretary of State for Transport, the Attorney General of England and Wales, and the

⁸ Organisation of the Islamic Conference, "The OIC supports the function of the Special Rapporteur on Freedom of Expression and Opinion". News release, 20/04/2008. <http://tinyurl.com/6krod6>

Advocate General for Scotland. The Secretary of State's statement is referred to in the section on "Rendition" in the Report at page 16, concerning two occasions in 2002 when a US plane with a single detainee aboard refuelled at the US facility in the British Indian Ocean Territory of Diego Garcia.

We have not received any reply from the Secretary of State for Foreign Affairs; the Prime Minister's Office has acknowledged receipt of our letter and has confirmed that its contents have been noted; there has been no response from any of the other recipients.

REDRESS' letter has not been published, and the submissions below are based on the said letter to the Secretary of State for Foreign Affairs.

SUMMARY OF REDRESS' SUBMISSIONS

- The Government's response to the US admission is inadequate.
- The UK must identify the two individuals rendered and make humanitarian representations on their behalf.
- The UK has a positive obligation to hold a public inquiry rather than simply to rely on more assurances.
- The UK is under a positive obligation to review its laws and policies to ensure that renditions cannot take place through or on UK territory.
- The laws, policies and practice regarding prior authorization of State aircraft used in rendition are in need of urgent review and reform.
- The use of civil aircraft to render individuals is of equal concern and needs to be urgently addressed.

Government's response to the United States' use of UK territory for rendition purposes is wholly inadequate.

The Government's response to the United States' recent admission that on two separate occasions the CIA rendered two individuals through UK territory in 2002⁹ is inadequate, and the Government should take further steps in response to these particular revelations and more broadly.

To date, the Government has treated the US admission as a "disappointment", and continues to limit its response to the diplomatic arena relying on the US' own internal investigations and "assurances". The Secretary of State has said that a list of all flights on which a rendition has been alleged will be prepared and sent "to the US to seek their specific assurances that none of these flights were used for rendition purposes".¹⁰ This response fails completely to capture the significance of what has occurred and merely serves to signal to the US Government that no consequences attach to a violation of UK sovereignty. It also ignores the rights of the two individuals rendered and breaches the UK's positive obligations to conduct an independent and impartial investigation into the use of its territory for rendition, flowing from the UN Convention against Torture.

Since the US Government began its "extraordinary rendition" programme, many more allegations have been made that it has rendered detainees through UK territory (including the UK mainland) as well as used Diego Garcia as a holding centre.¹¹ While internal inquiries have been undertaken by the Government, we believe that the Government must adequately respond to these allegations in two ways: first, by holding an independent and public inquiry into the US Government's use of UK territory for rendition purposes; second, implementing the necessary law and policy reforms to prevent the UK territory from being used for renditions purposes in the future.

The UK must identify the two individuals rendered and make humanitarian representations on their behalf.

⁹ Central Intelligence Agency, "Director's Statement on the Past Use of Diego Garcia" (21 February 2008).

¹⁰ Matthew Lee, "US Fears Backlash Over Terror Flights" *Associated Press* (21 February 2008); Oral Statement by Foreign Secretary David Miliband on Terrorist Suspects (Rendition) (21 February 2008).

¹¹ See, eg, Council of Europe, Parliamentary Assembly, "Alleged Secret Detentions and Unlawful Inter-State Transfers Involving Council of Europe Member States," (12 June 2006) [hereinafter "Parliamentary Assembly Report 1"] at para. 289; "Secret Detentions and Illegal Transfers of Detainees Involving Council of Europe member states: second report," (11 June 2007) [hereinafter "Parliamentary Assembly Report 2"] at para. 70; "Secretary General's report under Article 52 ECHR on the question of secret detention and transport of detainees suspected of terrorist acts, notably by or at the instigation of foreign agencies," SG/Inf (2006) 5 (28 February 2006) [hereinafter "Secretary-General Report 1"]; "Secretary General's supplementary report under Article 52 ECHR on the question of secret detention and transport of detainees suspected of terrorist acts, notably by or at the instigation of foreign agencies," SG/Inf (2006) 13 (14 June 2006) [hereinafter "Secretary-General Report 2"]; European Parliament, "Report on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners," (26 January 2007) at para. 78; Richard Norton-Taylor, "Records show Diego Garcia link to alleged torture flights," *The Guardian* (4 January 2007); Cage Prisoners, "Fabricating Terrorism British Complicity in Renditions and Torture" (29 March 2006); Amnesty International, "Below the radar: Secret flights to torture and 'disappearance'" (5 April 2006).

The US Government's "extraordinary rendition" programme is marked by the lack of any legal process. Documentation on rendition reveals that individuals are very often tortured or ill-treated in preparation for and during the flight as well as being sent to locations where they face a high risk of further torture or ill-treatment.

One of the individuals rendered through Diego Garcia is now detained at Guantánamo Bay and therefore continues to be denied his basic human rights and remains at risk of torture and ill-treatment.¹² The individual risks being brought before a Military Commission for "trial" under procedures widely condemned as falling short of fair trial standards. While it has been revealed that the second individual rendered has been released to his or her "home" country, no information is available as to whether he or she was at risk of torture or ill-treatment on return in contravention of the principle of non-refoulement, whether he or she has been interrogated or detained since, or indeed any information concerning the individual's present welfare.

No steps appear to have been taken to establish the identities of the two individuals rendered. Instead, the Secretary of State appears to have suggested that their lack of British nationality or residency should lessen our concern for them, and that nothing further needs to be done:

"The House will want to know what has become of the two individuals in question. There is a limit to what I can say, but I can tell the House the following. The US Government has told us that neither of the men was a British national or a British resident."¹³

While the Government cannot formally espouse the two individuals' cases, the fact that their human rights were violated on UK territory by a foreign state should in and of itself be sufficient for it to take up their cases in a humanitarian capacity. This is particularly so in light of the UK's repeated willingness to make representations to foreign governments on human rights grounds even when the case has no connection to the UK.¹⁴

REDRESS notes that the Committee in a letter of 28 February 2008 to the Secretary of State has already asked to be given the identities of the two men admitted to have been rendered through Diego Garcia, and for other specific information relating to them and the rendition flights concerned. REDRESS also notes that in his reply dated 18 March 2008, the Secretary of State does not deal with these requests, but referred to "a range of issues that officials in my Department are currently working on" and that "officials are still analysing the implications of the new information received from the US".

REDRESS respectfully agrees that the identity of the two men should be disclosed, as well as the other information relating to them and the rendition flights as requested by the Committee, which request is consistent with the issues in paragraphs 9–12 above. Accordingly, REDRESS respectfully submits that in any follow-up, the Committee should reiterate these requests arising from the 21 February 2008 statement.

The UK has a positive obligation to hold a public inquiry rather than simply to rely on more assurances.

As a matter of international law, where reasonable grounds exist to believe that torture or ill-treatment may have been committed within a State's jurisdiction,¹⁵ the State is under a positive obligation to conduct a prompt, impartial, independent, effective and thorough investigation into the allegations, even where no formal complaint has been made.¹⁶

Reliance on US assurances falls short of the UK's international legal obligations and contributes towards a culture of impunity which, as the European Court of Human Rights has repeatedly emphasised, renders the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment "ineffective in practice."¹⁷ An independent public inquiry is therefore urgently required to investigate the use of UK territory for rendition as well as a holding site for detainees. Such an inquiry must be carried out in a public manner in order to ensure that private individuals, foreign states and non-governmental organisations can submit relevant information to the investigating body and to ensure that the investigation is carried out transparently.¹⁸

¹² See, "Situation of Detainees at Guantánamo Bay" Commission on Human Rights UN Doc. E/CN.4/2006/120 (27 February 2006).

¹³ Oral Statement by the Foreign Secretary *supra* note 2.

¹⁴ For example, since 1990, the UK has made regular and repeated representations to the Myanmar government concerning the prisoner of conscience, Aung San Suu Kyi, and more recently to the Democratic Republic of Congo concerning Marie-Thérèse Nlandu and to the Ethiopian government concerning Kifle Tigneh Abate. The UK government has also intervened in cases concerning the prosecution of individuals in circumstances where their trials are unfair by UK or international standards such as the intervention in relation to Libya's imprisonment and trial of Bulgarian nurses for deliberate infection of children with HIV or their potential punishment disproportionate, such as the representations to the Nigerian government concerning the proposed stoning to death of Amina Lawal for adultery, and to Iran concerning its use of the death penalty.

¹⁵ This obligation exists regardless of whether the allegations are against the state itself or a foreign state or private individuals, *Calvelli and Ciglio v. Italy*, ECtHR, no. 32967/96 (17 January 2002).

¹⁶ *Bati and Others v. Turkey*, ECtHR, no. 33097/96 and 57834/00 (3 June 2004) at para. 133.

¹⁷ *Assenov v. Bulgaria*, ECtHR No. 24670/94 ECtHR (28 September 1998) at para. 102; See also, *Aksoy v. Turkey* 23 EHRR 413 (1997) at para. 98.

¹⁸ See, *Bati and Others v. Turkey supra* note 8 at para. 137 (discussing the requirement that investigations be open to "public scrutiny.")

The UK is under a positive obligation to review its laws and policies to ensure that renditions cannot take place through or on UK territory.

The UK is also under a positive duty to ensure that it has an effective legal and practical framework to protect individuals under its jurisdiction from the risk of torture or ill-treatment by state agents or third parties within its jurisdiction.¹⁹ An overhaul of the current laws and policies on aviation is urgently required to ensure that a strong preventative framework is in place.

The former Foreign Secretary, Margaret Beckett, has already acknowledged the deficiencies in record keeping which she conceded are “not all that marvellous, frankly”²⁰ and may have contributed to failures to detect rendition flights in the past. Moreover, the laws and procedures by which State aircraft are authorised to enter UK territory appear to be inadequate to determine whether a rendition is taking place or is going to take place, as are the laws and practice governing the use of civil aircraft involved in rendition. Accordingly, as part of a public inquiry, an assessment of the adequacy of UK laws, policies and practices to prevent the use of UK territory in renditions is in order.

Prior authorisation of state aircraft

The Government must be capable of detecting rendition flights. This requires it to become more stringent when setting and enforcing disclosure requirements for foreign State aircraft wishing to enter UK territory.²¹ Once the foreign State aircraft receives authorisation to enter, the aircraft enjoys immunity and cannot be searched or seized.²² It is therefore vital that the Government acts pre-emptively prior to authorisation.

The Secretary-General of the Council of Europe found that the majority of European states fail to require the foreign State to provide details of “the identities and status of all persons on board, the purpose of the flight and its final destination as well as the final destination of each passenger.”²³ The Parliamentary Assembly of the Council of Europe also highlighted the particular problem posed by multilateral agreements which provide for blanket overflight clearances which reduce the opportunity to effectively detect renditions. For example, the Parliamentary Assembly highlighted the terms of unpublished NATO agreements of 4 October 2001, which provide for:

- (1) “blanket overflight clearances for the United States’ and other Allies’ aircraft for military flights related to operations against terrorism; and
- (2) blanket access to ports and airfields on NATO territory, including for refuelling, for United States and other Allies for operations against terrorism”.²⁴

In this respect, the UK’s laws, policies and practices on prior authorisation must be reviewed and reformed as appropriate in order to ensure that the Government receives sufficient information to independently assess whether any foreign State aircraft is being used for rendition purposes.

The use of civil aircraft to render individuals

Both the European Parliament and the Council of Europe have found that the US Government has presented State aircraft as civil aircraft in order to avoid the requirements of prior authorisation but to still benefit from the availability of immunity from search and seizure.²⁵ For example, the Council of Europe’s Parliamentary Assembly found that:

“The US Government’s post-9/11 detainee transfer operations would frequently make use of practices that were previously considered “anomalies,” such as: civilian aircraft landing on state duty at military airfields; military cargo planes registered under civilian operators; and civilian operators; and civilian agents and contractors travelling on military travel orders.”²⁶

Under the Convention on International and Civil Aviation of 7 December 1944 (the “Chicago Convention”) to which 189 states are parties, no prior authorisation is needed for unscheduled civil aircraft.²⁷ Such flights can “make flights into or in transit non-stop across its territory and to make stops

¹⁹ *A. v. United Kingdom*, ECtHR 25599/94 (23 September 1998).

²⁰ “Beckett Attacks Rendition Records,” BBC News (24 February 2008).

²¹ Article 3(c) of the Convention on International and Civil Aviation of 7 December 1944 provides that, “No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise.” See also, James Crawford and Kylie Evans, “Opinion: Extraordinary Rendition of Terrorist Suspects through the United Kingdom,” submitted to the All Party Parliamentary Group (9 December 2005).

²² Parliamentary Assembly Report 2 *supra* note 3 at para. 102.

²³ Council of Europe, “Follow-up to the Secretary General’s reports under Article 52 ECHR on the question of secret detention and transport of detainees suspected of terrorist acts, notably by or at the instigation of foreign agencies: Proposals made by the Secretary General,” SG(2006)01 (30 June 2006) at para. 12(d).

²⁴ *Id* at para. 12(d). See also, European Parliament *supra* note 3 at para. 206 (calling on “Calls on Member States to take adequate measures to ensure that overflight clearances for military and/or police aircraft should be granted only if accompanied by guarantees that human rights will be respected and monitored.”)

²⁵ For example, see Parliamentary Assembly Report 2 *supra* note 3 at paras. 142–166 and para. 185; see also, European Parliament *supra* note 3 at para. 46.

²⁶ Parliamentary Assembly Report 2 *supra* note 3 at para. 78.

²⁷ Under Article 6, scheduled flights require prior authorisation.

for non-traffic purposes without the necessity of obtaining prior permission and subject to the right of the State flown over to require landing”.²⁸ Under Article 3 bis (b), the territorial State can require the landing of the aircraft if there are “reasonable grounds to conclude that it is being used for any purpose inconsistent with the aims of this Convention” and under Article 16, “the appropriate authorities of each of the contracting States shall have the right, without reasonable delay, to search the aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention”.

However, the definition of a State under the Chicago Convention lends itself to uncertainty as to whether rendition flights using civil aircraft would fall within the applicable rules relating to State or civil aviation.²⁹ While Article 3(b) of the Chicago Convention provides some direction in setting out that, “Aircraft used in military, customs and police services shall be deemed to be state aircraft”, uncertainty remains as to whether the list in Article 3(b) is exclusive or merely exemplary of the types of aircraft excluded from the scope of the Convention.³⁰ In practice, a functional test is applied to determine whether an aircraft falls within the definition of State aircraft and although the status, ownership or control of the aircraft may be taken into account these are not determinative in classifying the aircraft concerned.³¹ The lack of certainty surrounding the proper classification of commercial flights used by the US for rendition purposes means that the UK authorities might not be exercising their rights of search and seizure where rendition is suspected, even in those cases where the US has not sought prior authorisation to enter UK territory, for fear that the UK would be infringing on the US’ immunity—an immunity which doesn’t apply to non-State aircraft.

As such, this is an issue which the UK Government must address with urgency both legally and in practice by making clear to all States that all commercial aircraft will be presumed to fall under the legal regime applicable to civil aircraft unless prior authorisation is sought by the State concerned.

Moreover, the procedures for detecting the use of civil aircraft for the purposes of rendition must be improved. While the territorial State theoretically has a range of powers available to intervene in a rendition flight, these powers are made meaningless without any information to suggest that rendition is taking place. Although controls over civil aircraft do exist, they generally relate to customs, immigration and security regulations and are therefore unlikely to expose rendition flights.³²

SUMMARY

The Government should urgently:

Determine the identities of the two rendered persons and their current situations, and place this information in the public domain.

Make humanitarian representation in respect of these individuals, as required.

Conduct a full, impartial and independent investigation into the circumstances surrounding these two flights as well as the additional allegations regarding the use of UK territory for rendition and as a holding site for detainees.

Tighten its laws, policies and practices relating to aviation to make sure that UK territory cannot be used to facilitate extraordinary rendition.

ADDITIONAL COMMENT

REDRESS also respectfully agrees with the other issues raised by the Committee in its letter of 28 February 2008 to the Secretary of State, which issues, it respectfully submitted, are consistent with the instant submissions. REDRESS accordingly puts itself at the disposal of the Committee to further assist the Committee’s instant Inquiry and/or any follow-up with the Secretary of State in any way deemed appropriate.

22 April 2008

²⁸ Article 5.

²⁹ See, the International Civil Aviation Organisation, “Secretariat Study on ‘Civil/State Aircraft’” (Montreal, 4–15 July 1994) Attachment 1: LC/29—WP/2-1 at para. 1.1. [hereinafter “the ICAO Study”.]

³⁰ *id.* at para. 5.1.1. (discussing the significance of the word “deemed” in Article 3(b)).

³¹ See the ICAO Study *id.* and Centre for Human Rights and Global Justice, “Enabling Torture: International Law Applicable to State Participation in the Unlawful Activities of Other States: Briefing Paper,” NYU Law (February 2006) at 5.

³² Secretary-General’s Report 2 *supra* note 3 at para. 45.

Memorandum submitted by Saferworld**A. KEY RECOMMENDATIONS**

- The Government should continue to make the Arms Trade Treaty (ATT) a foreign policy priority and continue to champion an ATT of the highest standards, reflecting states' existing obligations under international law, including the UN Charter, UN embargoes, human rights and international humanitarian law.
- The Government should introduce a “presumption of denial” for arms exports to an agreed list of “countries of concern”, ie countries where there are particular human right concerns. The list should be agreed with the Foreign Affairs Committee and Committees on Arms Export Controls.
- The Government should use the ongoing review of the UK Export Control Act to close existing loopholes in UK export controls by introducing full extraterritorial controls on brokering of all conventional weapons, introducing an effective system for monitoring the end-use of UK arms exports, and increasing controls on overseas production by UK companies.
- More resources should also be made available for the investigation and enforcement of possible breaches of these controls.

B. SUMMARY

Although the UK Government has taken a strong lead on arms export controls at national, regional and international levels in recent years, there are still transfers of defence equipment and technology originating or being organised from the UK which are reaching unstable states or embargoed countries. The Consolidated EU and National Arms Export Licensing Criteria, against which arms licences are assessed, 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”. However, Saferworld’s comparison of the recent FCO 2007 Human Rights Report with the Government’s strategic exports controls figures highlights how British equipment is being authorised for export to 18 of the top 21 countries identified by the FCO as “major countries of concern” for human rights abuses (1).

Of particular note were licences issued for exports to China. The value of licences has tripled since 2006 to a value of £215 million, despite an EU arms embargo. There is also concern over the high volume of equipment licensed for export to countries such as Pakistan and Saudi Arabia, both countries highlighted in the Government’s own Human Rights report for their poor human rights records and issues surrounding stability but which are regarded as key allies in the “fight against terrorism”.

Saferworld believes that real efforts must be made to rectify this inconsistency between policy and practice. In addition to any concerns regarding China as a final destination, China is acknowledged to be a significant exporter of arms to countries with very poor human rights records. Therefore, as well as fully applying human rights criteria when granting export licences to ensure that British military equipment and technology cannot be used for internal repression and human rights abuses, the Government must be satisfied that there is no risk of military goods produced by countries such as China using UK technology ending up in countries such as Burma, Zimbabwe and Sudan.

C. THE ARMS TRADE TREATY

The global arms trade continues to contribute to conflict and undermine development efforts by international donors. Irresponsible exports of arms to developing countries have a devastating human impact and implications for security and protection of human rights in the “countries of concern” identified by the FCO. A recent report by Iansa, Oxfam and Saferworld reveals that the cost of armed conflict to Africa is around \$18 billion per year, costing each country, on average, 15% of its GDP and totalling more than all annual international donor aid assistance combined (2).

The FCO 2007 Annual Report on Human Rights rightly points to the positive steps taken by the Government in developing the UK’s position on arms exports and the admirable international leadership demonstrated in promoting an international Arms Trade Treaty (ATT) (3). In acting as such a forthright champion of the ATT, the UK has generated considerable momentum for the initiative, with around 100 countries submitting their views on a treaty to the UN Secretary General. A UN Secretary-General report collating Member States’ views will now be presented to the UN General Assembly and an international Group of Governmental Experts (GGE) is currently considering in detail the feasibility, scope and draft parameters of a treaty.

However, with discussions set to intensify during these ongoing GGE meetings, it is critical that the Government maintains its commitment to the process and works with other governments to help secure this treaty. This will require the Government to make consistent effort to make the case for the merits of an ATT

both to supportive governments, to ensure they are not encouraged to compromise on key points, and to less supportive states to persuade them to support the ATT. This commitment to an ATT must remain a foreign policy priority for the Government and be a feature of bilateral and multilateral discussions.

D. UK ARMS EXPORT AND HUMAN RIGHTS

Saferworld's analysis of the FCO's 2007 Annual Report on Human Rights and figures on UK's strategic export controls revealed that, despite repeated criticism (4), the Government has continued to export controlled equipment to 18 of the top 21 countries identified as "major countries of concern" for human rights abuses (5).

Saferworld remains concerned that the Government is not taking sufficient account of its own assessment of countries' human rights records when making export licensing decisions. Despite stating that it will not issue licences to countries where "there is a clear risk that the proposed equipment might be used for internal repression", the Government's own records show that it continues to export military equipment to countries with poor human rights records.

In the case of several of these countries, the risk of diversion of equipment is also of concern as the UK Government does not do enough to check what happens to arms exports once they leave the country. There is subsequently little way of ensuring that arms are not used for acts of terrorism or do not find their way to criminal gangs, "pariah" states, paramilitaries or war lords. For example, concerns have long been held over the links between the Colombian Government and right-wing paramilitary forces within the country; Israel has in the past failed to honour explicit end-use monitoring undertakings; and China, Israel and Pakistan have all been identified as serial proliferators of military equipment or technologies.

Also of concern has been the Government's willingness to issue export licences for components that will be incorporated into weapons systems in the recipient country and then exported onward. Over £5.5 million worth of incorporation licences were granted to the United States, including components for combat aircraft and military heads-up display (HUD) units. The US has previously incorporated UK made HUD units into F-16 fighter jets which were subsequently exported to Israel. Under current UK law, it is highly unlikely that such equipment would be allowed a direct transfer to Israel. China, Israel, Russia and Turkey are also all incorporating countries—none of which would be regarded as having export control standards equivalent to those of the UK.

During 2007 exports of equipment which could be used in the commission of human rights abuses were approved to:

China

"With only limited reforms introduced since autumn 2006, violations of basic human rights continue. . .". (6)

Despite an EU-wide arms embargo on China which prohibits the Government from transferring combat systems to China, exports to China have tripled since 2006, with licences to the value of £215 million granted for inter alia: technology for the use of military utility helicopters; production equipment for military utility helicopters; technology for the production of military aero-engines; technology for the production of military communications equipment; technology for the production of military utility helicopters.

In addition to the risk that some of this equipment could be used in connection with human rights abuses within China, it is worrying that it is also supporting China's capacity as a defence producer. This creates further risks for human rights abuse as China is one of the main suppliers to countries such as Burma and Sudan. More recently, there has been widespread media coverage of a Chinese ship carrying arms destined for Zimbabwe. While the arms shipment, ordered from China before the 29 March 2008 elections, has yet to be delivered, it is a salient reminder of the opaque Chinese arms export policy and, therefore, the risks associated with exporting components to China.

This case and others highlight the real necessity for the UK Government to implement and enforce a "no re-export without permission" clause into each and every export licence for all controlled goods and technology including components for use in controlled goods. A re-export clause would require the exporting state to gain the permission of the UK Government before onward export of any UK-origin products.

Colombia

"We continue to be concerned about the human rights situation. Ordinary Columbians continue to bear the brunt of the conflict, with human rights defenders, journalists, teachers and indigenous communities the targets of threats, intimidation, kidnappings, murders and forced displacement". (7)

Export licences to the value of £2 million were granted for inter alia: components and technology for heavy machine guns.

Israel

“The UK remains concerned about the human rights situation. . . We are particularly worried by Israel’s failure to improve Palestinian movement and access; the continued construction of settlements and the barrier in the West Bank and whether Israel’s use of force is necessary and proportionate”. (8)

Export licences to the value of £14 million were granted for inter alia: aircraft military communications equipment, components for airborne electronic warfare equipment, components for combat aircraft and unmanned air vehicles.

Russia

“The past 18 months have seen a shrinking of the democratic space in Russia. . . The North Caucasus remains fragile and vulnerable to human rights violations. We remain deeply concerned about ongoing reports of extra-judicial killings, torture, abduction and arbitrary detention in the region”. (9)

Export licences to the value of £57 million were granted for inter alia: components for military utility helicopters, assault rifles and biotechnology equipment; chemicals used for chemical production and military utility vehicles.

Pakistan

“The UK is concerned about human rights issues in Pakistan. . . Recent changes in the political landscape. . . have brought a number of human rights issues in Pakistan to the fore. . .”. (10)

Export licences to the value of £65 million were granted for inter alia: components for combat helicopters, large calibre artillery, air-to-air missiles control equipment and technology for the use of air-to-air and air-to-surface missiles launching equipment.

Saudi Arabia

“The human rights situation in Saudi Arabia remains poor”. (11)

Export licences to the value of £45 million were granted for inter alia: armoured all wheel drive vehicles; components for combat aircraft, heavy machine guns; sniper rifles, military communications equipment and weapon sights.

The Government’s exports to Saudi Arabia are worrying not only for their potential use to commit human rights abuses, but also due to issues relating to alleged corruption in arms deals. Furthermore, large deals of this kind may also affect the strategic military balance in the volatile Middle East region thus impacting on the procurement decisions of states such as Israel and Iran.

E. IMPROVING THE UK’S ARMS EXPORT CONTROLS

The irresponsible export of arms has a massive impact on human rights, security and development in the developing world. Controlling the arms trade must therefore remain a priority for the FCO. Saferworld is pleased that the 2007 Human Rights Annual Report recognises this but the Government needs to put this into practice by committing to strengthening national legislation on arms export controls.

The Government’s ongoing review of the 2002 Export Control legislation provides a valuable opportunity to go further than the existing commitment to extend arms export laws to control extra-territorial brokering and trafficking of small arms (12) by pledging to extend the controls to cover the brokering of all conventional weapons. There should also be a commitment to undertake clear and effective monitoring of the end-use of UK arms exports and ensure that British companies wanting to produce weapons overseas first have to apply to the UK Government for a licence. It is vital that the Government also makes more resources available for the investigation and enforcement of possible breaches of these controls.

A commitment to closing the loopholes in UK arms export controls and properly enforcing those controls to prevent the transfer of weapons that would be used to breach human rights or undermine peace and security or sustainable development sends a strong signal that the Government is committed to preventing irresponsible arms transfers and would strengthen its advocacy position internationally as it seeks to push for the creation of an ATT and work towards the delivery of an effective legally-binding instrument.

Notes

(1) The Annual Human Rights Report covers the period from late August 2006 to 31 December 2007. The statistics for arms exports were taken from 4 Quarterly Reports on Strategic Exports over 1 October 2006—30 September 2007 and include:

- Strategic Export Controls Quarterly Report, July–September 2007
- Strategic Export Controls Quarterly Report, April–June 2007
- Strategic Export Controls Quarterly Report, January–March 2007
- Strategic Export Controls Quarterly Report, October–December 2006

(2) *Africa's missing billions*, Iansa, Oxfam and Saferworld, 2007.

(4) UK Foreign and Commonwealth Office Human Rights Report Annual Report 2007, March 2008, Cm 6916. Pages 18–19.

(5) The Quadripartite Committee (Committees on Strategic Export Controls) and the Foreign Affairs Committee have consistently urged the Government to apply full human rights criteria when granting export licences.

(5) To four of these 18 states, licences were granted for the export of dual-use goods only (dual-use goods have both military and civilian uses), while licences were granted for the export of strictly military goods to the other 14. Strategic or controlled goods are those that do or can have military value.

(6) *ibid* 2, page 134.

(7) *ibid*, page 139.

(8) *ibid*, page 158.

(9) *ibid*, page 166.

(10) *ibid*, page 172.

(11) *Ibid*, page 172.

(12) The Government published its initial response to the 2007 Review of Export Control Legislation on 6 February 2008: <http://www.berr.gov.uk/consultations/page39910.html>

Saferworld is an international independent NGO that works to prevent armed violence and create safer communities.

Memorandum submitted by the National Secular Society

A. FOREWORD

This response is presented jointly on behalf of the (UK) National Secular Society (NSS) and the International Humanist and Ethical Union (IHEU), which has representation at the UN and UN Human Rights Council (HRC). Both the NSS and IHEU actively support Human Rights, seek to promote the separation of religion and state and seek equality for all regardless of religion or belief. The author is Keith Porteous Wood, Executive Director of the NSS and an International Representative of IHEU.

This Submission demonstrates concerns about the effectiveness of the HRC and suggests policy responses. Because this Submission is necessarily brief, we have concentrated on threats to freedom of expression, but we have concerns about other aspects of Human Rights, for example those arising from concordats between the Holy See and other countries. Although the thrust of our conclusions is based on events up to 31 December 2007, where powerful additional evidence has emerged since, we have included it.

The Structure of this Submission is:

- A. Foreword
- B. Conclusions
- C. Recommendations
- D. Subversion of UNHRC Processes
- E. Attacks on Freedom of Expression Through Moves to Enforce Defamation of Religion Law
- F. Danger of Regionally-, Religiously- or Ideologically-based Human Rights Instruments

We would welcome an opportunity to give oral evidence to the Committee and are happy to provide additional information. A Submission of this size can only sketch the outline of issues in the barest detail. More detail is given in our 17 page report *Concerns about the Cairo Declaration on Human Rights in Islam and Moves to Outlaw the Defamation of Religion* prepared for delegates to the April 2008 meeting of the Inter-Parliamentary Union in Cape Town.

The Society welcomes the strong emphasis placed by the Foreign and Commonwealth Office (FCO) on Human Rights in general, on the importance of the Universal Declaration of Human Rights (UDHR) (page 45 of the Report) and on freedom of expression (page 102). We note the awareness of the some of the shortcomings of the HRC referred to on (page 46).

The following criticisms are not directed at the secretariat and staff of the HRC, or at the Special Rapporteurs, many of whom do excellent work under very trying conditions.

B. CONCLUSIONS

The majority of the HRC (predominantly 14 Organisation of the Islamic Conference (OIC) and sub-Saharan African countries normally backed by Russia, China, Cuba and also Sri Lanka) are failing to protect freedom of expression, or are even actively impeding it. Evidence given in Section D.

Considerable and growing status is being accorded, especially by OIC members, to the Cairo Declaration of Human Rights in Islam and the Arab Charter of Human Rights. Given that both instruments fall short of the Universal Declaration of Human Rights (UDHR), this has the effect of shielding Human Rights abuses. Evidence to support this is given below, especially in Section F.

The HRC acts in a partisan manner. The HRC, as now constituted, effectively excludes discussion of, or even reference to, alleged abuses in Islamic countries. Yet it ensures that alleged abuses in the Occupied Territories by Israel—some of which, we would not deny, deserve strong criticism—are highlighted and vociferously condemned on a regular basis. Further evidence of partisan behaviour shielding Human Rights abuses is provided in the section describing the misuses of the Universal Periodic Review elaborated in D 3).

We endorse the conclusion of the US Mission to the UN: . . . “the HRC has not advanced the fundamental goal envisioned by the Charter of the United Nations of promoting universal respect for, and observance of, Human Rights and fundamental freedoms. In some ways the Human Rights Council is worse than its predecessor, the Commission on Human Rights (UNCHR). In 2005, the international community seemed to have reached a consensus on the need for a more credible body and one that could take more timely, effective action in the case of ongoing crises. But, what we have found is that, in some ways, the HRC is less able to take affirmative action, but is more willing to focus on Israel-bashing exercises”.³³ We also note that Professor Timothy Garton Ash has advocated investigating the formation of a caucus of liberal democratic states at UN level.

The resolution of these problems is hampered by:

- (a) Low awareness about the ineffectiveness (to put it at its most charitable) of the HRC, even among those involved with Human Rights issues, because of poor publicity. We have even heard that senior U.N. officials, frustrated at the situation in the HRC, have been asking journalists to write more about what has been going on there to draw the general public’s attention to it.

Concerns that the raising of awareness risks:

- (i) heightening diplomatic tensions with OIC countries. Avoiding these will be the natural instinct of the many diplomats at the HRC, but those doing so will not always promote the cause of Human Rights. This systemic problem needs to be borne in mind in designing future structures.
- (ii) being regarded as siding with powerful countries and/or
- (iii) being branded as “Islamophobic”. This latter view is more likely to be held by those who have allowed themselves to be persuaded that any examination of problems in OIC states or comments about Islam are likely to be denigrated as “Islamophobic”, which the OIC is seeking to equate with racism.

As to the future, there seems little prospect of a culture emerging in the HRC which actively supports the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). The HRC was supposed to start with a clean slate, a Council whose members genuinely supported, and were prepared to defend, the principles of the UDHR. Like the US Mission (please see B 4), we do not believe the HRC has achieved this after its first two years of operation, and we fear it is currently drifting further away from doing so.

Former UN Secretary General Kofi Annan saw the writing on the wall three years ago when he spoke of the old [UNCHR] having “become too selective and too political in its work”. Regrettably, the Council is showing every sign of outdoing its predecessor on that score.

³³ Statement by U.S. Permanent Representative Zalmay Khalilzad, in USUN Press Release # 075(08) on 8 April 2008 http://www.usunewyork.usmission.gov/press_releases/20080408_075.html

C. RECOMMENDATIONS

1) Efforts should be made by all interested parties to publicise the plight of, and developments at, the HRC. Regular realistic formal assessments need to be made by the UK Government and other like-minded governments, NGOs and international groupings, and these need to be referred to in successive annual reports, especially those of the FCO on Human Rights:

- a) as to the extent to which the HRC is adhering to the UDHR and ICCPR;
- b) whether the general direction is towards greater or lesser compliance;
- c) to set realistic objectives and timescales for improvement; and
- d) in the longer term, to decide whether the HRC continues to serve a useful purpose, or whether there is any alternative which could be expected to achieve greater success—bearing in mind the difficulties already encountered with the HRC’s predecessor, the UNCHR.

2) Pending a material improvement in the HRC’s performance, we hope that a coalition of liberal democracies will work together to establish how best to promote Human Rights on as broad a front as possible in the longer term.

3) We request the Government to make it clearer, both in the Human Rights report and in its foreign policy more generally, of the dangers of regionally-, religiously- or ideologically-based Human Rights instruments that fall short of, or even effectively undermine, the UDHR and ICCPR being accorded a status that could be mistaken as being equivalent to those documents, the international benchmarks for Human Rights which enshrine key individual liberties. The Cairo Declaration on Human Rights in Islam is, we believe, an example. (More information is given in Section F).

4) We request the Government to make it clearer, both in the Human Rights report and in its foreign policy, that Human Rights abuses are not made acceptable or any less unacceptable because they are or are claimed to result from religious dogma or cultural customs. Examples include:

- a) capital punishment for apostasy and homosexuality which remain in some OIC states;
- b) so-called honour killings;
- c) any kind of torture and other cruel, inhuman or degrading treatment or punishment,
- d) female genital mutilation (FGM), forced marriages, the subjugation of women, including lesser education for girls. (Even in the UK, cultural and religious sensitivities have led to a very low rate of prosecution for “honour” killings and forced marriages and to no prosecutions for FGM, even though it is acknowledged that these abuses do occur regularly.)

5) We request the UK and like-minded governments to make renewed efforts to seek out the perspectives of Human Rights activists and victims of alleged Human Rights abuses. It is those countries with the least enviable records that will go to the greatest lengths to misrepresent their situation.

6) We request the UK and like-minded governments to actively support the calls made in a joint representation to the UN Secretary General by Amnesty International and Human Rights Watch in an open letter³⁴ about the need for the appointment of the successor to the UN High Commissioner for Human Rights to be a “Strong High Commissioner” selected by a “Transparent Selection Process”. We add “and remain under the Secretary General’s control”.

D. SUBVERSION OF UNHRC PROCESSES—EXAMPLES (support for conclusion B1)

1) Attempts to muzzle Special Rapporteur on freedom of expression:

- a) An amendment to a resolution on the mandate of the Special Rapporteur on Freedom of Expression was adopted on 28 March 2008 requiring the Rapporteur to report on the “abuse” of freedom of expression. It was passed by 32 votes in favour (mainly Islamic and African states with support from China, Cuba, Russia and Sri Lanka), no votes against, but 15 abstentions. More than 20 of the original 53 co-sponsors of the resolution withdrew their sponsorship. These included the European Union and the United Kingdom (speaking for Australia and the United States), India, Switzerland, Brazil, Bolivia and Guatemala.
- b) As the Canadian delegation noted: “instead of promoting freedom of expression the Special Rapporteur would be policing its exercise”. The mandate has been turned into an order to report on defamation of religion.
- c) Freedom of expression is even more vital for those who live under regimes where there are serious and routine abuses of Human Rights. This was highlighted by a courageous group of around twenty NGOs from OIC States who issued a statement appealing to delegations not to support the amendment.³⁵

³⁴ http://www.amnesty.org.uk/news_details.asp?NewsID=17692

³⁵ <http://www.article19.org/pdfs/press/petition-hrc.pdf>

2) Some OIC countries are seeking to silence the contributions of NGOs—giving often the sole alternative view (and in some cases a more representative/more Human Rights-supporting perspective than that made by the countries seeking to silence them). This move is further evidence of a concerted intention to silence any alternative views, stopping them from being brought to the attention of the HRC (a concern already raised over defamation legislation) and if accepted would make it even less likely:

- a) that those suffering Human Rights abuses in countries whose NGOs are muzzled in this way will receive support, and
- b) that the perpetrators of such abuses will be exposed.

3) We have major concerns about the operation in practice of the Universal Periodic Review (UPR):

- a) The expectation. The UPR was heralded as the major new instrument of the new HRC process. Human Rights Watch (HRW) agreed: “The review’s greatest strength was to be its universality, with all countries facing scrutiny regardless of their region, size, or influence. Amnesty International described the UPR in April 2008 as the “key innovation of the Council . . . intended to address one of the main criticisms of the [UNCHR] that its focus on a small number of country situations was selective and based on double standards.” Amnesty pleaded with countries to be transparent and even-handed.
- b) The outcome so far. So far, the UPR does not seem to be working in many of the countries where attention needs to be focussed most, according to HRW: “. . . But some council members politicized their approach and applied different standards to each country under review”. HRW cited shameful examples of countries with major and systematic Human Rights abuses being congratulated by other countries, for example Tunisia and Algeria, where there are “crackdowns on peaceful dissent and free expression, and consistent and credible reports of torture and ill-treatment by members of the police and security forces”. HRW concluded: “The review can only help to end abuses if states take their responsibilities seriously instead of hiding behind pleasantries.” We endorse HRW’s conclusion, and their own report illustrates that the problem though goes beyond evasive “pleasantries”: taken to be code for countries being excessively tactful about their allies, or even for mutual agreements to overlook each other’s abuses. The UPR can even be used in retaliation. When it came to the turn of Algeria (mentioned above) HRW notes it “gave a strong, detailed statement when the United Kingdom was reviewed, raising concerns over its rate of incarceration of children [followed by a long list of other alleged abuses].” We are not of course suggesting that the UK is or should be beyond criticism.
- c) We ask if these failures have a wider implication. Ahead of the process, Amnesty International warned: “A credible and effective UPR mechanism is therefore critical to the credibility of the Council”.

The source for quotes in subsection 3 from Amnesty and HRW statements (both in April 2008)^{36,37}

E. ATTACKS ON FREEDOM OF EXPRESSION THROUGH MOVES TO ENFORCE DEFAMATION OF RELIGION LAW

1) We take the unusual step of quoting, approvingly, from the Australian Evangelical Alliance website³⁸ to illustrate that those of very different perspectives have come to very similar conclusions:

“The resolution was presented by Pakistan on behalf of the [OIC]. On 12 April 2005 the [UNCHR] passed the OIC-sponsored resolution entitled “Combating Defamation of Religions”³⁹. According to that resolution the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance was to continue examining the situation of Muslims and Arab peoples in various parts of the world, monitor defamation of Islam, and report back to the Commission at its 62nd session (April 2006) and make recommendations to improve the situation. “It was phenomenally convenient that the violent “Cartoon Intifadas” of February 2006, which erupted some five months after the controversial Danish cartoons were originally published, occurred only weeks before the UNCHR was due to reconsider the OIC’s resolution on “Combating Defamation of Religion”. You don’t have to be too cynical to wonder if the OIC and Arab league sponsored not only the resolution but the Cartoon Intifadas as well”.

2) We believe, as implied above, that the Danish cartoon crisis was manufactured and that protests against other challenging publications such as the Dutch film *Fitna* are fomented in order to exploit sensitivities around racial discrimination and to promote (or even exaggerate⁴⁰) the notion of “Islamophobia” in order to restrict possibilities for open discussion and criticism of Islam. This approach not only wrongly equates criticism of religion with racism but has been used to divert attention from the very real Human Rights abuses carried out in the name of Islam in many OIC countries. UN institutions including the HRC have become the

³⁶ <http://www.amnestyusa.org/document.php?id=ENGIOR410092008&lang=e>

³⁷ Juliette de Rivero, Geneva advocacy director at Human Rights Watch, 18 April 2008 <http://hrw.org/english/docs/2008/04/18/global18606.htm>

³⁸ <http://www.ea.org.au/ReligiousLiberty/NewsAnalysis/UNHUMANRIGHTSCOUNCILPROTECTINGRELIGION.aspx>

³⁹ http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-3.doc
http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-3.doc

⁴⁰ http://www.kenanmalik.com/essays/islamophobia_prospect.html

forum through which such objectives are pursued through measures calling for legislation banning “defamation of religion”—legislation which aims to remove religion, especially Islam, from public scrutiny and democratic debate.

3) Blasphemy law is already extremely harsh, and sometimes a capital offence, in a number of OIC countries and is used to persecute those of the “wrong” faith (such as Christians or Ahmadis) or none, and misused in many countries to silence dissenters or personal enemies. We know from personal experience of colleagues in Pakistan that it can be notoriously difficult for those prosecuted to obtain a fair trial. The introduction of defamation of religion legislation would lead directly to an increase in such problems, and have a devastating effect on freedom of expression—including a substantial increase in self-censorship.

4) Resolutions on defamation of religions were first introduced in 1999 in the old UNCHR. They have been a priority of the 57-nation OIC since the events of 11th September 2001, and have been passed several times since, although we accept that the resolutions are not binding.

5) While we note that the latest resolution on Combating Defamation of Religions relates to “defamation of all religions”, it refers to “Islam and Muslims in particular”. While it concedes that “everyone has the right to . . . freedom of expression”, it adds that “the exercise of these rights carries with it special duties and responsibilities and may therefore be subject to limitations as are provided by law”.

6) We accept that Freedom of Expression is not absolute, being normally subject to restrictions for reasons of public order and national security. However the resolution appears to make the limitations practically open-ended. Our concern on this point is heightened by the current practice in many OIC states that requires that respect be shown for religion, and this requires extensive restriction of freedom of expression. Even relatively mild criticism of religion or denial of its tenets is not permitted.

7) Defamation legislation would favour the promulgations of extreme religious views while restricting the ability of detractors to express their, often more Human Rights-centred, opinions.

8) The passing of the resolution demonstrates the significant power of the Islamic states within the Human Rights Council. It is not clear why the resolution is on defamation of religions, whereas the only religion actually mentioned by name is Islam. Emphasis is given to victimhood suffered by Muslims, but is silent on Human Rights abuses and intolerance by any OIC states.

9) Some indication of the extent of pressure being applied by some OIC states, and by religious leaders on judicial authorities, comes from a Reuters news report of 19 March 2008 bearing the headline “Saudi clerics back death fatwa for liberal writers”. The report refers to a very senior cleric in Saudi Arabia having issued a fatwa that “two writers deserve to die if they did not retract views”. The cleric reportedly claimed they had “questioned the Sunni Muslim view in Saudi Arabia that adherents of other faiths should be considered unbelievers”. This he claimed “implied Muslims were free to follow other religions and their faith was on a par with other religions”. Twenty other clerics have supported their leading colleague adding that: “The Sheikh’s words were clear in placing the issue in the hands of the temporal authorities when he said that there must be a trial. We affirm there should be a trial.” A Saudi opposition figure is quoted as saying “This is in my view the largest show of force in the Wahhabi movement in a long time.” The more defamation of religion laws there are, the more they will be used in this way.

10) Press reports suggest that the OIC is now making renewed representations to the Inter-Parliamentary Union to press legislators throughout the world to bring in laws against the defamation or criticism of religion. They follow numerous proposals in OIC countries along similar lines. More information will be provided on request to Committee or FCO.

11) On the other hand, there are Muslim organisations, or organisations in Muslim countries, with entirely opposing views whose analysis we believe deserves to be considered carefully. This suggests that careful studies should be undertaken to establish how representative the hard line of the OIC is of all Muslim opinion, or of the spectrum of opinion in OIC countries. Otherwise there is a heightened danger of depriving minorities in OIC countries of their Human Rights.

The Muslim Canadian Congress, for example, “expressed shock and disappointment at the move by Islamic countries to bulldoze the [UNHRC] into approving a resolution curtailing freedom of speech under the guise of protecting religion”. It described the amendment as “nothing more than a cover to silence opponents of Islamist oppression inside Muslim countries, as well as in the West. . . . instead of protecting the right to freedom of conscience and religious expression, [it] will become a tool in the hands of Iran, Saudi Arabia and the world jihadi movement to strike fear among the opponents of Islamic extremism.”⁴¹ We also draw attention again to the dissident NGOs’ statement—please see paragraph D 1)c).⁴²

⁴¹ <http://www.muslimcanadiancongress.org/20080407.html>

⁴² <http://www.article19.org/pdfs/press/petition-hrc.pdf>

F. DANGER OF REGIONALLY-, RELIGIOUSLY- OR IDEOLOGICALLY-BASED HUMAN RIGHTS INSTRUMENTS

1) The Cairo Declaration on Human Rights in Islam, which was ratified by the OIC in 1990, effectively gives Shariah precedence over provisions similar to the UDHR, and is therefore incompatible with the UDHR. The status of the Cairo Declaration is being promoted by the OIC and we are convinced that it is the intention to make it at least equal in status to the UDHR, at least in OIC countries. This would increase the likelihood of activities contrary to the UDHR being shielded from scrutiny, thereby exposing in many cases those in the world most in need of protection. This leads to our recommendation C3).

2) We also draw attention to the Arab Charter on Human Rights. As UN High Commissioner for Human Rights, Louise Arbour, said in a statement dated 30 January 2008: "Throughout the development of the Arab Charter, my office shared concerns with the drafters about the incompatibility of some of its provisions with international norms and standards. These concerns included the approach to the death penalty for children and the rights of women and non-citizens. Moreover, to the extent that it equates Zionism with racism, we reiterated that the Arab Charter is not in conformity with General Assembly Resolution 46/86, which rejects that Zionism is a form of racism and racial discrimination. OHCHR does not endorse these inconsistencies".

3) We draw attention to the press coverageⁱ of UN High Commissioner for Human Rights, Louise Arbour, disturbingly welcoming the Charter, and then recanting it. She has now resigned and we make a comment below about the appointment of her successor. (Please also see our recommendation C 5) concerning the appointment of a new UN High Commissioner for Human Rights.)

REFERENCE

ⁱ <http://www.jihadwatch.org/dhimmiwatch/archives/019875.php>
22 April 2008

**Letter to the Chairman of the Committee from Andrew Tyrie MP,
Chairman of the All Party Parliamentary Group on Extraordinary Rendition**

FOREIGN AFFAIRS COMMITTEE INQUIRY INTO THE FOREIGN AND COMMONWEALTH OFFICE'S HUMAN RIGHTS ANNUAL REPORT 2007

I am writing about extraordinary rendition in my role as Chairman of the All Party Parliamentary Group on Extraordinary Rendition. I welcome the Committee's inquiry into the Foreign and Commonwealth Office's Annual Human Rights Report 2007.

Since the FCO's last Human Rights Annual Report, evidence has come to light regarding the nature of the US extraordinary rendition programme, and UK involvement in it⁴³. On 5 February 2008 CIA Director Michael Hayden confirmed that "waterboarding" had been used by the US during the interrogation of three people⁴⁴. On 8 March 2008 President Bush vetoed a bill that would have outlawed the use of "waterboarding" and other "enhanced" interrogation techniques⁴⁵. He justified his action by saying the bill "would take away one of the most valuable tools on the war on terror"⁴⁶. The US continues to operate its extraordinary rendition programme: last month, alleged al-Qaeda member Muhammad Rahim was transferred from secret CIA detention to Guantanamo Bay⁴⁷.

FOREIGN AND COMMONWEALTH OFFICE HUMAN RIGHTS ANNUAL REPORT 2007

The FCO Human Rights Annual Report states that: "[r]eal and perceived injustice... can fuel the extremist, radicalising ideology⁴⁸", and continues, "[p]romoting human rights, democracy, good governance and the rule of law, often in the long term, is the most effective guarantee of our own security⁴⁹".

In its Report the Government repeated its condemnation of Guantanamo Bay⁵⁰. This sits uneasily with the Government's refusal to condemn the United States' policy of extraordinary rendition. Detainees in this clandestine programme have even fewer rights than those held in Guantanamo Bay. You might conclude

⁴³ Terrorist Suspects (Renditions) Statement, 21 February 2008.

⁴⁴ Khalid Sheikh Mohammed, Abu Zubaydah and Abd al-Rahim al-Nashiri. See, for example, <http://news.bbc.co.uk/1/hi/world/americas/7229169.stm>.

⁴⁵ Dab Eggen, "Bush Announces Veto of Waterboarding Ban", Washington Post, 8 March 2008, <http://www.washingtonpost.com/wp-dyn/content/article/2008/03/08/AR2008030800304.html>

⁴⁶ <http://www.washingtonpost.com/wp-dyn/content/article/2008/03/08/AR2008030800304.html>

⁴⁷ Mark Mazzetti, "CIA Secretly Held Qaeda Suspect, Officials Say", New York Times, 15 March 2008, <http://www.nytimes.com/2008/03/15/washington/15detain.html?hp>

⁴⁸ FCO Human Rights Annual Report 2007, 8

⁴⁹ FCO Human Rights Annual Report 2007, 10

⁵⁰ FCO Human Rights Annual Report 2007, 12

that a recommendation in similar terms to that made in your First Report of 2005–06 in relation to Guantanamo Bay⁵¹, about the continued use of extraordinary rendition by the US administration, would be appropriate.

The FCO Report goes on to say: “We welcome US government statements that have made clear its opposition to torture. . . These include a categorical statement by President Bush on 6 September 2006 that the US does not practise torture”⁵². Foreign Secretary David Miliband made it clear in a letter to me that he considers “waterboarding” to be torture⁵³. Government reliance on this statement in the face of US admissions on “waterboarding” is wholly unacceptable. Your Committee may wish to examine whether the FCO should continue to rely on these US assurances.

The Foreign Secretary’s Terrorist Suspects (Renditions) Statement of 21 February 2008 is mentioned in the Report⁵⁴. I am deeply concerned that the list of flights to be submitted to the US for specific assurances includes “instances where concerns have been raised that planes may have been on their way to or from a rendition operation”, but that these flights are being submitted solely for the purpose of determining whether rendition of an individual through UK territory or airspace in fact occurred⁵⁵. This is not the allegation that has been made⁵⁶. The crucial question is whether or not these planes subsequently went on to conduct rendition operations that would be illegal under UK law, or were returning from such an operation⁵⁷. Your Committee could ask further questions of the Government on this issue, including:

- why the government is not asking the US administration about flights through UK airspace or airports on the way to or from a rendition;
- the government’s view of the legality of the alleged transit through UK airspace by aircraft on the way to or from a rendition, but with no detainee on board; and
- what legal advice has been sought on whether UK assistance, in the form of refuelling or the granting of over-flight rights, could constitute complicity, were the detainee subsequently or previously rendered to suffer torture, or cruel, inhuman or degrading treatment at the hands of US or other authorities.

I hope that you will feel able to return to the issue of extraordinary rendition in your inquiry into the Foreign and Commonwealth Office’s Human Rights Annual Report 2007.

I am placing this letter in the public domain.

24 April 2008

Memorandum submitted by the Independent Tibet Network

SUMMARY

Formed in 1988, Independent Tibet Network is a research and campaigning organisation, formed of individuals who support justice, human rights and independence for the Tibetan and Uyghur peoples.

A central area of investigation and activity has been human rights violations resulting from China’s coercive population-control policies, as applying inside Tibet and East Turkestan, and the role of the Foreign and Commonwealth Office, which informs UK Government policy regarding China.

We are concerned that this major human rights issue is not being afforded, by the Foreign and Commonwealth Office, any meaningful examination, nor attracting the response such violations demands. In particular we are disappointed to note, that the subject is virtually absent from its 2007 annual report on human rights.

This memorandum explores the background to such concerns, outlines the existence of medical atrocities inside Tibet, includes accounts of coercive birth-control in Tibet, examines the role of the FCO, the United Nations Fund for Population and Department for International Development.

It concludes with a number of key recommendations, which request the Foreign Affairs Select Committee to forward to the FCO for their action.

⁵¹ “We conclude that the continued use of Guant—namo 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.” Foreign Affairs Committee First Report 2005–06, para 39.

⁵² FCO Human Rights Annual Report 2007, 12–13

⁵³ Enclosed, and available at www.extraordinaryrendition.org.

⁵⁴ FCO Human Rights Annual Report 2007, 16

⁵⁵ Letter to Mike Gapes, 18 March 2008.

⁵⁶ In its Third Report of 2006–07 your Committee stated: “it is arguable that refuelling an aircraft immediately before or after its use in a rendition amounts to facilitating rendition”, para 78.

⁵⁷ Your Committee recommended in para 80 of its Third Report 2006–07 that the Government ask the US administration whether aircraft used in rendition operations have called at UK airfields en route to or from a rendition and that it make a clear statement of its policy on this practice. The Government refused. See “Response of the Foreign Secretary”, para 46.

NB: Appended material with this memorandum includes:

- A CD of images documenting the results of Chinese shooting of Tibetans during recent pro-independence demonstrations in Tibet during March and April 2008.
- and a copy of Mandatory Birth-Permit Issued to Moslem-Uyghur Women in East Turkestan.
- A Copy of “*Orders of the State*” (ITN 2000)

INTRODUCTION

NB: reference to “Tibet” in this memorandum refers to the historic, political and cultural regions of Tibet comprised of U-Tsang, Kham and Amdo. Parts of these territories were forcefully absorbed and renamed by Communist China into Chinese provinces, leaving a truncated region, the so-called “Tibet Autonomous Region”. Mention of East Turkestan relates to the Moslem-Uyghur territory, annexed and renamed by communist China as “Xinjiang”.

During March and April 2008 a number of demonstrations erupted across Tibet, in which unarmed Tibetans faced bullets, torture and imprisonment for peacefully challenging communist China’s brutal and illegal occupation of their country. Following decades of oppression, and the constant erosion of their culture, Tibetans took to the streets to demand independence and basic human rights. A bloody crack-down followed, in which thousands of heavily-armed Chinese paramilitary forces were mobilized, resulting in the fatal shooting of civilians and monks, mass arrests, closure of Buddhist monasteries, deportations, and an enforced propaganda campaign in schools and religious centres.

NB: Images of Tibetan Victims Have Been Submitted on CD to the Foreign Affairs Committee, as a part of this Memorandum. Caution Though is Advised as the Nature of the Material is Graphic and Disturbing.

The naked ferocity of China’s lethal aggression was witnessed and recorded, attracting the attention of the world’s media, and prompting the alarmed response of governments, which called upon Beijing to moderate its violent military response. With the Olympic Games just months away China’s brutal suppression in Tibet was to generate a wave of international protest demanding justice, freedom and human rights for the Tibetan people. Unfortunately such abuses are not always given full and critical exposure, as evidenced by the BBC Four television series, “A Year in Tibet”, which ironically was broadcast during the unrest inside Tibet.

Mr Richard Klein, of the BBC commissioned Mosaic Films and Sevenstones Media to produce the film. The locational Director was Ms. Shun Shuyun, a Chinese writer and film-maker, whose work is favoured and promoted by the communist Chinese regime. Unsurprising perhaps that the oppression and systematic destruction of Tibetan culture was not embraced by the film, whose makers somehow managed to document daily living, yet omitted the cultural and political suppression, which has operated inside Tibet since China’s invasion in 1950.

One wonders how those responsible for this series felt as they witnessed Tibetans rising up against China’s draconian occupation, and noted the reports of unarmed Tibetans being gunned-down by the very same Chinese security forces that would be charged with protecting the Olympic Torch through the controversial procession across London on 6 April. Many people from the UK, and beyond, contacted our organization disturbed that the BBC continued to broadcast this film as Tibetans were being killed inside Tibet, for peacefully protesting independence from communist China.

1) Apart from presenting a distorted and highly selective view of life inside Tibet, directed and written by Mr. Peter Firstbrook, the film blatantly lied about China’s coercive birth-control policy as applied to occupied peoples such as Tibetans and Uyghurs. Exposing the deception, apparent to any with a knowledge of Communist China’s appalling record on human rights, and political and civil freedom, that the film’s makers were given unfettered access to film across Tibet, or allowed to give publicity to issues Beijing regards as taboo. This was demonstrated after some 39 minutes of the programme when the commentary announced:

“...although China has had a single child policy since the 1970s, the law has never been applied to ethnic Tibetans”.

(A Year in Tibet-Episode Two Broadcast 13th March 2008, BBC Television Four)

An assertion which bears an uncanny resemblance to official Chinese propaganda.

2) This fact-free comment flies-in-the-face of a wealth of information which documents coercive birth control abuses within Tibet, reported by bodies such as Amnesty International (AI), members of the United States Congress, Optimus, Foreign Affairs Select Committee, Human Rights Watch, Independent Tibet Network, Asia Watch and the British Medical Association. As noted by AI:

“Despite laws prohibiting such practices, many women continued to be subjected to forced abortions and sterilizations by local authorities attempting to comply with strict family planning policies”.

(Amnesty International USA Report 2006)

3) This subject has been given meticulous coverage and examination in reports such as “Children of Despair” and “Orders of the State” (ITN 1992 and 2000 respectively. The latter forming written evidence to the “Inquiry into Relations with China” Foreign Affairs Committee Report on China 2000). The duplicitous claim that Tibetans are exempt from the harrowing realities of coercive birth-control is forcefully contradicted by the disturbing contents of the UK television documentary “Undercover Tibet”, in which producer Jezza Neumann documented such abuses as being all too real for Tibetans.

“China maintains that it doesn’t implement its one-child policy in minority regions such as Tibet, but we discovered that this wasn’t true. One woman told us how she’d been subjected to a forced sterilisation. The secret police broke into her house and said they would take all of her belongings if she didn’t go with them. Aspirin was the only anaesthetic she was given before they cut her open”.

(The Independent 31 March 2008)

4) Although such violations, which are widely reported across Tibet and East Turkestan, are denied by communist China, the amount of evidence to the contrary is overwhelming, as acknowledged by Amnesty International:

“The authorities in Beijing initially exempted (Editors Note: This assertion is derived from official claims made by the Communist Chinese Government and therefore should be treated accordingly) ethnic groups with a population of less than 10 million from the one-child policy and even from family planning more generally. It is clear, however, that controls have been applied to these groups for many years..”.

(emphasis added)

(Amnesty International Testimony to the Committee on International Relations United States Congress. T. Kumar, Advocacy Director for Asia & Pacific, Amnesty International USA 14 December 2004)

5) Official Chinese comments and documents also confirm the implementation of coercive birth-control measures operate inside Tibet. In a Xinhua report on 29 May 1990 Tashi Namgyal, the then Deputy Director of the Regional Family Planning Office, said that:

“. . .this reduction of population was needed in order to curb the region’s fast population growth rate and to control its ‘population quality’”.

(Increase Restriction on Birth of Children in Tibet, World Tibet Network News, Feb. 13, 2000)

Addressing a meeting on family planning within the so-called “Tibet Autonomous Region” (TAR), on 23 May 1996, Gyaltzen Norbu, former Governor of TAR stated that the Party, government and family planning departments:

“should comprehensively implement the family planning policy, adopt effective measures, carry out family planning services right down to the peasants and herdsmen” (Source: Ibid).

6) The “Tibetan Autonomous Region (TAR) Birth Control Leading Group Document Number Six”, reveals the degree of state control and coercion relating to “birth-control” as imposed across the so-called TAR by the Communist Chinese authorities. Behind the deliberately vague and extenuating terminology, and chilling synonyms, one can easily recognize two basic facts. Tibetans are indeed subject to China’s notorious population control “measures”, and furthermore the methodology employed features a draconian spiral of coercive measures, including forced sterilisations. Chapter Two, Item Nine states:

“At the heart of agricultural and nomadic areas, must stick to the principles of relying mainly on propaganda education, voluntary and offering service, advocate fewer births quality births. First start propaganda testing work and then gradually widen the scope on that basis”.

An official document from the “Ganzi Tibet Autonomous Prefecture Committee for Birth Control” includes the “Communist Party Central Committee Document Number 9” states:

“In order to raise the economic and cultural standard and national quality in the minority areas, birth control must also be implemented among minorities”.

The document includes details of measures, population targets and sanctions, all of which are imposed upon Tibetans in that region.

“Ideological education must be the main method in implementing, it must also be assisted with necessary administrative and economic methods. . . . must promote the transition of people’s ideology of birth and further strengthen the consciousness of practicing birth control”.

7) These chilling euphemisms, so reminiscent of the eugenic lexicon within Nazi Germany’s sterilisation laws, barely conceal the traumatising brutalities such laws presage for Tibetan women. International delegations and observers have also been aware of coercive birth control practices operating inside Tibet. An Australian human rights delegation to China reported:

“Disturbing allegations of involuntary sterilizations and forced abortions in China, particularly in remote regions and among minority nationalities, continue to circulate. Such allegations had been evident in the Tibet Autonomous Region during the delegation’s 1991 visit, and similar allegations were heard by the delegation in Xinjiang during the current visit”.

(Issue Paper-Chine le Point Sur la Politique de l’Enfant Unique-IRB Canada January 1995)

8) More recently no less than a former United Nations Special Rapporteur, Ms. Radhika Coomaraswamy noted in an official UN report that:

“Women in Tibet continue to undergo hardship and are also subjected to gender-specific crimes, including reproductive rights violations such as forced sterilization, forced abortion, coercive birth control policies and the monitoring of menstrual cycles. There have been many reports of Tibetan women prisoners facing brutality and torture in custody”.

(UN Commission on Human Rights-Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, 27 February 2003)

9) Unless you are card-carrying member of China’s Communist Party, an executive of the United Nations Fund for Population, official within the Foreign and Commonwealth Office, Department for International Development, there is no doubt that a spiral of birth-control enforcement is imposed upon Buddhist-Tibetan and Moslem-Uyghur women. Measures which include fines, arrest, detention, degrading treatment and physical force.

There is an extensive and well researched body of evidence, including first-hand testimony, eyewitness accounts, and a range of supportive information from a variety of sources, including Chinese documentation, international media reports, television documentaries, and accounts from former birth-control officers, which testify that Tibetan women continue to face a systematic policy of medically unnecessary, highly coercive, and often harmful sterilizations and forced abortions, ostensibly justified by China’s nationwide population control policies.

10) Communist China adheres to a “one family—one child” policy as a means to control what it considers overpopulation problems. In theory, this policy applies solely to nationalities whose populations exceed ten million, only about six million Tibetans live in Tibet. More importantly Tibet has no population problem, and it never has. In fact, prior to 1950, about six million Tibetans lived in Tibet, a region roughly the size of Western Europe. Even today, in the so-called “Tibet Autonomous Region”, which covers about forty percent of the region traditionally called Tibet, fewer than 1.6 persons inhabit each square kilometre. Tibet remains one of the least populated regions in the world. There is absolutely no justification for China to apply its “family planning” policies in Tibet, the coercive birth control programme therefore suggests an intent to destroy the Tibetan people, in whole or in part.

Which is a clear violation of China’s international obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.

REPORTS OF COERCION UPON TIBETANS

11) One woman, who was covertly interviewed inside Tibet described her agony at a forced sterilisation operation without anaesthetic. She could not afford the fine, equivalent to £70, and was one of six in her village who went through the ordeal.

“I was forcibly taken away against my will. I was feeling sick and giddy and couldn’t look up. Apparently they cut the fallopian tubes and stitched them up. It was agonisingly painful. They didn’t use anaesthetic. They just smeared something on my stomach and carried out the sterilisation. Apart from aspirin for the pain, there were no other drugs. I was so frightened, I can’t even remember how I felt”.

(Extract of an Interview with a Tibetan women as featured in the Channel Four Television Documentary, “Undercover in Tibet” Broadcast 30 March 2008)

12) Ms Losar Kyi was formerly a family planning and healthcare worker in Tibet’s eastern region of Amdo (renamed as Qinghai Province by China).

“Recently, I have seen an online report in a UK newspaper about a US research team visiting some areas of so-called Tibet Autonomous Region for doing research, without escorts of Chinese Government. The report concluded that the Chinese policy of birth-control and implementation on Tibetan women is not forced! I am very much surprised to see it.

I am a Tibetan refugee woman from Amdo, North-Eastern Tibet having reached Dharamsala (northern India) recently. In my country, I completed a course from Medical School of Tsholho in 1993 and from then, up to July 2001, I have been working in family planning at a health centre for women and child. My job known as ‘white dress’ or doctor provided me with direct experience of birth-control and mother and child care.

We have to propagate the Chinese policy of birth-control among the farmers and nomads in villages and remote areas. It claims ‘less family member will face no economic problems’, however the farmers and nomads are not opting for birth-control willingly or because of economic pressure. If it is so, why it is made mandatory target of birth control.

The common practice and methods of birth control includes sterilization, ligature, ‘birth-control surgery’, inter-uterine-device of the woman have a miscarriage, induce labour etc. There is no proper system of transportation in the remote rural regions of my country, besides high hills and long routes for women and have to come several times to hospital which is either in Shang or Zong

level. These arduous journeys are made because of the reality of coercion (fines and force), so nobody comes willingly! In addition all medical and surgery charges are paid for by the women herself. This became a burden not economic development for a family.

In the district where I worked, carried out planned birth-control operations. After taking women age group of 18–35 in villages and district level, forced birth-control operations were carried out. The number of birth-control surgery to be done in a place per year is fixed and we have to carry out these ‘surgeries’ to fulfil the given duties. In many places a forced ‘lottery system’ is applied to complete the number of women to be operated upon against the will of respective women. People called it ‘human murdering tax’ rather than willingly.

For example, in year 1989–95, six hundred women were given birth-control surgery. This is a case of a small district where the population is about 50,000. Most operations are done in the hospital of village (Shang) level where the medical equipment, living places and other facilities are backward, besides there is no health guarantee for our Tibetan sisters in these cold climates of Tibet. Birth-control operation is implemented as per fixed number in a place, applying various methods for birth-control. In 1997 two hundred and forty women were subject to ‘birth-control surgery’ which resulted in the women having a ‘miscarriage’, a further four hundred and six women suffered induced labour surgery in 1999.

A woman from Chhusang, Sengdeng village, Tsholho Tsigor District of Tshongon (Amdo) died due to this type of birth-control surgery in July 2000. In my view the findings of a place by the researchers team cannot represent six million Tibetans living in Tibet which is divided by Chinese into one autonomous region, ten autonomous prefectures and two autonomous districts etc.

Any researchers (team or a person) who visits Tibet under the knowledge of Chinese Government are allowed only after well prepared, educated to answer and terrified them in advance.

Hence to say that they visited villages without official escorts and had complete freedom of movement can’t portray freedom (in Tibet). For example, the places, the villages and the houses where to visit are fixed in advance, besides the village head and regional secretary of communist party used to monitor them. If any person answers against their instructions will face penalty or punishment as per severity of talk. Therefore, Tibetans in Tibet can be asked question under the protection of UNO, otherwise they (Tibetan) can’t express their feelings. I am praying for such day to come. Being a doctor of women and child I had experienced, saw, heard and am proud to prove it to the world, hence made this fact appeal to correct the untruth, also sure people will understand a genuine matter”.

Testimony of Ms. Losar Kyi 6th March, 2002 English translation of Chinese and Tibetan version-www.tibettruth.com)

13) “After a woman gives birth to a second child, she is taken to the county hospital to be sterilised. All the women in my village had this done, but three of them died after the operation. The authorities gave no compensation to their families, and a month old baby born to one of the three mothers then died a few weeks later. It was really terrible. All the women in my village are very scared of this procedure, but they cannot escape it”.

(Testimony of 19 year-old Tamden Tsering from Haiyan County Amdo Province escaped to India in December 1999-TCHRD)

14) “Most women are ‘encouraged’ to get themselves sterilised after having their limit of children and once a year the County authorities order the township officials to conduct a special lottery. The names of all the Tibetan women in the township—regardless of age or marital status—are put into a pot and then one is picked out for sterilisation. She cannot refuse, and after her operation she is given a cash payment and a position in the local administration to show her as a good example. Every year my family prays together that it will not be one of my sisters. The Chinese women in my area are safe, because their names are never put into a lottery like this”.

(Testimony of 22 year-old Dhundup from Gade County, Golog, Amdo escaped to India in January 2000-TCHRD)

15) The Tibetan Centre for Human Rights and Democracy examines and verifies similar accounts from Tibetans who have escaped into exile. In one year alone TCHRD received reports of 432 women who were subjected to forced sterilisation or contraceptive procedures. In some areas up to 80% of Tibetan women of childbearing age have been sterilised under coercion or subterfuge.

Yet instead of restricting the practice of these illicit “state policies”, the Chinese government actually endorses them, drawing connections with growth in the economic sector.

An official report in the “Tibet Daily” on March 23, 1998, stated that:

“Birth control policy introduced in Nyangdren town in Lhasa was a huge success. This successful policy has been implemented with regard to both the family planning procedures of the People’s Republic of China and the existing conditions of Nyangdren town”.

The report also states that the family planning authorities have carried out the policy with “full cooperation” from the local people. In Nyangdren town, 342 out of 379 married women underwent sterilisation, and an additional 295 women were provided with contraceptive pills. An official of the town

authority applauded the “successful performance” of The Department of Health, and commented that the birth control policy has “directly resulted in the alleviation of the living conditions and reasonably increased the economic growth of the people”.

NB: There are many more such accounts, examples of which were featured in our report “Orders of the State” (ITN 2000) a copy of which has been included as part of this memorandum for the attention of the Members of the Foreign Affairs Select Committee.

THE MYTH OF MODERATION

16) In the scramble to profit from China’s expanding market many are willing to overlook the horrendous human rights violations associated with this programme. The United Nations Fund for Population, which has the uncritical support of the FCO and DFID goes further. It refutes the very existence of abuse.

“I said in my opening that Dr. Sadik, who is the current Executive Director of the U.N. Population Fund has said that the Chinese program is, ‘totally voluntary’. She has also said that there’s no such thing as a birth approval or a birth-allowed certificate. It doesn’t exist. And I have the quotes and the statements”.

(Congressman. Mr.Christopher.H Smith, New Jersey, Chairman. Sub Committee on International Operations and Human Rights of the US Committee on International Relations, House of Representatives, 10 June 1998)

17) Following the launch of its much publicized 32 County programme in China UNFPA asserted that within those regions family planning was “fully voluntary” and denies coercion. UNFPA also claimed that population targets and quotas were relaxed, and that “women are free to voluntarily select the timing and spacing of their pregnancies”, and abortion is not promoted as a method of family planning.

(UNFPA’s County Program in China: Providing Quality Care, Protecting Human Rights, UNFPA, 10 August 2001)

That exercise was extended to cover more counties within communist China and according to UNFPA website:

“A client-centred, quality reproductive health approach, pioneered in 32 counties with UNFPA assistance, has been replicated in over 800 other counties (one third of the country’s total), resulting in its incorporation into national policy”.

(UNFPA Official Statement April 2008)

18) Given UNFPA’s long record of wilfully denying violations within China’s population programme, informed by an unstated, yet applied dogma, that restricting population levels takes precedence over human rights, such a prostitution of the facts is not entirely surprising.

Such falsehoods were thoroughly exposed by a visit to China made by U.S. State Department investigators, who in 2002 found that within the 32 counties in which UNFPA was originally involved, the population programmes of communist “retain coercive elements in law and practice”.

(Letter from the U.S. State Dept. Delegation to China to U.S. Secretary of State, Colin Powell, 29 May 2002.)

19) Communist China’s national family planning law, adopted by the National People’s Congress Standing Committee on 29 December, which took effect 1 September 2002, is often cited by FCO/DFID and multi-lateral population agencies as demonstrating positive changes and improvements within China’s population programme. Along with aforementioned delegations to China, it is also used to justify continued involvement with that programme, and “evidence” of the supposed moderating influence such as UNFPA.

20) According to the late Doctor John.S Aird, formerly Senior China Specialist at the US Bureau of the Census:

“Biegman (UN Ambassador who lead the UNFPA 2001 delegation to China) said that the UNFPA had exerted an influence toward moderation on the new national family planning law of the PRC, adopted by the National People’s Congress Standing Committee on 29 December, to take effect as of 1 September 2002, but I have examined the text of that law, and there is no sign of moderation in it. It says nothing about prohibiting, punishing, or even avoiding coercive tactics. It does not list and condemn specific coercive measures widely used in China, although it does list specific acts obstructing family planning and provides for their punishment.

It does not acknowledge ‘the rights of citizens to determine the number and spacing of their children’, although the Chinese Government supposedly signed on to such a guarantee at the 1994 World Population Conference in Cairo. It does not affirm the citizens right to choose his own form of contraception.

It does not prohibit the widespread practice of putting pregnant women or their relatives into detention in order to force their compliance with family planning rules or their submission to forced abortions, sterilizations, IUD insertions, and implants. It says nothing about any prospective ‘transition’ toward a ‘client-centered’ or voluntary approach to family planning. It does not mention the possibility of an imminent abandonment of family planning targets or

quotas; instead, it requires 'detailed population control quotas' and reaffirms the necessity to continue the national and local 'population plans', on which quotas and targets are based. It speaks only vaguely about citizens 'legitimate' rights and couples them with a reminder of the citizens' 'duty' to practice family planning".

(Extract of Private Communication to Independent Tibet Network 28th November 2001)

DENIAL, CONCEALMENT AND EVASION

21) It is not a lack of credible information which explains, what has been a consistently shameful inaction by the UK Foreign Office (FCO), Department for International Development (DFID), other Governments and multilateral population agencies, but an absence of ethical principles and a callous indifference to upholding human rights values. At the centre of such merciless apathy lies an appeasing willingness to accommodate the worst excesses of Communist China, because of commercial and political factors, or in the case of population agencies, a fundamentalist and uncompromising ideology, which insists that controlling population levels must over-ride human rights considerations.

22) Such inflexibility appears not to be based upon any intelligent process; one that evaluates information in a detached analytical fashion and revises policy according to the nature/degree of evidence and resultant conclusions. This is clearly evident from FCO response to the wealth of detailed documentation, argument and evidence provided over sixteen years by Independent Tibet Network and Optimus which has been ignored and/or denied.

23) The rigid nature of this arrangement seems therefore based upon FCO ideology, sustained and given the appearance of fact by individuals and organisations with a vested (and possibly invested) interest in China and its population programme. Thus FCO Ministers are supplied a "departmental view" on this issue, hardly impartial nor based upon independent analysis, and are denied the opportunity to reach a balanced conclusion. Such obfuscation and stonewalling recalls the comments by US writer Dorothy Parker "You can't teach an old dogma new tricks". Clearly we are in the presence of a Civil Service mindset that places commerce and trade considerations with China above human/reproductive rights, while arrogantly considering its policy beyond critique, examination or revision.

Serious questions remain unaddressed and this issue has not, in any significant or meaningful manner whatsoever featured in the 2007 FCO Human Rights Annual Report.

24) In a document of 216 information rich pages, detailing a range of human rights issues and response this is the only specific reference to the issue:

"China's population policy- Reports continue of forced abortions and sterilisations, although these contravene Chinese domestic law. We have never questioned China's right or need to implement family planning policies but believe these should be based on the principle of consent not coercion, as espoused by the International Conference on Population and Development".

(Annual Human Rights Report-FCO 2007)

25) We are extremely disappointed to note this minimal, tentative and extenuating response to what is a major human rights concern within Tibet, East Turkestan and China itself. We therefore call upon the Foreign Affairs Committee to address these as part of its current inquiry and support our request that these issues should form a regular and more prominent feature of any future FCO annual report on human rights.

In the regrettable absence of any serious investigation or monitoring of this issue by FCO we must challenge the dubious assertions and flawed conclusions often presented by FCO "officials", who appear to specialize in evasive, highly and selective arguments in their justification for UK support of China's population programme, UNFPA, IPPF and Marie Stopes International.

26) What is the point of FCO claiming UK assistance for reproductive health is line with "principles of free and informed choice" when it provides political, moral, technical and indirect financial support towards the communist Chinese programme, which is, in practice, highly coercive?

Moreover, the 1994 ICPD has been used as a smokescreen and justification by the FCO, DFID, UNFPA, and IPPF to continue its work within China on the basis of its apparent commitment to reproductive freedoms and individual rights. Yet significantly the Cairo programme:

Failed to specify practices NOT complying with the principles of reproductive freedom.

Does not condemn forced abortion/sterilisation.

Fails to endorse the right to reproductive freedom as absolute.

In exercising the right of reproductive freedom it proposes the "responsibility" of the individual "towards the community"—what does that signify in totalitarian communist China?

How then can the ICPD justify or legitimise UK support/sponsorship of China's coercive population programme?

27) Having previously acknowledged that "abuses in family planning continue to occur in China" FCO states that "the UK Government condemns them unequivocally". Who is the target of this apparent censure? Is Her Majesty's Government (HMG) denouncing official communist Chinese birth-control

policies, which have resulted in these violations? Is it condemning China's State Family Planning Commission who are responsible for managing and implementing the programme, and its attendant atrocities? Has HMG formally expressed its disapproval of population agencies (UNFPA, IPPF and Marie Stopes) which, despite years of involvement, have failed to moderate or reduce the medical atrocities resulting from birth-control policies?

28) The condemnation FCO claims HMG has for abuses is seemingly the basis for securing ". . . respect for reproductive rights in China. . .". Yet how can this message have any conviction or integrity if denunciation is not directed at those responsible for violations, in this case the communist regime itself and the policies it has implemented?

Concerning the speculative "change of policy" and "emerging evidence" FCO refer to (in their assertion of improvements within China's population programme) without any supportive evidence, appears to have been drawn from the assertions of UNFPA, who in the face of a wealth of evidence for coercion, repeat official communist Chinese propaganda that it has been eliminated and targets and quotas removed. Yet as revealed below those claims were exposed as being misleading and fact-free by no-less-than the United State's State Department.

29) FCO arguments of "evidence" showing improvements in the Chinese population programme continue to rest largely upon two delegations to China. The UNFPA "investigation" lead by Doctor Nicholas Beigman, which visited communist China in October 2001 concluded no evidence for coercion, and its "mission report" describes visits with communist Chinese officials in Beijing, Guangzhou, Sihui county, and Hubei Province, all of whom, not surprisingly, denied that China's family planning programs were coercive in character. The report also maintains that both the UNFPA and the Chinese government have agreed that UNFPA programs in China will not include "any form of coercion", without offering any specific evidence that this assertion is true. These findings, which drew heavily from official communist Chinese assertions are a deliberate attempt to obscure the appalling reality of violations within the programme and UNFPA's continuing involvement in forced sterilisations and forced abortions. Like that agency communist officials who make these assertions have every reason to put the best face on the family planning programs that they supervise, especially when they come under scrutiny. They are not unbiased observers, but interested parties.

30) We understand that, of the period the UNFPA delegation spent in China, over half was spent in Beijing, in meetings, banquets and barbecues with communist Chinese officials from the Ministry of Foreign Affairs and the State Family Planning Commission. During half-day visits to Sihui county, Guangdong Province, and Qianjiang, the delegation was accompanied by Chinese officials from the national, provincial, prefectural, municipal and county governments.

It seems they went on guided tours of several family planning clinics, and spent only 30-minutes on "household visits". Faced with a phalanx of officials, no villager is going to utter the slightest criticism of family planning policies, or any other government policy for that matter. The risk of doing so would be too great. In the absence of unsupervised contact with ordinary Chinese (of the kind enjoyed by Population Research Institute's (PRI) own investigators in communist China), it would be impossible for the UNFPA delegation to accurately assess the state of the family planning policy in Sihui county or anywhere else in China.

31) As to the April 2002 "inspection" of UNFPA's programme by visiting UK MPs one recalls the fact-free conclusions reached by delegations to Stalinist Russia! We cannot accept that FCO/DFID or Parliamentarians are unaware that communist China is a totalitarian state, with all the propaganda and deception which characterises such regimes (moreover it would appear they were reliant entirely upon official Chinese translators to conduct their supposedly independent inquiry). It is, after all, the same party which denied, within hours, the Tiananmen Square massacre, and it has a long record of duplicity and sophistry in covering up what remains an appalling human rights record. The Regime which ordered the bloody suppression of Tibetan protests in March and April 2008, while denying that Chinese security forces fired upon unarmed Tibetans (see images on submitted CD).

32) Interesting discrepancy between the findings of the Parliamentary delegation and that made by US State Department officials that same year;

A US State Department delegation to China in May 2002 stated that:

"Our team looks upon [social compensation fees] as a coercive element that will shortly have a new legal basis when the Law on Population and Birth Planning goes into effect on September 1, 2002".

("Second Finding: Coercive Elements in Practice and Law," US State Department Delegation to China, 29 May 2002).

33) Neither can UNFPA operate in the region without the consent, active involvement and influence of the communist party of China. Is it really that surprising therefore to note that the MPs found no evidence UNFPA was "supporting coercive activities". It would be like expecting the Red Cross, having accepted an invitation from Nazi-Germany, to discover damning proof of the forcible sterilisation of Jewish or Gypsy women. These observations are, with the best will in the world, hardly derived from unfettered, independent, exhaustive and informed analysis. They could never be under the ever-present, draconian gaze of the communist authorities. Such "requirements" made a mockery of the US delegation of May 2002, which was

constantly monitored, bugged and trailed by communist officials. It was also required to give 24 hours notice to the communist authorities of intended visits, during which time any evidence of coercion would be removed. Such constrictions undermine any integrity or value these visits and brings into question why FCO considers them objective indicators of lack of coercion. It also begs the questions as to why this issue does not merit any serious examination or inclusion within the annual human rights report of the FCO?

34) There remains genuine concern in this country about FCO's association with communist China's birth-control programme and its support for those multi-lateral population agencies working there. This was most forcefully and eloquently expressed recently in the House of Lords (25 October 2001) by Lord Elton, Baroness Cox, Lord Renton and Lord Alton. Meanwhile, the present policy of dialogue with communist China (which incredibly does not include any discussion of coercive birth control practices) as a means of improving human and reproductive rights has proved a failure of staggering dimensions, as witnessed by recent events inside Tibet and to a lesser degree East Turkestan. It is surely time to reassess this aspect of relations with communist China and return a badly needed sense of ethics and honesty to the heart of UK foreign policy.

RECOMMENDATIONS

35) Independent Tibet Network recommends that the FASC:

36) Insist that the FCO include, in all future Annual Reports on Human Rights and China, the issue of China's population control programme and include a detailed, forceful and critical analysis, featuring and informed by material from independent human rights organizations.

37) Calls upon the FCO to implement a three year period of independent evaluation involving a forum of relevant and independent organizations including human rights monitors to more factually and independently assess the Chinese population programme.

38) Request the FCO to establish an impartial and credible investigation of the role of IPPF and UNFPA in the Chinese programme and a realistic assessment of the potential for change these organizations might deliver.

39) Call upon the FCO to conduct an impartial assessment, with the participation of independent human rights organisations, of the impact of the Chinese population control programme on the Tibetan people and other subject peoples of the Chinese occupied territories.

40) Demand that FCO urgently establish a programme linked to future availability of international aid and involvement aimed at encouraging the Chinese government to switch their reliance on sterilization and abortion to the use of safe, effective and voluntary methods of contraception so that the Chinese programme can be brought into line with the Fourth World Conference on Women, which reaffirmed the ICPD Programme of Action which states that "In no case should abortion be promoted as a method of family planning. All governments and relevant intergovernmental and non-governmental organizations are urged to strengthen their commitment to women's health, to deal with the health impact of unsafe abortion as a major public health concern and to reduce the recourse to abortion through expanded and improved family planning services".

41) Challenge the FCO for its consistent fact-free assertion that UNFPA and IPPF are a moderating influence against coercion.

42) Challenge the FCO for not complying with the previous FASC's suggestion that China's population programme be included in the UK-China human rights dialogue.

43) Call upon the FCO to submit a detailed response to the FASC of why it has chosen not to feature China's population programme in such a dialogue.

44) Challenge the FCO for its practice of deflecting responsibility for the issue of China's population programme to the DFID.

45) Independent Tibet Network invite the FASC to press the Foreign and Commonwealth Office to take a lead in reviewing international involvement in the Chinese programme and in placing any future involvement firmly within an ethical, sustainable, and equitable framework of foreign policy. The appalling abuse this programme inflicts upon women demands that this must be based upon action rather than gesture.

**Letter to Rt Hon David Miliband MP, Secretary of State, Foreign and Commonwealth Office,
from the Chairman of the Committee**

ROBERT MUGABE

The Foreign Affairs Committee recommended in 2003 that “the Government take steps to strip Robert Mugabe of all honours, decorations and privileges bestowed on him by the United Kingdom” (Eighth Report of 2002–03, Zimbabwe, HC 339, para 25).

In its reply, the Government stated that it “has made it clear that removing Mugabe’s honorary knighthood, conferred on him in 1994, on the recommendation of the previous government, is not our immediate priority. We may revisit this question in the future” (Cm 5869, July 2003, p 3).

At its last meeting the Committee discussed this matter. We concluded that, in the light of recent events in Zimbabwe, it is more than ever inexcusable that Mr Mugabe should retain his status as a recipient of British honours.

The Committee has asked me to write reminding you of its previous recommendation and urging the Government now to take the necessary action to strip Mr Mugabe “of all honours, decorations and privileges bestowed on him by the United Kingdom”.

25 April 2008

Letter from Sir Peter Marshall, KCMG CVO

THE EUROPEAN UNION AND HUMAN RIGHTS

In the context of the Committee’s forthcoming examination of the latest FCO Human Rights Annual Report, will you permit me to offer two reflections:

- (1) There is indeed a great deal to celebrate as we mark the 60th anniversary this year of the Universal Declaration of Human Rights. There is probably no more important change in the character of international relations since the end of the Second World War than the move of human rights, as the Foreign Secretary recently put it, from the margins to the mainstream. In the days of classical diplomacy, people were called subjects, but were all too often treated as objects. Today they really are the subject. The United Nations deserve great credit for this change, and we as a country can feel proud of the part we have played.
- (2) There is a curious irony in the role of human rights in the evolution of the European Union. On the one hand the historic enlargement of the EU to embrace the peoples of the former Warsaw Pact countries is both a great boon to them and a triumph for European values, from which we can all draw great encouragement. On the other hand the Lisbon Treaty is a spectacular failure when it comes to meeting one of the two fundamental challenges identified by the Declaration of Laeken issued on the threshold of enlargement: namely to bring the institutions closer to the citizens. Cynics might dismiss that challenge as reluctant condescension by the elite to keep the voters quiet. A more accurate and constructive explanation is that it testifies to recognition of the vital importance of human rights if the EU is to flourish. Any examination of human rights within the EU cannot but take account both of the failure of the Lisbon Treaty in this regard, and of the ongoing problem which remains to be addressed.

No aspect of the EU human rights picture is more important than the expansion in prospect of the powers of the European Court of Justice. I venture to enclose a copy of a letter on this question which I have sent to the Chairman of the Constitution Committee of the House of Lords.⁵⁸ It has naturally caused me to look again at your masterly Report on the Foreign Policy Aspects of the Lisbon Treaty, and especially at what you had to say about the 2007 IGC process. Had there been greater and earlier consultation of Parliament, a lot of this would surely have been picked up.

19 April 2008

⁵⁸ Not printed.

Letter from Helen Gradwell, Western Shugden Society

URGENT REQUEST FOR HELP TO GAIN FREEDOM FROM RELIGIOUS DISCRIMINATION

My name is Helen Gradwell. I studied at and graduated from Sunderland University with a B'Ed (Hons) and worked for several years as a Primary School teacher in the North East. In 1998 I became a Buddhist nun and my spiritual name is Kelsang Pema.

I am a practitioner of the Buddhist Wisdom Deity called Dorje Shugden. This is a centuries-old wisdom practice that helps people to develop virtuous minds such as love, compassion and equanimity.

I am writing this letter on behalf of all Shugden practitioners throughout the world. You may have already heard that millions of these practitioners in both the East and West are experiencing great suffering and sorrow caused by the Dalai Lama's actions of religious discrimination.

Between 1996 and 1998 the Western Shugden Society, a loose affiliation of Shugden practitioners from throughout the world, made repeated requests to the Dalai Lama to completely stop these actions of discrimination. They sent many petitions and letters to this end but, giving invalid reasons, he never accepted to stop these actions of discrimination.

Subsequently, the Western Shugden Society performed peaceful demonstrations against the Dalai Lama in an attempt to draw his attention to the sufferings being experienced by millions of people through his actions of religious discrimination.

However, his actions did not stop but became worse. In January this year, he launched an aggressive campaign against Shugden practitioners and so the Western Shugden Society has decided to organise demonstrations against the Dalai Lama continually until he stops this religious discrimination.

For detailed information we request you to please read the enclosed booklet *The Tibetan Situation Today—Surprising Hidden News*.⁵⁹ Further information can be found at the following website: www.westernshugdensociety.org.

As you know, the Dalai Lama is seeking religious freedom from the Chinese. We Shugden practitioners throughout the world are seeking religious freedom from the Dalai Lama. We understand you are helping the Dalai Lama to accomplish his religious freedom, and sincerely request you to please help us achieve our religious freedom from the Dalai Lama.

Specifically, we are asking four things of the Dalai Lama:

1. To give freedom to practice Dorje Shugden to whoever wishes to rely upon this Deity.
2. To stop completely the discrimination between Shugden people and non-Shugden practitioners.
3. To allow all Shugden monks and nuns who have been expelled from their monasteries and nunneries to return to their monasteries and nunneries where they should receive the same material and spiritual rights as the non-Shugden practitioners.
4. To tell the Tibetan community throughout the world in writing that they should practically apply the above three points.

In the UK alone there are thousands of Shugden practitioners who are suffering both materially and spiritually due to the Dalai Lama's negative policies. We are seeking help from each permanent member of the United Nations Council: the UK Prime Minister, US president, French President, Russian President and Chinese President.

Could you please grant me an appointment to meet you or your representative so that I can discuss with you in more depth ways in which you might be able to help us achieve our goals. Thank you for taking the time to read this. I look forward to your reply.

1 May 2008

Letter from the Ambassador of the Federal Democratic Republic of Ethiopia, London to the Chairman of the Foreign Affairs Committee

I am writing to you to set out the Government of Ethiopia's response to the very serious allegations made by Amnesty International this week in respect of the activities of Ethiopian military forces in Somalia.

The Government of Ethiopia categorically rejects the allegations of atrocities levelled by Amnesty International against its armed forces in Somalia. We deplore these allegations in the strongest terms and deeply regret that one of the world's most prominent human rights organisations should publicise deliberately invented stories. It is our firm view that these stories are based on lies and fabricated information from sources affiliated to Al-Shabaab, a recognised terrorist organisation active in Somalia.

⁵⁹ Not printed.

Ethiopian troops are well-disciplined. They are educated in, and committed to, the principles of human rights, to the protection of civilians in conflict areas and the implementation of international humanitarian law. They have proved this time and again in a wide variety of situations in Somalia and in UN peacekeeping operations around the world, including currently in Darfur.

Amnesty International's latest report avoids any mention of terrorist groups active in Somalia. Amnesty International devotes most of the report to fabricated allegations against Ethiopia and its armed forces. It purposefully ignores the widespread violations of human rights committed by Al-Shabaab whose activities include a widespread campaign of murder and targeted assassination of political and religious leaders, a deliberate and admitted disregard for civilian life in its operations, the desecration of dead bodies and the cutting of throats of Muslim clerics who oppose it, as at the Al Hidaya mosque only two weeks ago. In this report Amnesty International deliberately ignores all mention of these atrocities.

This Amnesty International report has in fact been published at a time when Al-Shabaab is finally on the run in Mogadishu and elsewhere in Somalia. Yet it is at this juncture that Amnesty appears to be engaged in efforts to assist in the recruitment of Al-Shabaab terrorists by deliberately inciting hatred and animosity based on lies. This in no way helps the political reconciliation process which the Government of Somalia is engaged in.

All serious observers of Somalia accept that there is a real 'window of opportunity' for the Somali peace process, a process substantially brought about by Ethiopia's successful military support for the Transitional Federal Government of Somalia (TFG). This progress will be demonstrated in two weeks time when representatives of the TFG and of the opposition hold preliminary talks in Djibouti. The peace process does, of course, have determined enemies, notably among terrorist groups.

It has always been Ethiopia's stated intention that our forces would withdraw from Somalia when AU peacekeeping forces arrived. The vast majority of Ethiopia's military forces withdrew in 2007 but forces still remain in Mogadishu where they have been engaged in support of the TFG against remnants of extremist and terrorist groups. Our forces have carried out all operations in a carefully targeted and disciplined way and taken extreme care to minimise any possible effect on civilians.

Although Uganda has contributed a contingent of 1,600 troops, deployment of the remaining AU forces (AMISOM) has been severely delayed. Ethiopia wants to bring an end to its deployment but to withdraw now before the arrival of adequate numbers of AMISOM forces would leave a dangerous and potentially destabilising security vacuum.

The Government of Ethiopia rejects absolutely the allegations of Amnesty International, an organisation which has a long record of refusing to respond to our criticisms of its reports, and of its uncritical use of sources which have their own agenda.

I would be very happy to meet you to discuss these serious issues in more detail.

7 May 2008

Letter from the Chinese Ambassador to the Court of St. James to the Chairman of the Committee

I am writing to let you know the reactions by the Chinese people to the "oral evidence session" with the Dalai Lama on May 22 and his meetings with political leaders of Britain. Within ten hours of the report of these events by Chinese media, 7,728 comments were posted on Sina.com, a leading Chinese internet portal, expressing displeasure on these moves. Many mentioned the inglorious role of Britain in the history of China, and Tibet in particular, and the agenda of the Dalai Lama. The Chinese public seem quite upset by the fact that Britain should choose to hurt China at such a difficult moment, which they saw as adding insult to injury.

It is indeed ironic for the British parliament which has always defended the principle of separation of church and state to invite someone who personifies the mixing of church and state. It is also worth mentioning that he has stayed away for almost 50 years from Tibet. It is, therefore, not surprising that when asked about the specific cases of human rights violations in Tibet, he was evasive and failed to provide specifics on his charges.

I hereby attach some information about Tibet which I hope will be useful for understanding of the issues. It would also be interesting to hear your impression about the "evidence session".

The Chinese side values its relations with the FAC I do hope that the FAC will take the concerns of the Chinese people seriously.

SOME FACTS AND INFORMATION ABOUT TIBET

1. *The Lhasa incident*

On March 14 serious and violent rioting occurred in Lhasa. Rioters set fire to more than 300 locations, burning down seven schools, five hospitals, 908 shops and private residences. 18 innocent people were burned or slashed to death, including a baby less than one year old and 382 people were injured. The government of the Tibet Autonomous Region and its law enforcement authorities exercised maximum restraint in dealing with these criminal activities and no lethal weapons were used. However, the local police sustained serious casualties with one death and 241 injuries. All these facts are well-documented and transparently reported, including all names and whereabouts of individuals concerned. Thirty rioters, who were sentenced, appointed their defense lawyers and had their cases well-defended.

The Dalai Lama and his followers insisted that from 140 and 150 to 200 people died in the “crackdown”. However, there has been only a list of 40 names of people allegedly killed, which was forwarded by one of the overseas Tibetan groups. Among them 16 had addresses and only five are valid. However, the five persons are either alive or non-existent.

It is worthy to note that during the “oral evidence session” on 22 May at the British Parliament, when an MP asked the Dalai Lama whether he had an estimate of the number of Tibetan people killed during the recent protests, the Dalai Lama replied “That’s very difficult to tell. . . We really don’t know”.

There are also allegations of torture according to the Dalai Lama and his followers. Article 247 of the Criminal Law of the PRC stipulates “Judicial workers who extort a confession from criminal suspects or defendants by torture, or who use force to extract testimony from witnesses, are to be sentenced to three years or fewer in prison or put under criminal detention”. Article 413 of the Criminal Procedure Law prohibits the collection of evidence through means of torture. Allegations of torture need to have factual support. Any person who commits torture in China will face the consequences of the law.

2. *The human rights situation in Tibet*

When asked by a Chinese journalist in London on 23 May about whether the human rights situation in Tibet was better or worse than in 1959, the Dalai Lama said “Worse”.

Recent studies by a Tibetologist Doctor Xu Xingsheng revealed chilling files of the Dalai Lama’s rule in Tibet before 1959. There was a letter written to the head of a clan, asking him to prepare for gifts and sacrifices for celebrating the Dalai Lama’s birthday. And the gifts and sacrifices were: “one whole set of human intestine, two human heads, human blood and one whole piece of human skin”.

The old Tibet was a feudal serfdom and theocracy ruled by monks and nobles headed by the Dalai Lama himself. The Dalai Lama’s parents owned over 6,000 serfs. More than 90% of the population were serfs and 5% of the population were slaves. Serfs and slaves had no basic human rights or freedoms. They could be bought and sold like commodities and were subjected to all forms of cruel punishment at the will of their owners.

Such a reality 50 years ago can only be repulsive to any modern society. Comparing today’s Tibet to those dark days can only be offensive to the people in Tibet and the rest of China. Many Chinese internet users reacted angrily to such a comment by the Dalai Lama.

Today in Tibet people live in an improved environment with more extensive political, economic, social and cultural rights. GDP of the region has registered an average growth rate of above 12% for the past five years, higher than the national average. Income for farmers and herdsmen has grown more than 80% in the same period, reaching RMB 2,788 last year. Before 1959 infant mortality rate was 450 per thousand and people used to die at the average age of 35.5 years. Now the average life expectancy is 67 years. Before 1959 there wasn’t even a single modern primary school, now there are 1,100 schools with more than 500,000 students. In the past over 90% of Tibetans were illiterate, now the literacy rate has risen to 95%. And there are now 1,378 hospitals and clinics in Tibet. Since 2003 the elderly lamas in Tibet were also covered in minimum living allowance schemes provided by the government.

Experience of many countries shows that with greater economic prosperity comes better preservation of traditional cultures. In particular, 330 million yuan was spent in the past six years on repairing the Dalai Lama’s official residence the Potala Palace and his summer palace Norbulingka, and the Sakya Monastery. The Central Government has allocated 570 million yuan on the renovation of 22 major religious and cultural sites between 2006 and 2010, which is unprecedented in Tibetan history. In 2006, the number of religious sites in Tibet reached 1,780, or one temple for every 1,600 people. In England there is one church for every 3,125 people.

The development in Tibet is not perfect and even compared with the national standard, Tibet is not the most prosperous region. The important thing is that it is making progress along with the rest of China.

3. *The system of ethnic regional autonomy in Tibet*

The Tibet Autonomous Region was founded in 1965 in accordance with the PRC Constitution and the PRC Law on Ethnic Regional Autonomy. The system of ethnic regional autonomy in Tibet aims to ensure Tibetan people's right to manage their own affairs in light of local conditions in political, legislative, socio-economic and cultural fields while fully participating in national governance.

Like people of other ethnic minorities, many Tibetans work in the Central Government and governments at various levels in the Tibet Autonomous Region. The 14th Dalai Lama used to serve as the Vice Chairman of the NPC Standing Committee. All of the seven chairmen (or governor) of the TAR government are Tibetan. Tibetan and other ethnic minority people take up 77.97% of Tibetan government employees, and 69.82% of court staff and 82.25% of procuratorate staff.

Since 1965, the People's Congress of the Tibet Autonomous Region and its Standing Committee have formulated 220 local laws and separate regulations concerning political affairs, social and economic development, marriage, education, spoken and written language, judicature, forest, grassland, wild animals and natural resources protection.

In 1981, for example, the Standing Committee of the TAR People's Congress adopted the Modified Regulations of the TAR for the implementation of the PRC Marriage Law, which lowers the legal marital age for Tibetans by two years. It also specifies that those involved in polyandry or polygamy may continue in such relationships as they wish. In 1987, a special law was enacted to protect the Tibetan language, namely the Stipulations of the Tibet Autonomous Region for the Study, Use and Development of the Tibetan Language.

The Tibet Autonomous Region benefits from the preferential economic policy by the Central Government in the form of fiscal subsidies and investment in key construction projects. From 2001 to 2005, the accumulated fiscal transfer from the Central Government, excluding funds for capital construction, amounted to 47.5 billion Yuan, or 92% of Tibet's total financial expenditure. In 1980, the Central Government abolished the centuries-old agricultural tax in Tibet and gave access to free education by Tibetan children up to the ninth grade, both 26 years ahead of the rest of China.

4. *The population in Tibet*

Tibet's birth rate and natural population growth rate all stayed higher than the national average in the past 56 years, contrary to historical trends. According to the population sample survey, as of the end of 2006, Tibet's total population reached 2.81 million, of which 2.6 million or 92% of the total population were Tibetan. The Hans have not taken up more than 6% of the population in Tibet for the past 50 years. The status of Tibetans as the main ethnic group in Tibet has never changed.

For the past decade and more, the Dalai Lama and his followers have tried repeatedly to make an issue out of the demographic composition in Tibet as a major area of human rights violation against the Tibetan people. They claimed that "120 million Tibetans were killed since 1951". Between 1959 and 2007 the population of Tibet grew from 1 million to more than 2.8 million, much higher than the growth of Tibetan exiled population from 100,000 to 150,000 during the same period.

The Dalai Lama said during the "oral evidence session" at the British Parliament on May 22 that two thirds of the population in Lhasa are Hans. In fact 85% of the 550,000 people living in greater Lhasa are ethnic Tibetan. His so-called information about "one million Hans moving to Tibet after the Olympics" is groundless.

5. *The one-child policy*

In the late 1970s, China began to widely implement a family planning policy. Since then, China has gradually formed a sound legal basis in this area. Forced abortion in any form is prohibited.

Article 18 of the *PRC Law on Population and Family Planning* provides that in minority inhabited regions and areas, specific rules of family planning shall be formulated by the local people's congress or its standing committee. Article 9 of the *Provisional Rules on Family Planning in the TAR* stipulates that ethnic Tibetan farmers and herders are not subject to family planning policies.

The epicenter of the earthquake in Sichuan is part of a minority inhabited area, which is not covered by the one-child policy, either. That is why during the rescue operations, many families are with more than one child, although this can in no way lessen the pain of the loss of any child.

On 21 May, the Dalai Lama's private secretary came to the Chinese Embassy to offer condolences for earthquake victims. When given explanation about the one-child policy, he said that the Dalai Lama has always been aware that the one child policy does not apply to people of ethnic minorities. He also knows that Tibetan families normally have many children.

(Provided by the Information Section of the Embassy of the People's Republic of China)

28 May 2008

Letter to the Chinese Ambassador to the Court of St James from the Chairman of the Committee

Thank you for your letter concerning the Foreign Affairs Committee's meeting with His Holiness the Dalai Lama on 22 May. The Committee considered this at its meeting yesterday.

We have noted your comments, and propose to publish both your letter and its annex as evidence accompanying our forthcoming Report on human rights, together with a range of other written submissions concerning the human rights situation in Tibet. We will set out our own conclusions about that situation in the Report.

The Foreign Affairs Committee takes evidence from many witnesses who have contrasting and sometimes conflicting views. The Committee's questioning of witnesses is frequently robust and seeks to challenge and interrogate the viewpoints put to it. For instance, in the session on 22 May we questioned the Dalai Lama about allegations that the rioters in Tibet earlier this year attacked members of the Han Chinese community, and about allegations that the old Tibet was feudal, and that a return to the past would bring an undesirable return to the old social structures. The object of this type of questioning is not to express either support or opposition for particular views, but to explore the position of the witness and test the strength of his or her arguments.

At the end of each inquiry, it is for the Committee to assess the information given and reach its own judgements. All this is part of the healthy debate and interchange of views which takes place in a parliamentary democracy.

My colleagues and I also noted your remarks about comments on Sina.com. We observe that these comments were posted on the basis of reports in the Chinese media. The BBC monitoring unit has supplied us with a translation of one news item issued by the official Chinese news agency Xinhua on 27 May. This was headed, "It Is Absolutely Preposterous To Ask Dalai To Testify to the So-Called 'China's Human Rights Issue'". If our evidence session is presented in such a way in the Chinese media, it is hardly surprising that people gain a negative impression of our work. However, if Chinese internet users were able to visit the BBC news website and the UK Parliament website, and read a full transcript of the evidence taken on 22 May, I am sure that they would gain a rather different impression of the objectivity of our proceedings.

Finally, I would like to correct one error of fact in your letter. This is in relation to your comment that "it is indeed ironic for the British Parliament which has always defended the principle of separation of church and state to invite someone who personifies the mixing of church and state". In fact, the UK Parliament has never endorsed the principle of separation of church and state. The Church of England is an established state church of which the Queen is supreme governor, Church of England "measures" (which are the laws of the church) have to be agreed by Parliament, bishops are appointed by the Queen on the recommendation of the prime minister, 26 bishops sit by virtue of their episcopal status in the House of Lords, and the proceedings of the House of Commons are opened each day by Christian prayers, read by the House's Anglican chaplain.

Although some other countries have entrenched the separation of church and state as a matter of constitutional principle (for instance, the first amendment to the US constitution provides that "Congress shall make no law respecting an establishment of religion"), the British Parliament has never been subject to any such restriction.

26 June 2008

**Letter to the Rt Hon Sir John Stanley MP from the Secretary of State,
Foreign and Commonwealth Office**

Thank you for your letter of 7 May.

Following my statement to the House of 21 February regarding the two cases of rendition through Diego Garcia in 2002, you asked whether, since the signing of the memorandums of understanding between the UK and the Governments of Afghanistan and Iraq, there have been any transfers of persons detained by British Forces in those countries to Guantanamo Bay. On that occasion I undertook to provide you with a written response. I apologise for the delay in replying to you on this matter.

I understand that the Defence Secretary wrote to you recently bringing to your attention the review of detention practices in Iraq and Afghanistan that his department has recently conducted. The review included an audit of the records relating to persons captured by UK Forces and subsequently detained by US Authorities. Both the Defence Secretary and I have confidence in the processes currently in place to ensure that persons captured by UK Forces and subsequently transferred to US authorities are held in accordance with UK policy and legal obligations. No evidence has been uncovered that anyone captured by the UK forces and detained by the US forces has been either mistreated or unlawfully renditioned to Guantanamo Bay. I understand that the Defence Secretary has undertaken to inform you when the review of UK records is complete.

There remains, of course the possibility that an individual we have captured and released has subsequently been detained by another country and then transferred to Guantanamo Bay. We are not aware of any such occurrence and consider it to be unlikely. However, it is not the responsibility of the UK Foreign Office or Ministry of Defence to monitor this information nor do I believe it would be practical for us to do so.

David Miliband

26 June 2008

Letter to the Chairman of the Committee from the Secretary of State, Foreign and Commonwealth Office

Thank you for the letter of 3 March from the Clerk of the Committee, regarding my response to the Committee's Second Report of Session 2007-08, *Global Security: Russia*, which requested further information on our Russia policy.

Recommendation 2 (FAC Report Paragraph 31, Paragraph 8 of the Foreign Secretary's response): the Committee would like a written assessment of the conduct of Russia's 2 March Presidential election, including comment on the conditions provided for international election monitors and on the decision of the OSCE's Office for Democratic Institutions and Human Rights not to send an observation mission.

Dmitry Medvedev won a landslide victory in Russia's presidential elections on 2 March, taking 70.3 per cent of the vote. The main Russian election-monitoring NGO, GOLOS [Voice], reported a variety of violations, including instances of ballot-stuffing, non-admittance of accredited observers to polling stations, and procedural irregularities. The Parliamentary Assembly of the Council of Europe (PACE) observers, noted that the results were "a reflection of the will of an electorate whose democratic potential was unfortunately not tapped". Although the international community recognises that the elections took place in a calm and peaceful atmosphere, we along with the EU and international observers questioned the degree of democracy exhibited throughout the election period.

Of particular concern were the unacceptable conditions Russia placed on international observers from the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), limits to restrict the field of candidates and the lack of equal media access for opposition candidates. As in the run-up the parliamentary elections, the Russian Central Election Commission presented ODIHR with restrictions in late January that did not allow for the presence of long-term observers. It would not have been possible for ODIHR to fulfil their mandate under such conditions and they withdrew, citing the importance of a thorough long-term mission to determine overall how free and fair the election was. Although regrettable, HMG fully respects this decision.

Another key concern was the lack of democratic choice offered to the Russian people. Pressure from the authorities on the liberal opposition meant that they were unable to field a candidate. Gary Kasparov, leader of the Other Russia opposition alliance, withdrew his candidacy after encountering significant bureaucratic barriers. Boris Nemtsov, one of the leaders of the liberal Union of Right Forces party, was registered as a candidate but subsequently withdrew, complaining that candidates had been denied a level playing field. Mikhail Kasyanov, a former Prime Minister and opposition leader, was barred from running after the authorities concluded that 13 per cent of the 2 million signatures he gathered in support of his candidacy were false.

Russian media coverage of the candidates was unequal at best and dominated by support for Dmitry Medvedev. In his statement on 29 February, the Head of the Russian Central Election Commission agreed that media coverage had been unequal but maintained the process overall had still been fair.

Recommendations 4 (FAC Report Paragraph 39, Paragraphs 10–14 of the Foreign Secretary's response) and 14 (FAC Report Paragraph 124, Paragraphs 33–37 of the Foreign Secretary's response): the Committee would like an update on the review of the UK's co-operation with Russia which the Foreign Secretary announced on 16 July 2007.

In my statement of 16 July 2007 to the House, I announced a number of measures against Russia as a result of its failure to answer satisfactorily our request for co-operation in seeing Andrei Lugovoy tried in the UK for the murder of Alexander Litvinenko in November 2006.

I tightened the visa regime for Russian Government officials travelling to the UK on official business. These officials now receive single entry, time limited visas in the same way as British officials travelling to Russia do. However, these changes do not target ordinary Russians travelling to the UK as tourists or businesspeople. Indeed we provide an express service for business travellers and since 1 March all applications are made online making our visa issuing operations in Russia more effective.

We reduced our bilateral co-operation with Russia on counter-terrorism. We will, of course, communicate any information we receive regarding a serious terrorist threat to Russia, and expect Russia to reciprocate. We continue to work with a number of Russian agencies and Ministries such as the Ministry of Foreign Affairs, Ministry of the Interior and the Foreign Intelligence Services in international fora such as the G8 Roma Lyon Group developing a response to the global threat from terrorism. We concluded also the need to place on hold the development of a Military Technical Co-operation Agreement.

Recommendation 5 (FAC Report Paragraph 70, Paragraphs 15–17 of the Foreign Secretary’s response): the Committee would like to know the date of the next bilateral UK-Russia meeting on human rights, scheduled for the first half of 2008, and to receive a written update on the outcome of the meeting when it takes place.

Our Embassy in Moscow wrote to the Russian Government at the beginning of March, regarding suitable dates for the next bilateral human rights meeting. We are currently waiting for the Russian Government’s response. We will inform the Foreign Affairs Committee when the date has been agreed and will also, in due course, provide a note of the meeting’s outcome.

Recommendation 7 (FAC Report Paragraph 74, Paragraphs 19–20 of the Foreign Secretary’s response): of the projects which were being run in Russia by DFID prior to the closure of its Russia programme in March 2007, the Committee would like to see a list of those which have been discontinued, and a list of those which have been continued in some form. The Committee would also like to receive an indication of the ways in which the FCO plans to take forward its project work with groups from the professions in Russia in the 2008–09 financial year.

DFID projects

DFID closed its bilateral development programmes in Russia in March 2007, as a traditional development programme was no longer appropriate given Russia’s rising wealth, its upper-middle income country status, and its membership of the G8 Group of Countries. Russia is also now an emerging donor and has been increasing contributions to the multilateral aid system. The UK’s development relationship with Russia has shifted to reflect that Russia has an enormous potential to contribute to the reduction of global poverty.

From 2002 until the bilateral programme closed in 2007, DFID spent over £77 million in Russia. The programme focused on five main areas:

- Russian participation in global institutions
- Improving the capacity of state institutions
- Social policy, including health and HIV/AIDS
- Improving access to livelihood opportunities
- Improving access to justice

Rising wealth in Russia has produced rising expectations for improved public services, which is why DFID continues to support efforts aimed at Public Administration Reform (PAR) in Russia. DFID has supported PAR programmes from 2003 and have committed further resources until 2010. The Programme aims to support the Government’s efforts to make public administration in Russia more efficient and effective. Support will be targeted at working with regional authorities, especially in the Southern Federal Districts. Poor districts in Russia’s Far East are also showing interest in the Programme.

DFID is also supporting Russia as it builds up its aid programmes. As members of the G8 Group of Countries, Russia and the UK have shared responsibilities to help combat global poverty. There is good scope for co-operation. Both Russia and Britain have committed to provide aid in ways that:

- is aimed at reaching the Millennium Development Goals;
- is aligned with partner countries’ own economic development programmes; and
- is provided in close collaboration with other donors, both multilateral and bilateral.

FCO Projects

The FCO programmes are not targeted specifically at working with the professions, although we work most closely with the legal and journalistic professions within the Human Rights field and some of our projects aim to improve the knowledge or working practices of these professions. We aim to find the best possible project partner for activities that meet the FCO’s strategic objectives—this could be an NGO, an international organisation, a government agency, or professional associations. Details of projects planned for 2008–9 involving the professions are as follows:

(a) European Club of Professionals

Providing regional civil activists, NGOs representatives, lawyers, and journalists with authentic and positive information about European Court of Human Rights’ activities to enable them to make better use of it.

(b) Kaliningrad Resource Informational Analytical centre

Training lawyers of the Kaliningrad region in European standards of human rights to develop gradual inculcation into the practical activity of courts and local authorities.

(c) Slavic Centre for Law and Justice

Addressing the issues of religious and ethnic discrimination in Russia with lawyers and law students through the use of European Convention mechanisms.

(d) Lawyers for Constitutional Rights and Freedoms

Building the legal and operational capacity of the Russian state to combat discrimination by introducing best practice from foreign jurisdictions, raising awareness of Russian lawyers in international and domestic remedies, disseminating the successful litigation strategies in discrimination cases and promoting legislative changes.

Recommendation 26 (FAC Report Paragraph 236, Paragraphs 62–64 of the Foreign Secretary's response): the Committee would like to request that it be given sight, in confidence, of the EU's negotiating mandate for the proposed new EU-Russia agreement, when the mandate is finalised and ready to form the basis for the negotiations. While the Committee fully understands why—in line with normal practice/the EU negotiating mandate is not public, it regards as problematic the Government's reliance on a non-public document in order to justify its stance with respect to the Committee's recommendation; the Committee would therefore like to be able to see the document.

The draft mandate is a restricted EU document. In such cases, it is our usual practice to write a letter to the European Committees outlining the content of a mandate after it has been agreed. The European Committees have approved this approach. I would be very willing to send you a copy of the letter to the European Committees, which will set out why we can have confidence in the mandate.

But I also recognise that, in view of the specific nature of the EU-Russia negotiations (which are likely to be lengthy, high profile and complex), it would be right to keep Parliament informed of developments. The Minister for Europe will keep the Chairs of the European Committees updated on progress in the negotiations and, provided the chairs of those committees are content, will copy those letters to you.

Recommendation 37 (FAC Report Paragraph 314, Paragraphs 88–89 of the Foreign Secretary's response): the Committee would like an update on the Government's engagement with Russia in pursuit of an Arms Trade Treaty following the first meeting of the relevant UN Group of Government Experts in February 2008.

FCO officials met with the Russian expert nominated to the UN Group of Government Experts (GGE) on the Arms Trade Treaty (ATT) during its first session from 11–15 February. The GGE mandate is to examine, commencing in 2008, the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms.

Russia set out its concerns in our bilateral dialogue and within the confidential exchange of views among the 28 national experts who had been nominated by States selected by the UN. These views, along with the views of the other 27 national experts, will be taken into account in discussions over the next two GGE sessions (12–16 May and 28 July–8 August). We remain engaged with the Russian authorities on this issue through contact with their representative to the Conference on Disarmament, within the UN ATT process and bilaterally via our Embassy in Moscow.

31 March 2008