



Seventh Report  
from the  
**Foreign Affairs Committee**  
Session 2008-09

**Annual Report on Human Rights 2008**

Response of the Secretary of State  
for Foreign and Commonwealth Affairs

*Presented to Parliament  
By the Secretary of State for Foreign and Commonwealth Affairs  
By Command of Her Majesty  
October 2009*



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## SEVENTH REPORT FROM THE FOREIGN AFFAIRS COMMITTEE

### SESSION 2008-09

#### ANNUAL REPORT ON HUMAN RIGHTS, 2008

#### RESPONSE OF THE SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS

1. The Government welcomes scrutiny by the Committee of its work to promote human rights around the world. We value the positive co-operation that exists between the Committee and the Foreign and Commonwealth Office on all issues, including the vitally important area of human rights.
2. This Command Paper sets out the Government's response to the Foreign Affairs Committee's report of 9 August 2009 into the Foreign and Commonwealth Office's 2008 Annual Report on Human Rights (Cm7557). The Committee's recommendations are set out in bold. Unless otherwise indicated, references are to paragraphs in the Foreign Affairs Committee Report (HC557).

#### The structure of the FCO report

1. **We conclude that the FCO's inclusion in its report of extensive sections on what steps it is taking to promote equality and democracy, including women's and children's rights, is welcome. We recommend that next year's report includes what the FCO is doing both to extend the right of freedom of association, and to achieve progress amongst Commonwealth countries in implementing the human rights provisions of the Harare Declaration. (Paragraph 10)**
3. The Government welcomes the Committee's positive assessment of the 2008 Annual Human Rights Report. In line with the Committee's recommendation, we will include more information on the Government's action to promote and protect the right to freedom of association in the 2009 edition, which we plan to launch in March 2010.
4. The Government welcomes the Committee's focus on the Commonwealth and the Harare Declaration. The UK believes the Commonwealth can do more to promote the human rights and democracy values enshrined in the Harare Declaration, including better use of the Commonwealth Ministerial Action Group to uphold those values. We will be asking fellow members to consider this at the Commonwealth Heads of Government Meeting (CHOGM) in 2009. The 2009 edition of the Annual Human

Rights Report will contain a section on the Government's approach to promoting human rights at CHOGM. Information on our work to promote human rights in individual Commonwealth countries will be contained throughout the report.

### **US policy on extraordinary rendition**

2. **We conclude that the shift in attitude of the new US Administration on the definition of torture and in its approach to extraordinary rendition is to be welcomed. We recommend that, in its response to this Report, the Government supplies us with a full assessment of whether, in its opinion, the present US policy in relation to secret and transitory detention and permitted interrogation techniques fully conforms to international human rights standards as interpreted by the UK. (Paragraph 20)**
5. The Government agrees with the Committee that the new US Administration's commitment to addressing the challenges of violent extremism in a manner consistent with upholding the rights of individuals, civil liberties and the rule of law is to be welcomed. The US Government has commissioned reviews to cover policy on detention, interrogation and rendition which are due to report fully over the next six months. We await the outcome of those processes.

### **Rendition**

3. **We conclude that it is unacceptable that the Government has not taken steps to obtain the full details of the two individuals who were rendered through Diego Garcia. We recommend that the Government presses the new US Administration to provide these details, and that it should then either publish them, or explain the reasons why it considers it would not be in the public interest to publish them. (Paragraph 28)**
6. The Government does not agree with the Committee's conclusion. Since receiving new information from the US in February 2008 that, contrary to previous assurances, two rendition flights had passed through the UK Overseas Territory of Diego Garcia in 2002, officials have followed up with their US counterparts to examine the details and implications of these flights. We have a limited amount of information about these flights. The US has informed us that both individuals have now been returned to their country of nationality and that neither was a British national or resident. Related issues are now the subject of Judicial Review proceedings and it would be inappropriate to comment further,

except to reinforce the fact that the UK was in no way involved in, or aware of, these flights at the time.

4. **We conclude that the use of Diego Garcia for US rendition flights without the knowledge or consent of the British Government raises disquieting questions about the effectiveness of the Government's exercise of its responsibilities in relation to this territory. We recommend that in its response to this Report, the Government indicates whether it considers that UK law has effect in British Indian Ocean Territory, and whether it considers that either UK law or the agreements between the US and UK over the use of BIOT were broken by the admitted US rendition flights in 2002. (Paragraph 30)**
7. The Government does not agree with the Committee about the effectiveness of the Government's exercise of its responsibilities in relation to Diego Garcia. We have, however, made clear our disappointment about these cases, and the late emergence of the information.
8. The law applied by the courts of the Territory of Diego Garcia consists, first, of those Acts of Parliament and Orders in Council, etc, that apply (or have been applied) to the Territory; second, the Ordinances that have been enacted by the Commissioner (under the usual power to make laws "for the peace, order and good government of the Territory") and the subordinate legislation made under such Ordinances; and third and always subject to any such "specific law", the law of England as from time to time in force in England.
9. We consider that the US Government should have sought permission from the UK before undertaking rendition operations through Diego Garcia. The US Government has since underlined the firm US understanding that there will be no rendition through the UK, UK airspace or Overseas Territories without express British Government permission. The US have also stated that, should there be any doubt as to whether an operation falls inside or outside the Exchange of Notes that govern the use of Diego Garcia, then the US Government would consult the UK Government.
5. **We conclude that, in the light of the controversy over the use of British Indian Ocean Territory for purposes of rendition by the US, it is important that full records of flights through the territory are kept, and retained for an indefinite period. We conclude that it is to be welcomed that the British representative on Diego Garcia now keeps flight records. We recommend that the Government discloses how, why and by whom the records relating to flights through Diego**

**Garcia since the start of 2002 were destroyed. We further recommend that the Government provides, in its response to this Report, full details of its record-keeping and record-disposal policy in relation to flights through British territory, particularly BIOT, and state for how long it now retains such records. We recommend that, in its response, the Government addresses the question of whether it considers that current aviation law and aircraft identification procedures are sufficient to identify flights which may be carrying out rendition both through Diego Garcia or elsewhere through UK airspace. (Paragraph 33)**

10. The Government agrees with the Committee's conclusion. As the Committee will be aware, following receipt of the information from the US in 2008 about the two US rendition flights through Diego Garcia in 2002, the Foreign and Commonwealth Office instructed all Overseas Territories, including the British Indian Ocean Territory, to retain all flight records until further notice. Prior to this instruction, customs and daily occurrence logs on Diego Garcia were generally held for around five years and general declarations made by all aircraft on arrival were generally held for around three years. The records relating to flights through Diego Garcia in 2002 were destroyed by British personnel on the island in line with normal practice.
11. There are more than two million flights through UK airspace annually. It would be unreasonable and impractical to check every aircraft transiting UK airspace. Instead, an intelligence-led approach is and must be employed. The Government is confident that if individuals are reasonably suspected of committing criminal offences, or if there are reasonable grounds to suspect that aircraft are being used for unlawful purposes, then action can be taken. The nature of that action would depend on the facts and circumstances of any case.
6. **We conclude that it is a matter of concern that many allegations continue to be made that the two acknowledged instances of rendition through British Indian Ocean Territory in 2002 do not represent the limit of the territory's use for this purpose. We further conclude that it is extremely difficult for the British Government to assess the veracity of these allegations without active and candid co-operation from the US Administration. We recommend that the Government requests the Obama Administration to carry out a further, comprehensive check on its records relating to the use of BIOT with a view to testing the truth of the specific allegations (including those set out in paragraph 34 above) relating to rendition through the territory. We conclude that it is unsatisfactory that the**

**Government is not able to give us a categorical assurance that re-victualling of ships anchored outside BIOT's territorial waters by any vessel from BIOT, for purpose of assisting rendition, has not occurred. We further conclude that it is unsatisfactory that the US has only undertaken to inform the UK of the movement of ships in Diego Garcia's territorial waters in normal circumstances but not in all cases. We recommend that the Government requests the US Administration to supply details of any movement of ships in Diego Garcia's waters since January 2002 that were not notified at the time to the UK authorities, and seek assurances that at no point were these or other vessels used for re-victualling of vessels outside Diego Garcia's territorial waters which were being used for purposes of rendition. (Paragraph 37)**

12. The Government does not agree with the Committee about the need for a further check of records on the use of BIOT. Following the new information received from the US in February 2008 that, contrary to previous assurances, two rendition flights had passed through the UK Overseas Territory of Diego Garcia in 2002, UK officials compiled a list of flights where we had been alerted to concern about rendition through the UK, or our Overseas Territories. This list was provided to the US. The US Government confirmed that, with the exception of the two cases related to Diego Garcia in 2002, there have been no other instances in which US intelligence flights landed in the UK, our Overseas Territories or the Crown Dependencies, with a detainee on board since 11 September 2001.
13. The Government notes the Committee's conclusion that it is unsatisfactory that the US has only undertaken to inform the UK of the movement of ships in Diego Garcia's territorial waters in normal circumstances but not in all cases. However, the procedure for consultation is set out in the 1976 Exchange of Notes between the UK and US: "Both Governments shall consult periodically on joint objectives, policies and activities in the area. As regards the use of the facility in normal circumstances, the Commanding Officer and Officer in Charge of the United Kingdom Service element shall inform each other of intended movements of ships and aircraft. In other circumstances the use of the facility shall be a matter for the joint decision of the two Governments."
14. The Government also notes the Committee's recommendation that the Government requests that the US supply details of any movements of ships in Diego Garcia's waters since January 2002 that were not notified at the time to the UK authorities and seek assurances that at no point were these or other vessels used for re-victualling of vessels outside



Diego Garcia's territorial waters which were being used for the purposes of rendition. The US has already confirmed to the UK that no detainees have been held on ships within Diego Garcia's territorial waters since 11 September 2001.

15. The US has also informed us that they do not operate detention facilities for terrorist suspects on board ships, although US naval vessels were used in the early days of Operation Enduring Freedom in Afghanistan to screen and temporarily hold a very small number of individuals pending their transfer to land-based detention facilities. The US has informed us that these ships were not located within the territorial waters of Diego Garcia. The Government has no information to suggest that these ships were ever supplied from the island. Neither is the Government aware of any ships holding detainees outside the territorial waters but being supplied from the island.
7. **We reiterate our previous conclusion that it is deplorable that previous US assurances about rendition flights through Diego Garcia have turned out to be false. We further conclude that the basis of trust in subsequent US assurances about the use of BIOT has been undermined. We recommend that the Government outline what practical action it is taking to ensure that it has full sources of information about US rendition activity on BIOT. (Paragraph 41)**
16. As previously outlined, the Government shares the Committee's disappointment that the new information on Diego Garcia only came to light in February 2008. However, the US came to us quickly when they realised a mistake had been made and we fully accept that they gave us their earlier assurances in good faith. We accepted those assurances and referred to them publicly in good faith. The Foreign Secretary made an oral statement on 21 February 2008 to inform the House of this information and to correct previous statements made on the subject.
17. As explained in paragraph 12, the US Government has confirmed that, with the exception of the two cases of rendition through Diego Garcia in 2002, there have been no other instances in which US intelligence flights have landed in the UK, our Overseas Territories or the Crown Dependencies, with a detainee on board since 11 September 2001. They have also underlined their firm understanding that there will be no rendition through the UK, our Overseas Territories and Crown Dependencies or airspace without first receiving our express permission.
8. **We reiterate our earlier conclusion 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. We acknowledge the practical difficulties in the way of monitoring all empty flights transiting UK territory or airspace. We recommend that the Government, in its response to this Report, sets out options for more effectively establishing whether flights, including those by civilian aircraft, are on their way to or from a rendition operation. (Paragraph 43)**

18. As previously outlined, the Government does not consider that a flight transiting UK territory or airspace on its way to or from a rendition operation constitutes rendition. Nor do we consider that permitting transit or refuelling of an aircraft without detainees on board without knowledge of what activities that aircraft had been or would be involved in, or indeed whether or not those activities were unlawful, to be unlawful in itself.
19. As noted in paragraph 11, over two million flights pass through UK airspace every year. It would be impractical to check every flight on the basis that it may have been, at some point in the past, and without UK knowledge, involved in a possible unlawful operation.
9. **We recommend that the Government complete its analysis of practicalities of signing the UN Convention on Enforced Disappearances as soon as possible. We further recommend that, having been supportive of the Convention at the drafting stage, the Government should declare its intention, in principle, to sign. (Paragraph 46)**
20. The Government supports the principle of the Convention Against Enforced Disappearance. The practice of the United Kingdom has always been to sign a treaty only when it is sure that it will be able to ratify it shortly thereafter, and that UK law enables the Government to fulfil the obligations contained in the treaty.
21. It has become clear from our analysis that this treaty could require many common law powers to be replicated in statute, in addition to the specific criminal offences that the treaty requires us to create. This will require Parliamentary time, in addition to extensive further work needed to prepare the appropriate provisions.

#### **Allegations of UK complicity in torture**

10. **We conclude that the practices of the Pakistani Inter-Services Intelligence (ISI) Agency continue to give cause for great concern, in**

**the light of the allegations we have received that the Agency subjects detainees to mistreatment and torture. We further conclude that while the UK must, by necessity, maintain its relationship with Pakistani intelligence, we are very concerned by allegations that the nature of the relationship UK officials have with the ISI may have led them to be complicit in torture. We recommend that, in its response to this Report, the Government supplies us with details of the investigations it has carried out into the specific allegations of UK complicity in torture in Pakistan brought to public attention by Reprieve and Human Rights Watch, and the grounds it has for supposing those allegations to be baseless. We further recommend that the Government make an explicit statement that in future co-operation with the Pakistani authorities, UK officials should in no circumstances be uncritical of, or complicit in, abuses of human rights. We recommend that, in its response to this Report, the Government confirms that it is its policy, in respect of every case where allegations of torture in Pakistan are drawn to its attention, for such allegations to be passed to the Pakistani authorities and every available step taken to ensure that they are investigated and responded to fully. (Paragraph 54)**

22. The Government has been absolutely clear that the UK stands firmly against torture and cruel, inhuman and degrading treatment or punishment. This is a fundamental principle guiding our approach and that of those who work to protect us.
23. We have taken a leading role in international efforts to eradicate torture. We support the work of international organisations, including the UN, against torture, and work around the world to promote effective criminal justice systems to both prevent torture and ensure perpetrators are brought to justice.
24. This is also the approach and ethos set out in our counter-terrorism strategy, CONTEST. As that strategy makes clear, our work to reduce the threat of terrorism is based on a set of core principles and values including respect for human rights and the rule of law.
25. As outlined in the Government's response to the Committee last year, we share the Committee's concerns about allegations that the Inter-Services Intelligence Directorate (ISI) has mistreated detainees. We continue to encourage the Government of Pakistan to meet its human rights obligations and to ratify the International Covenant on Civil and Political Rights and the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT). Our programme

of support for building Pakistan's counter-terrorism capacity continues to emphasise the importance of compliance with internationally agreed human rights standards.

26. We work closely with the Government of Pakistan to support its counter extremism efforts through development support, institutional capacity building work to improve governance and through increased investment in education. We are also engaged in projects to help build improved capacity for counter-terrorism, for example through legislative mechanisms and practical training on forensics, terrorist financing and crisis management.
27. The Government welcomes the Committee's conclusion that the UK must maintain its relationship with Pakistani intelligence. We also note the Committee's concerns about allegations of UK complicity in torture in Pakistan. The English courts have rejected allegations that UK complicity in ill treatment amounted to abuse of process in 2 cases which have come before them. These allegations were raised during the criminal trials of two of the individuals prosecuted for terrorist activities who have been the focus of media coverage – Rangzieb Ahmed and Salahuddin Amin. The trial judge in Mr Ahmed's case stated "I specifically reject the allegations that the British authorities were outsourcing torture". The trial judge in the case of Mr Amin found that there was no evidence to suggest that the UK authorities were complicit in the unlawful detention or ill-treatment in Pakistan. The Court of Appeal has upheld the findings of the trial judges in both cases, pending a final appeal by Rangzieb Ahmed.
28. As outlined in paragraphs 41 and 45, the intelligence and security Agencies operate to strict guidelines, including about their duties and responsibilities regarding human rights. The Prime Minister has made a commitment to publish this guidance, once it has been consolidated and reviewed by the ISC.
29. The Government notes the Committee's recommendation that we should supply details of the investigations that have been carried out into the specific allegations of UK complicity in torture in Pakistan. However, we are unable to comment on specific cases/allegations for various reasons, including the fact that some are the subject of ongoing legal proceedings.
30. The UK Government is critical of Pakistan's human rights record and we will continue to raise human rights issues with the Government of Pakistan where we have concerns. Complicity in torture is prohibited

under international and UK law. The FCO has guidance underlining to all staff the importance of reporting allegations of torture or ill-treatment of any detainees, whatever their nationality. This guidance is kept under review, and is currently being revised to ensure that it is as clear and thorough as possible. Copies of both the general staff guidance and Consular guidance on reporting torture and ill treatment will be provided to the Committee once the current review process is complete.

31. One of the Government's highest consular priorities is ensuring the welfare of British nationals detained abroad, including in Pakistan. We are particularly concerned where there is a possibility of abuse. If we have reason to believe that a British national is being mistreated in detention, then we will do everything possible to stop it from happening. All consular staff receive training which covers prisoner issues, and what to do when they have concerns over allegations of torture or mistreatment. All cases of mistreatment will be referred to Ministers. When we have permission from the individual concerned, we can raise concerns with the relevant authorities with a view to ending the mistreatment and, when possible, have the incident investigated and the perpetrators brought to justice. In exceptional circumstances, we now consider raising concerns even without an individual's express consent. Even when an individual does not want us to take up their case explicitly, our knowledge of it may enable us to lobby more effectively for improvements in the way in which he or she is being treated in general. In many countries we also raise more general concerns about the treatment of detainees as part of our wider human rights dialogue. The ways in which we raise our concerns will clearly vary from case to case, but the objectives remain the same: to end any abuse of the individual concerned, and more generally to do what we can to make it less likely that detainees will be abused in the future.
11. **We conclude that the Government's intention to establish the same standards for dual and mono British nationals in relation to consular access is to be welcomed. We recommend that this change should be brought into effect as soon as possible, and that in its response to this Report the Government sets out a timetable for this to be achieved. We further recommend that all British nationals should be offered consular advice as soon as the Government is aware of their detention, and certainly before they are interrogated by any foreign intelligence service. (Paragraph 57)**
32. The Government welcomes the Committee's conclusions on the importance of consular access and assistance. Consular staff aim to contact British nationals detained overseas within 24 hours of being told

about their arrest or detention. If the detainee so wishes, consular staff will then seek access in order to visit them as soon as possible. How soon a consular visit takes place will depend on the detaining authorities and on the practicalities of access to the place of detention.

33. We would not normally offer consular assistance to a dual British national in the state of their other nationality. However, as the Foreign Secretary indicated when giving evidence to the FAC in June, we may make an exception to this if we consider that there is a special humanitarian reason to do so. Current consular guidance makes clear that such reasons would include situations where we have reason to believe there is the possibility of mistreatment or torture. It specifies that in all cases of alleged mistreatment of a dual national in the country of their other nationality, consular staff should record the allegation and follow the same procedures as for a mono British national. The Guidance goes on to say that in a country where there are general concerns about mistreatment of certain detainees, such as those held in relation to terrorist or political offences, consular staff should try to contact any dual national held in relation to such offences, regardless of whether specific concerns have been raised. These guidelines are already in operation.
34. At the moment, the Government do not propose to make a more general change to the policy of not seeking access to dual nationals in the country of their other nationality where there are no concerns over mistreatment or other special humanitarian considerations.
35. In the Government's response to the Committee's report last year we stated that we were aware of eight cases of British or dual British/Pakistani nationals having been detained on suspicion of terrorist offences in Pakistan since 2000. A recent Joint Committee on Human Rights report raised a discrepancy between this figure and 11 cases mentioned in a footnote to their report. As the Committee is aware we reviewed our files in light of this and confirmed that we were aware of 11 individuals. Of the three individuals not referred to in our response last year, one was a mono British national, and the other two were dual nationals. Consular officials were aware of all at the time of their detention. Consular access was sought in all cases but only provided in one. Consular records indicate that allegations of mistreatment were made in one case. None of these three individuals are still detained in Pakistan.
36. Consular records are designed to allow us to manage and record individual case work. The records are therefore designed to be searched primarily by individual case. At the moment there are limits on how easily the records can be searched by thematic criteria. In response to

recent parliamentary and public interest in allegations of mistreatment of those detained overseas, we are putting in place systems for certain categories of case to be recorded separately in future in order to make retrieval easier. In addition, we are not always informed by the local authorities when a British national is detained, particularly in the case of dual nationals in their country of other nationality. Any number of cases we give therefore cannot be definitive and may be subject to change.

**12. We conclude that, notwithstanding the recent changes to House of Commons standing orders, the Intelligence and Security Committee (ISC) remains a creature of the Government, not a committee of Parliament, and that consequently there continues to be a deficit in the parliamentary scrutiny of intelligence and security matters. We reiterate our previous recommendation that the ISC should be reconstituted as a select committee of the House of Commons. (Paragraph 63)**

37. The Government does not share the Committee's view that there is a deficit in the parliamentary scrutiny of intelligence and security matters. Parliament created the Intelligence Services Act 1994 which established the Intelligence and Security Committee (ISC) and made statutory provision for the parliamentary scrutiny of the expenditure, administration and policy of the security and intelligence agencies. The Government believes that Parliament has been extremely well served by the ISC since its inception. Its members, drawn from all the major parties, have discharged their responsibilities with consistent rigour and impartiality.
38. In its white paper published last year (*The Governance of Britain – Constitutional Renewal*; Cm 7342) the Government put forward a number of proposals to improve the transparency, accountability and effectiveness of the ISC. Following their approval by both Houses, the Government was able to implement those measures immediately without need for legislation. Parliamentary support included changing House of Commons standing orders to enable the Committee of Selection to propose, for the approval of the House, members to be recommended to the Prime Minister for appointment to the ISC. Under the existing legislation, only the Prime Minister has the statutory power actually to make such appointments (after consulting the Leader of the Opposition).
39. The Government notes the Committee's recommendation that the ISC should be reconstituted as a select committee of the House of Commons. However, effective scrutiny of the security and intelligence agencies is



always likely to require special arrangements. The sensitive nature of the evidence which the ISC hears and the scope of the investigations it undertakes mean that it cannot be brought completely into line with select committees. Any move to change its status would need to take careful account of the need to maintain a proper level of security.

**13. We conclude that if the Investigatory Powers Tribunal is to be an effective safeguard it should be able to investigate allegations made by third parties. We recommend that the Government brings forward proposals to make this change. (Paragraph 64)**

40. The Investigatory Powers Tribunal has a wide jurisdiction to consider and fully investigate complaints by individuals who are aggrieved by conduct by the intelligence and security Agencies. The Tribunal does not entertain complaints made on behalf of third parties, although a representative or adviser can act on the complainant's behalf. Other legal avenues exist through which third parties can pursue allegations against the Government and/or the security and intelligence agencies. The Government is not therefore persuaded that it is necessary, or appropriate, to expand the remit of the Investigatory Powers Tribunal in the manner proposed.

**14. We conclude that, while we understand the Government's caution about publishing historical guidance to intelligence officers whilst current court cases are in progress, we are not convinced that the release of material that would be available to a court on request is likely to prejudice a case. We therefore recommend that such historical guidance should be placed in the public domain as soon as possible. (Paragraph 68)**

41. The Government does not share the Committee's view. The Government has made a commitment to publish consolidated guidance to intelligence officers and service personnel about the standards that we apply during the detention and interviewing of detainees. This guidance makes clear the careful and considered way we go about making the choices that we face. It reflects the best thinking and advice that we are able to provide to those who act in the name of the United Kingdom. Through this guidance, the Agencies, and the Government more generally, set parameters for the conduct of their officers.

42. Through the work of the Intelligence and Security Committee, in particular their 2005 report on the handling of detainees by UK intelligence personnel in Afghanistan, Guantanamo Bay and Iraq, and their 2007 report on Rendition, information was released to Parliament



and the public on how the guidance to staff on these issues developed over time.

15. **We conclude that it is essential that there is a robust system of accountability to ensure that the Foreign Secretary uses section 7 of the Intelligence Services Act 1994 in a responsible fashion. We recommend that, in response to this Report, the Government informs us whether the Intelligence Services Commissioner has ever expressed any concern regarding the use of powers given to the Foreign Secretary under section 7 of the Act. (Paragraph 71)**
  
43. The Government agrees that a robust system of accountability is essential. The issuing of warrants under the Intelligence Services Act 1994, including authorisations under section 7 of the Act, are scrutinised carefully by the Intelligence Services Commissioner (The Rt Hon Sir Peter Gibson).
  
44. The requirements for the use of section 7 are clearly set out in the Act itself, and are meticulously followed in the granting of any such authorisation. In his report covering 2008 (published on 21 July 2009), the Commissioner concluded that he was satisfied that the Secretaries of State had exercised their statutory powers properly. The Commissioner further concluded that the authorising Secretaries of State “take considerable care to satisfy themselves that the warrants applied for are necessary for the authorised purposes, and that what is proposed is proportionate. If any of the Secretaries of State considering a request for a warrant felt they needed further information to satisfy themselves that the warrant should be granted, they have requested it and the information has been given”. As the Commissioner stated in the same report, it is not possible for him to go into detail on these matters without revealing information of a sensitive nature. The Intelligence Services Commissioner has never expressed concern in his Annual Reports about the way in which any Secretary of State has exercised his or her powers and duties under the Act.
  
16. **We conclude that it is essential that the UK maintains effective intelligence relationships with other countries, and we note that these countries may include ones, such as Pakistan, where there are most serious concerns about human rights abuses of detainees. We further conclude that the Government is correct to base decisions about intelligence co-operation on an assessment of the risk of mistreatment of detainees, and we are heartened to learn that there have been cases in which on this basis co-operation had not taken place. We further conclude that it is essential that the Government**

**emphasise to its foreign counterparts that torture is unacceptable, and that it should work pro-actively to persuade other states to renounce the use of torture against all detainees, whatever their nationality. (Paragraph 74)**

45. The Government agrees with the Committee's conclusion. Intelligence from overseas is critical to our success in stopping terrorism. All the most serious plots and attacks in the UK itself in this decade have had significant links abroad. Our agencies must work with their equivalents overseas. Many other countries have different legal obligations and different standards to our own in the way they detain people and treat those they have detained. That cannot stop us from working with them where it is necessary to do so to protect our country and our citizens. But it does mean we have to work hard both to ensure we do not cooperate or collude in torture or mistreatment, and to seek to reduce and eradicate it. When working with partners overseas, the intelligence and security Agencies operate to strict guidelines, including about their duties and responsibilities regarding human rights. The Prime Minister has made a commitment to publish this guidance, once it has been consolidated and reviewed by the ISC.
- 17. We conclude that the use by the UK Government of intelligence information which may serve to avert a potentially catastrophic terrorist attack, but which is supplied by foreign states and which may have been obtained through torture, raises profoundly difficult moral questions. We further conclude that the Government has a duty to use information that comes into its possession, from whatever source and however obtained, if it believes this will avert the loss of life. At the same time, we strongly recommend that the Government should continue to exert as much persuasion and pressure as possible to try to ensure world-wide that torture is not employed as a method of interrogation. (Paragraph 79)**
46. The Government agrees with the Committee's conclusion. The suggestion from some quarters that the Government has a policy of accepting intelligence gained through torture is misleading. The reality of the situation is that the precise provenance of intelligence received from overseas is often unclear. However, we ensure that our partners are well aware that we find the use of torture or cruel, inhuman or degrading treatment unacceptable. All intelligence received is carefully evaluated, particularly where it is clear that it has been obtained from individuals in detention.
47. This position is in line with the House of Lords' 2005 Judgement in A and Others v the Secretary of State for the Home Department. In

that judgement Lord Brown said: ‘Generally speaking it is accepted that the executive may make use of all information it acquires: both coerced statements and whatever fruits they are found to bear. Not merely, indeed, is the executive entitled to make use of this information; to my mind it is bound to do so. It has a prime responsibility to safeguard the security of the state and would be failing in its duty if it ignores whatever it may learn or fails to follow it up.’

**18. We conclude that it is imperative that the UK fulfils its legal obligations in respect of the prevention of torture, including any duty to act positively to prevent it, investigate allegations that it has taken place, and expose it. We further conclude that there is a risk that use of evidence which may have been obtained under torture on a regular basis, especially where it is not clear that protestations about mistreatment have elicited any change in behaviour by foreign intelligence services, could be construed as complicity in such behaviour. (Paragraph 83)**

48. The Government is in agreement with the Committee concerning the importance of fulfilling our legal obligations in respect of the prevention of torture. The Government’s position is that the receipt of intelligence should not occur where it is known or believed that receipt would amount to encouragement to the intelligence services of other States to commit torture.

**19. We conclude that it is essential to maintain secrecy in relation to intelligence work. We further conclude that allegations presented to us of UK complicity in torture are a matter of concern. However, both owing to the operation of the House’s *sub judice* rule and because we are not in a position to subject these allegations to the necessary forensic scrutiny (involving examination and cross-examination) available to a court of law, we are not in a position to pronounce on the truth or otherwise of these allegations. We further conclude that any decision by the Government on whether to institute an independent judicial inquiry should await the conclusion of the current court cases. (Paragraph 85)**

49. The Government agrees with the Committee’s conclusion.

#### **Transfers of detainees**

**20. We conclude that it is a matter of concern that the Government has not provided details of the fate of individuals detained by US forces in Iraq as a result of operations by UK forces, or those captured by**

**UK forces and detained by US forces. We recommend that, in its response to this Report, the Government informs us of the number of such detainees, relevant details of the circumstances of their capture and the degree of involvement of UK forces, and any assurances it has received from the US authorities about their treatment and whereabouts, on an individual basis. We further recommend that the Government, in its response, provides us with a full statement of its record-keeping practice in respect of persons captured by UK forces in Iraq and Afghanistan, whether or not UK forces make the eventual detention. (Paragraph 90)**

50. The Government does not agree with the Committee's conclusion. As the previous Secretary of State for Defence, John Hutton, reported to the House of Commons on 26 February 2009, a comprehensive review of detention was conducted following unsubstantiated allegations by a former serviceman (Ben Griffin). The review concluded that UK Forces had exercised appropriately their responsibilities towards all captured personnel handed to US custody and it uncovered no evidence of mistreatment. Mr Hutton informed the House that the Ministry of Defence had completed a detailed review of records of detention in Iraq and Afghanistan since the start of each campaign, and that he was placing in the Library details of all detentions in southern Iraq in each year since 2003. Where UK Forces have captured individuals who were subsequently held in US detention this was governed by an MOU which covered arrangements for the treatment and transfer of detainees. Given the sensitive nature of these operations it is not the practice of this Government to comment further upon them.
21. **We conclude that the Government should have waited for the European Court of Human Rights to rule on whether the transfer of Faisal Attiyah Nassar Al-Saadoon and Khalaf Hussain Mufdhi to the Iraqi authorities in December 2008 was consistent with its obligations under the European Convention on Human Rights before proceeding with the transfer. We further conclude that explicit assurances that the death penalty would not be used in the event of a conviction in these cases should have been obtained in writing from the Iraqi authorities at the highest level. We recommend that in future the Government obtains such explicit assurances in writing from any national authority to which it transfers a detainee. (Paragraph 95)**
51. The Government notes the Committee's view. However, as we made clear at the time of transfer, after 31 December 2008 the UK had no legal power to detain any individuals in Iraq and continued detention would have been a breach of the UK's international law obligations.

Compliance with Rule 39 indications would normally be a matter of course but these are exceptional circumstances. The only lawful action open to the UK was to transfer these individuals to the Iraqi authorities. The European Court of Human Rights at Strasbourg asked the UK to retain custody in Iraq of Mr Al Saadoon and Mr Mufdhi when we had no legal power to do so. This case is still before the European Court at Strasbourg.

52. The Government's stance against the death penalty is clear and well known to the Iraqi authorities. Before the transfer to the Iraqis took place, we received assurances from the Iraqi Government, which the UK courts found to be sufficient to enable us to discharge our legal obligations, that the two detainees would be treated humanely and we made clear that the death penalty should not be applied in the case. The government thanks the Committee for the recommendation that in future written assurances that the death penalty will not be used should be obtained ahead of any detainee transfer. The Government will always endeavour to seek assurances about the death penalty ahead of any detainee transfer to a country that retains capital punishment.
22. **We conclude that the onward transfer to Afghanistan of two Pakistani men transferred from UK to US custody in Iraq in 2004 is of great concern. We do not regard the stated reason for this transfer, that US forces did not have sufficient linguists available in Iraq, as being convincing. We further conclude that it is not acceptable that the Government is unable to identify these detainees, or to provide assurances about their subsequent treatment. We recommend that the Government, in its response to this Report, identifies these men, and inform us of what steps it has taken to discover whether they have been treated in an acceptable way since being transferred to US forces. We conclude that the allegation by Reprieve that these two cases were not, as the Government asserts, isolated ones, gives cause for concern. We recommend that the Government investigates in detail any specific allegations put before it by Reprieve and reports to us the outcome of those investigations. (Paragraph 101)**
53. The Government agrees with the Committee that the transfer of these two individuals by the US to Afghanistan should not have taken place. We have discussed options with the US Government for these individuals, including the possibility of return to their country of origin or country of detention. We have been informed that – according to the findings of the US military 6-monthly 'Enemy Combatants Review Board' assessments – they continue to represent significant security concerns. We have sought and received assurances about their welfare and treatment. The

US has assured us that the detainees are held in a humane, safe and secure environment that meets international standards that are consistent with cultural and religious norms. The ICRC has had access to these individuals. A due diligence search by US officials of the list of all those individuals captured by UK Forces and transferred to US detention facilities in Iraq has confirmed that we have no reason to believe that this was anything other than an isolated incident. We would, of course, carefully consider any further credible information. We have nothing to add to previous statements on the issue of the identities of these two individuals. The Government has received a letter from Leigh Day, on behalf of Reprieve, on this issue and will respond in due course. A copy of the response will be passed to the FAC.

- 23. We conclude that the potential treatment of detainees transferred by UK forces to the Afghan authorities gives cause for concern, given that there is credible evidence that torture and other abuses occur within the Afghan criminal justice system. We recommend that the Government institutes a more rigorous system for checking on the welfare of transferees in Afghanistan, on an individual basis, and that in its response to this Report, it informs us of the steps proposes to take to achieve this end. (Paragraph 105)**
54. The Government notes the Committee's conclusion. Whilst HMG does not have any legal obligation to monitor UK captured individuals once they have been transferred to the custody of another state, there are procedures in place to monitor the subsequent treatment of detainees transferred from British Forces to other nations. These visits take place further to the undertakings given in the Memorandum of Understanding (MOU) between the UK and Afghan Governments, which commits all participants to proper treatment of prisoners. The Memorandum of Understanding also provides for the International Committee of the Red Cross (ICRC) and the Afghan Independent Human Rights Commission (AIHRC) to visit and report on what they find. All allegations of abuse are taken very seriously and HMG takes steps to ensure that they are duly investigated.
- 24. We conclude that although there may be scope for argument about the extent of the legal obligation on the UK to monitor the welfare of individual detainees after it has transferred them to another country, there is no doubt in our view that the UK is under a moral obligation to do so. Such monitoring is desirable not only to enable the Government to intervene if it receives information that an individual is being ill-treated, but also because any evidence thus revealed of systematic ill-treatment will call into question whether future transfers to that country should take place. We recommend**



**that the Government takes the necessary action to ensure that it has mechanisms in place to allow it effectively to monitor the welfare of individuals transferred, and in its response to this Report sets out what specific steps it is taking. (Paragraph 113)**

55. The response to paragraph 105 covers this in more detail. Afghanistan is currently the only country in which the UK conducts detention operations and transfers detainees. The Government takes this responsibility very seriously. As discussed in paragraph 54, there is a thorough process in place to track and monitor the whereabouts and condition of detainees from capture through to transfer or release.

#### **Oversight of private military security companies and contractors**

25. **We reiterate our previous conclusion that in cases like that of the allegations of abuse concerning the British Embassy in Baghdad, it is not appropriate for investigation of complaints against contractors' staff to be entrusted solely to the contractors. We conclude that the proper treatment of staff working for FCO-employed contractors overseas should be considered to be an FCO responsibility. Therefore we conclude that the inclusion of FCO officials in the team that investigated the latest allegations of abuse by KBR staff at the Baghdad Embassy is to be welcomed. We recommend that in order for the FCO reliably to monitor the compliance of its contractors with its own employment practices and standards, all similar allegations of serious misconduct by or against contracted staff should be investigated by a team that includes FCO representation. We further recommend that provision for this to happen should be explicitly made in future contracts. We conclude that it remains disappointing that the FCO is unwilling to reopen the investigation into the allegations in 2007 that female staff at the British Embassy in Baghdad had been abused by managers working for KBR, given the doubts that remain about the fairness and independence of the investigation. We recommend that the Government reconsider its position on this matter. (Paragraph 125)**

56. The Government agrees that it has a responsibility to ensure the proper treatment of staff working for FCO-employed contractors overseas and that any similar allegations of serious misconduct by or against contracted staff in the future will be investigated by a team that includes FCO representation. To ensure that this will happen, provision will be explicitly made in future contracts. The Government notes the Committee's disappointment that it is unwilling to reopen the investigation into allegations that female staff at the British Embassy in Baghdad had been

abused by managers working for KBR. But the reasons for this decision have been stated previously in communications with the FAC and the FCO sees no reason to reconsider its position on this matter.

- 26. We conclude that it is regrettable and disappointing that after such a long delay the Government has proposed a system of regulation for private military and security companies (PMSCs) based on a voluntary code of self-regulation. We remain unconvinced that anything other than a legislative solution can provide suitably strict regulation of PMSCs operating from the UK or employed overseas by the Government. We do not believe that a potential loss of business constitutes a sufficient sanction to control PMSCs' behaviour. We recommend that that when the Government issues its response to the recent consultation exercise, it commits itself to pursuing a legislative solution to the regulation of PMSCs at an EU or international level. (Paragraph 136)**
57. The Government does not share the Committee's view that nothing other than a legislative solution can provide a suitably strict regulation of PMSCs operating from the UK or employed overseas by the Government. The FCO has consulted extensively across Whitehall, with the industry, and with the academic and NGO communities. We have also taken into account our own operational experience of PMSCs in Iraq and Afghanistan. We believe that existing national and international law enables us to take action against PMSCs operating from the UK or employed overseas by the Government. We also believe self-regulation through the industry association in conjunction with international cooperation to raise standards is in fact most likely to achieve the desired outcome of regulating the industry overseas.
58. We looked long and hard at the possibility of introducing legislation, but concluded that it would not achieve our objectives as:
- a. any breach of the regime would almost certainly take place outside the UK. PMSCs typically operate in countries where legal systems are often not functioning effectively and frequently work in remote locations overseas. Consequently, investigation, obtaining evidence and enforcement would all be likely to prove highly complex and difficult. The chances of successful prosecution would be remote, as demonstrated by existing South African legislation;
  - b. UK companies channel a significant proportion of their contracts through overseas subsidiaries and any attempt to bring these within UK legislation would face serious legal and diplomatic problems;



- c. a Government approved register of companies would be difficult to create, maintain and use effectively. Establishing criteria to be accepted on to the register that would not be open to legal challenge would be problematic. There is a risk that the register could be seen as a stamp of approval for all of the company's activities, even though we would still have to license individual contracts;
  - d. considering the global nature of the industry, regulating solely the UK industry would reduce competitiveness unnecessarily and would not prevent international companies being involved in incidents that could call the reputation of the UK industry into question.
59. Potential loss of business is not the only sanction available to control PMSC behaviour. HMG will use its status as a significant customer for private security services to drive up standards. In addition to this, we would advocate the creation of an international graduated code of sanctions, overseen by an international secretariat. We envisage four measures of increasing severity against any company found to be in breach:
- a. *placing additional conditions on their contract.* Conditions may include protective measures to control specified activities of the PMSC for a period of time, and would require buy-in to the arrangement from either the contracting state or the contracting private sector enterprise;
  - b. *issuing the company an official warning.* The company's name and the allegation against it would be publicised on an official website so that contracting and host states in the future are aware of any previous history/behaviour before committing to a contract with that PMSC;
  - c. *financial sanction imposed by and with the agreement of the international secretariat;* and
  - d. *suspension or eventual removal of the Global Security Benchmark support, with agreement by the international secretariat.* This would prevent a PMSC securing a future contract either with/in any contracting or host state or with a private sector buyer who is party to the arrangement, seriously diminishing that company's current and future business opportunities.
60. In sum, while the Government does not agree with the Committee's recommendation to commit to a legislative solution to regulation of

PMSCs, HMG is currently analysing responses to the public consultation and a summary of responses will be published within three months of the close of consultation date (17 July). A final decision on the proposals will be taken and in light of the responses received and evidence gathered during the consultation period proposals will be laid before Parliament if appropriate.

27. **We recommend that, in its response to this Report, the Government gives us full particulars of the individual members of staff who enjoy diplomatic immunity, and the grounds on which this has been justified, and that it supplies us with a full statement of its policy on the provision of diplomatic immunity to staff who are not directly employed by the Government. (Paragraph 138)**
  
61. It is the Government's policy to comply strictly with the provisions of the Vienna Convention on Diplomatic Relations. Members of staff of PMSCs who provide security services for a diplomatic mission may be performing administrative and technical functions for that mission, even if they are not employees of the State concerned. Accordingly, such persons may properly be notified as members of the administrative and technical staff of the mission, and will therefore be afforded privileges and immunities by the receiving State including immunity from jurisdiction in accordance with Article 37 of the Vienna Convention.

#### **UN Human Rights Council**

28. **We conclude that the UN Human Rights Council's May 2009 resolution rejecting calls for investigation of human rights violations in Sri Lanka is deeply regrettable, and has damaged the credibility of the Council. We recommend that the Government continues to promote the view that significant transgressions of human rights committed by parties to internal political conflicts should not be regarded as being solely the "domestic business" of the state concerned. We conclude that the international community has both a right and a responsibility to express concern about, and where appropriate to launch investigations into, situations where major abuses have been alleged. (Paragraph 152)**
  
62. The Government agrees with the Committee that the resolution adopted by the UN Human Rights Council at the Special Session on Sri Lanka was regrettable. The UK, together with the EU and a number of other countries, voted against the resolution because it did not present a realistic picture of the situation on the ground. None of the 17 Council members that had sponsored the request for the Special Session were able

to support it. We regret that despite the effort of a number of countries, a more balanced resolution – including a call for an independent investigation of alleged human rights violations committed by all parties in the conflict, as well as for humanitarian access to those in internally displaced persons camps – was not possible.

63. But the Special Session was not only about a resolution. Those who believed that the human rights situation in Sri Lanka merited the scrutiny of the international community were able to make important interventions in the debate. This included the UN High Commissioner for Human Rights, and a number of the Council’s special rapporteurs, all of whom called for an independent inquiry to ensure accountability for human rights violations committed by all sides. The Government still believes we were right to co-sponsor the Special Session, with EU and like-minded partners, to call attention to a situation where there had been significant and prolonged suffering of civilians displaced by the conflict. We believe it is important that the UN Human Rights Council convenes when necessary to consider urgent human rights situations, and will continue to refute those who argue that major violations of human rights are solely the “domestic business” of the state concerned.
- 29. We conclude that other aspects of the work of the Human Rights Council are to be applauded, in particular the developing system of Universal Periodic Reviews, and the decision to continue the international investigation of human rights abuses in Sudan. We further conclude that the increase in 2008 in the number of Council resolutions which the Government was able to support is to be welcomed, and that it is to be hoped that the participation of the United States will lead to a strengthening of the positive work of the Council. (Paragraph 153)**
64. The Government welcomes the Committee’s acknowledgment of the positive aspects of the workings of the Human Rights Council. We work hard in negotiations with other states to achieve outcomes that respect established human rights standards and the increase in the number of resolutions that the UK was able to support in 2008 is a positive trend in this regard. Maintaining the ability of the Council to focus on, and provide technical assistance to, countries with grave human rights concerns is also imperative and the Government therefore welcomed the extension in June 2009 of the UN Special Procedure mandate on the human rights situation in Sudan.
65. Some other aspects of the Council’s work also show promise. The new Universal Periodic Review process allows the human rights situation in

every member state to be examined in public on a regular basis for the first time in the UN's history, and has the potential to ensure progress in acceptance of international human rights standards and to bring about real change. The Government will continue to engage constructively in the process, and encourage other states to view it as an opportunity to share best practice and seek technical assistance to improve the promotion and protection of human rights. We welcome this innovative new mechanism, as we do the re-engagement of the United States with the Council, and will continue to work to strengthen the positive work of the body.

### **The Durban Review Conference**

- 30. We conclude that the UK's handling of the issue of participation in the "Durban Review Conference" held in Geneva in April 2009 was well-judged. The UK delegation left the conference hall in protest at President Ahmadinejad's offensive and anti-Semitic remarks, but did not allow his calculated provocation to derail the wider work of the conference, in which the UK played a full part. We recommend that the Government continues to support the positive work of the Durban review process in combating racism worldwide, while at the same time maintaining the right of freedom of expression in relation to ideologies and beliefs, and defending the rights of lesbian, gay, bisexual and transgender people. (Paragraph 160)**
  
66. The Government welcomes the Committee's conclusion and recommendation on the Durban Review Conference. We will continue to play an active role in strengthening the work of the United Nations in combating racism worldwide, of which the Durban process is one element. The Government agrees freedom of expression must continue to be the cornerstone of our fight against racism. We will continue our work to advance the human rights of lesbian, gay, bisexual and transgender people, bilaterally and through international organisation and welcome the committee's strong commitment in this area.

### **International Criminal Law**

- 31. We conclude that there is mounting hostility to the International Criminal Court in Africa and elsewhere, manifested most dramatically in Sudan's refusal to co-operate with the Court. This reflects a deepening division between Western countries and some other countries, particularly those from the developing world, over issues of state sovereignty in relation to human rights – exemplified also in the UN Human Rights Council's recent rejection of**

**international “interference” in the investigation of alleged human rights abuses in Sri Lanka. We further conclude that such attitudes, if they continue to spread, may have the effect of undermining the promotion of universal human rights worldwide. We recommend that the Government works to strengthen international support for the ICC, and for the principle of bringing to justice those who commit war crimes or crimes against humanity. We further recommend that it encourages the new Administration in the United States to accede to the Rome Statute of the ICC, which would mean that a majority of the Permanent Members of the Security Council would have acceded, marking a significant step towards the long-term aim of achieving universality of the Rome Statute. (Paragraph 168)**

67. The Government notes the conclusion of the Committee that there is mounting hostility, particularly in Africa, towards the International Criminal Court, and that this could have an effect on undermining human rights worldwide. We share concerns about the impact such hostility might have on the global fight against impunity and international respect for justice. However, the Government believes that African states play a very active role in the work of the Court. African states continue to form the largest regional group of ICC States Parties. The majority of the situations currently being investigated by the Court have been referred to the Court by African states. The ICC’s Review Conference will be hosted in June 2010 by Uganda and we will be engaging with African Union states to help work towards consensus on any proposed amendments to the Rome Statute. The Government has also given strong support to the recommendation that the ICC increases its outreach on the continent by opening a liaison office in Addis Ababa.
68. On Sudan, the Government regrets the continued refusal of the Sudanese government to co-operate with the Court. However, the ICC’s Darfur investigation made some progress in May 2009 when rebel leader Bahr Abu Garda voluntarily appeared before the Court to answer war crimes charges relating to the Haskanita attack in which 12 African Union peacekeepers were killed. This is a concrete example of the Court operating directly for the benefit of African states.
69. The Government welcomes the Committee’s conclusion that there is a need to strengthen international support for the ICC and will continue to work with EU partners in promoting universality of the Rome Statute. In particular, we welcome the recent ratification of the Rome Statute by Chile and the Czech Republic, which has allowed the Statute to be fully implemented in both South America and the EU. We will continue to discuss issues relating to international criminal law and the ICC with the US government, and encourage them to take an increasingly co-

operative stance in relation to the ICC. Recent comments by the US Ambassador to the United Nations, Susan Rice, have already signalled a more positive approach by the current administration.

## Countries of concern

### Burma

- 32. We conclude that the scale of human rights abuses in Burma, and the extent of suffering caused to the Burmese people by their government's economic and political mismanagement, is intolerable. The Burmese government's indifference to the welfare of its own people was demonstrated by its handling of Cyclone Nargis in 2008. We recommend that the British Government continues to exercise the strictest vigilance in ensuring that aid supplied to Burma is not misused by the authorities. We further recommend that the UK encourages Burma's regional neighbours, in particular China, India and Thailand, to bring pressure on the regime to improve its human rights record. (Paragraph 176)**
70. The Government fully agrees with the Committee that the extent of suffering caused to the Burmese people by their government's abuse of human rights and, its economic and political mismanagement, is intolerable. In response to the extreme levels of poverty in Burma, and the continuing need to assist people in the areas devastated by Cyclone Nargis in May 2008, the Government decided in March 2009 to increase UK aid to Burma by £10 million in each of the financial years 2009/10 and 2010/11. Planned spending on Burma for 2010/11 is now £28 million, compared with £9 million in 2007/08. We continue to take strict measures to ensure that UK aid to Burma cannot be misused by the regime. UK funding for Burma is delivered through the UN, Red Cross and international and local non-governmental organisations, and is in compliance with the EU's Common Position on Burma. It is monitored very closely by the British Embassy and DFID Office in Burma.
71. The Government shares the Committee's view that we must work through Burma's regional neighbours to bring pressure to bear on the regime to improve its human rights record. Accordingly, we will continue to engage China, India and Thailand and the other members of the Association of Southeast Asian Nations (ASEAN) at the highest level, both bilaterally and through the UN and ASEAN. We welcome the strong statements made by ASEAN and a number of its member states following both the arrest of Aung San Suu Kyi in May and more recently the 11 August 2009 verdict in her trial, which stressed that she and other political prisoners

must be released and able to participate in proposed elections if these are to have any credibility.

## China

33. **We conclude that there remains little evidence that the British Government's policy of constructive dialogue with China has led to any significant improvements in the human rights situation. We recommend that the Government sets benchmarks and specific targets for making progress in this dialogue; these should take account of but not be restricted to the time-specific commitments given by China itself during its Universal Periodic Review process. We further recommend that in its response to this Report, the Government informs us of what action it is proposing to take in this regard. (Paragraph 183)**
  
72. The Government agrees with the Committee that there has been little improvement in the human rights situation in China. Human rights will continue to be a significant issue in our bilateral relationship with China. Our overall approach and some of the specific objectives are listed in the UK/China Framework for Engagement launched in January. Where there have been improvements for example in the introduction of new regulations governing foreign journalists there is evidence that international pressure has played a role. This is why human rights remain a priority in our high level political dialogue with China. In our human rights dialogue and through the resources we dedicate to project work, amounting to £1.4 million in the period 2008-2011, we are working to improve the justice system, reduce the application of the death penalty, and to strengthen freedom of expression and civil society. Each project has clear agreed objectives and milestones. In response to the Committee's recommendations we will review the scope for more specific targets and benchmarks.
  
34. **We reiterate the conclusions of our 2008 Report on *Global Security: Japan and Korea* that China is in breach of its obligations under the 1951 Refugee Convention as regards its treatment of North Korean migrants. We remain particularly exercised by China's continuing failure to allow the UN High Commission on Refugees access to its border region with North Korea, and by its practice of forcible repatriation of North Koreans who have not had access to a determination-of-status process. We recommend that the Government should urge the UN High Commissioner on Refugees to give a high priority to the issue of the treatment of North Korean migrants in China. We further recommend that the Government works**



**internationally and more actively to encourage China to find ways of fulfilling its international obligations on this issue as part of the process of becoming a responsible global power. (Paragraph 184)**

73. The Government agrees with the Committee's assessment. We continue to urge China to observe its obligations under the 1951 convention on the status of refugees and to allow the UN High Commissioner for Refugees access to the China/Democratic People's Republic of Korea (DPRK) border region. This subject was raised with the Chinese at the UK-China Human Rights Dialogue in January 2009. We urged China not to return those people crossing the border from DPRK to China. China continues to maintain the position that cases are dealt with in line with domestic and international law. At our request, the issue was included in the UN Human Rights Council resolution on DPRK at the 10th session of the Human Rights Council on 27 March. We will continue to work with international partners to make sure that they do not lose sight of this issue. The UNHCR share our view of the seriousness of the issue of North Korean migrants in China but we will continue to encourage them to maintain this as a high priority. Ivan Lewis lobbied the Chinese on this point during his visit to Beijing in early September 2009.
- 35. We conclude that the absence of any momentum towards resolving the dispute over Tibet is a matter of grave concern. We recommend that the Government continues to press its Chinese counterparts to lift restrictions on access to Tibet, to allow an independent assessment of the human rights situation there to be carried out by representatives of the UN High Commissioner for Human Rights. (Paragraph 190)**
74. The Government agrees with the assessment of the Committee on Tibet. The Government agrees with the recommendation that we should continue to urge the Chinese to lift restrictions on access and to allow individual assessment of the human rights situation there. Through our human rights dialogue we urge greater access to the Tibet Autonomous Region, including for journalists and diplomats. Ivan Lewis took the same approach during his visit to Tibet in early September 2009.
- 36. We conclude that the developing situation in Xinjiang, with significant violence arising from long-standing ethnic tensions between Uighurs and Han Chinese, gives cause for concern. We recommend that the Government, acting in conjunction with its EU partners, should monitor the situation and urge restraint upon the Chinese government. We further conclude that what appears to be a change in Chinese policy towards foreign media, allowing journalists**



**free access to Xinjiang, is – if confirmed as events develop – to be welcomed. (Paragraph 193)**

75. The Government agrees with the Committee on the need to continue to monitor the situation in Xinjiang closely and on the importance of working in close coordination with EU partners. We aligned ourselves with the recent EU statement issued on 8 July. We agree that the greater openness shown to foreign media at the time of the unrest in Xinjiang Province is to be welcomed and we have urged the Chinese to maintain this policy. We also think it is particularly important now to focus on the question of due process for those detained and this is an area we will follow particularly closely.

### **Colombia**

37. **We conclude that, despite some recent improvements, human rights abuses in Colombia remain systemic and widespread, with considerable evidence of complicity by the Colombia authorities, police and armed forces. We note that, in particular, it is an extremely dangerous place to be a trade unionist. We recommend that, in its response to this Report, the Government supplies us with a detailed breakdown of its current and planned future aid to Colombia, with full costings, and information as to how this spending will be used to exert leverage on the Colombian government to improve its human rights record. We further recommend that the Government at the same time supplies us with any internal assessment that has been carried out of the effectiveness of its human rights training programme for the Colombian army; and that it informs us whether that programme was scheduled to finish when it did, or whether it was abandoned because of concerns about the scale of the army's continuing participation in abuses. (Paragraph 204)**
76. As the Foreign Secretary made clear in his Written Ministerial Statement in March 2009, “Colombia’s strengths and progress over recent years are being undermined by continuing problems of abuse of human rights, poverty and inequality, impunity and the drugs trade”. We will continue to raise our concerns with senior members of the Colombian Government both publicly and privately, and continue to work on strengthening human rights, promoting civil society and supporting human rights defenders.
77. DfID channels its regional funding through international institutions and civil society organisations. Their main programme of support is the Latin America Partnership Programme Arrangement which provides £13m per year to 12 UK NGOs operating in the region, including Colombia. Human

rights, in particular the rights of the poorest and most excluded groups, is an explicit theme of the partnership with NGO partners working to improve awareness of rights and holding duty bearers to account.

78. The spreadsheet at Annex A breaks down projects supported directly by the British Embassy by theme. Current projects total over £1.5 million and are designed to have direct and strategic impact on areas of concern such as tackling impunity; freedom of expression; equality; promoting civil society; climate change and humanitarian demining. Much of this information is already in the public domain.
79. We carried out an internal assessment in December 2008 of the effectiveness of the human rights training programme for the Colombian army. The key conclusions were:

**Successes:**

80. There have been some real changes to mindsets within the security forces, especially at high level where officers are clear about the importance of winning the internal conflict legitimately. We have helped the Colombian Armed Forces to establish new policies for measuring operational success, away from body-count statistics. Today such measurement is based on numbers of disarmaments in the first place, followed by captures and last of all fatalities. Alongside efforts by other international partners, our engagement has contributed to instilling a change of culture, in particular the removal of the belief of impunity.

**But setbacks:**

81. In November 2008, an investigation into a former Army claim of a “successful operation” against the FARC in Santander linked this to inquiries by the families of a number of missing youths from a south Bogota suburb (Soacha). Despite an attempted cover up at senior level, the investigation revealed direct Army involvement in the abduction and murder of these youths. As a result, 43 members of the Army, including a Divisional Commander, were immediately dismissed and the Head of Army forced to resign.
82. These events have shown that real commitment to these principles, particularly throughout the Army, remains inconsistent. But ministerial determination is strong. The response to the recent human rights scandals was decisive. Importantly, many of the new measures (the 15 New Measures) issued to the forces were drawn from our human rights programme.

83. The programme was not terminated due to such concerns. By early 2009 it had helped deliver a useful and coherent package of reforms. The programme ended because Ministers decided to refocus our human rights efforts and, in particular, to address the pressing issue of impunity.

## Iran

- 38. We conclude that the events of June and July 2009 in Iran have revealed the extent of the desire amongst millions of Iranians for a fairer electoral process, as well as for greater personal freedoms and a normalisation of relations between Iran and the wider world, and that those events have also demonstrated the capacity of the present Iranian regime to respond with ruthless force in suppressing expressions of dissent. We further conclude that Iran's overall human rights record remains appalling. We recommend that the Government continues to act with firmness, in conjunction with its European partners and the wider international community, in pressing for the Iranian regime to respect the human rights obligations it has entered into, and in actively encouraging Iran to adopt a more civilised approach to the rights of its own citizens. (Paragraph 210)**
84. The Government shares the Committee's view that events in Iran following the Presidential elections on 12 June demonstrate the strength of desire for democracy and basic human freedoms amongst the Iranian people. The Government has stated categorically that it is for the people of Iran to choose their own Government, however it is clear that there is widespread belief within Iran that the results of the June elections do not reflect the will of the people. The Iranian authorities have a duty to address these concerns, yet their violent reaction to peaceful protests has been deplorable.
85. We have witnessed a disproportionate use of force, including the use of live ammunition to break up demonstrations. The Iranian authorities have confirmed that twenty people were killed during clashes; however credible reports suggest the true figure may be much greater. Media representatives have been subject to major restrictions on their work and far-reaching limitations on freedom of expression have been enforced. Thousands of Iranians have been arrested and remain in detention under appalling conditions, where they are under pressure to make confessions. Many have been accused of acting against national security. The Iranian Government has frequently sought to blame the unrest and violence on foreign elements, particularly the UK. Such allegations do not bear scrutiny and are a denial of a legitimate reaction of discontent by large parts of the Iranian population.

86. The Government shares the Committee's view that Iran's general human rights record remains appalling. Even before the recent unrest we were particularly concerned by growing pressure on individuals with foreign contacts, routine denial of freedom of expression and a large number of arrests on vague counts of threatening national security. We are also witnessing an increasing use of the death penalty – often in the absence of the most basic minimum standards, and the continuation of practices such as juvenile executions and stoning to death.
87. The Government believes that the Iranian regime must be held to account for these violations. With this in mind the Government is committed to working in close consultation with EU and international partners with a view to demonstrating jointly our concern to the Iranian authorities. Alongside our international partners we are committed to addressing these issues through dialogue and diplomacy on the basis of respect for the rule of law and in accordance with Iran's obligations under the International Covenant on Civil and Political Rights.
- 39. We conclude that the detention of British Embassy staff by the Iranian authorities is deplorable, and we recommend that the FCO should keep us informed as this situation develops. We propose to return to the issues of the safety of Embassy staff and the extent to which they are protected by diplomatic immunity as part of our forthcoming inquiry into the FCO's Annual Report for 2008-09. (Paragraph 211)**
88. The Government shares the Committee's conclusion that the detention of British Embassy staff is deplorable. Moreover, the subsequent trial of a locally engaged staff member is completely unacceptable, and the indictment rests on a gross misinterpretation of what constitutes legitimate activity for Embassies and their foreign and local staff in any country in the world.
89. The Government welcomes the Committee's proposal to address the wider issue of the safety of Embassy staff and their status under the Vienna Conventions, and undertakes to keep the Committee informed of developments in the situation of Embassy staff in Tehran.

## **Iraq**

- 40. We conclude that with the departure of most British troops from southern Iraq, and the withdrawal of US troops from Iraqi towns and cities, the responsibility for creating security, which is an essential precondition of human rights, has passed decisively to the Iraqi**

**government. We further conclude that many grave human rights concerns remain in a country which is, as the FCO puts it, making a “difficult transition”. The plight of Iraqi refugees, both within Iraq and beyond its borders, and the discrimination suffered by women, contrary to the Iraqi constitution, are of particular concern. We recommend that the British Government continues to discharge its responsibility to the Iraqi people by offering their government and Parliament full and effective assistance, both practical and financial, in creating the institutions and attitudes necessary to underpin the effective upholding of human rights. (Paragraph 217)**

90. The Government will continue to support the efforts of the Government of Iraq in creating a fully-fledged human rights culture.
91. We will continue to support Iraqi efforts to tackle ‘honour’ crimes and violence against women more generally through programmes to improve the capacity of the Iraqi Police Service and judiciary to investigate and prosecute such crimes, and to raise wider awareness of human rights and women’s rights in particular. The Government and the Prime Minister’s Special Envoy on Human Rights in Iraq, the Rt Hon Ann Clwyd MP, will continue to press senior members of the Iraqi Government on a wide range of human rights issues.
92. The Government continues to lobby the Government of Iraq on the plight of refugees and is encouraged to see that they have provided some support to refugees in surrounding countries and have announced a \$195 million returnee and reintegration package.

#### **North Korea**

41. **We reiterate the conclusions of our 2008 Report on *Global Security: Japan and Korea* as regards North Korean human rights and British Government policy on the issue, including our conclusions that the North Korean regime is one of the worst human rights abusers in the world and that the Universal Periodic Review which North Korea is to undergo at the UN Human Rights Council in December 2009 offers a major opportunity to advance the international effort to secure improvements in human rights in the country. We recommend that in its response to this Report the FCO sets out what steps it is taking to achieve this advance. We further recommend that the Government provides an assessment of any ways in which its work on North Korean human rights issues is being affected by the deterioration of North Korea’s relations with the West and with the other participants in the Six-Party Talks. (Paragraph 224)**

93. The Government continues to take the human rights situation in the Democratic People's Republic of Korea (DPRK) extremely seriously. We are deeply concerned by continuing reports of serious, widespread and systematic human rights abuses there. As the DPRK has so far refused to engage with UN mechanisms such as the UN Special Rapporteur, we agree that the Universal Periodic Review process offers a major opportunity for the international community to engage the DPRK on these reports. We have encouraged the DPRK Government at every appropriate opportunity to engage with the process. Although the DPRK has not responded to our suggestions, we expect them to participate fully as the DPRK delegation has taken an active role in engaging with some other countries that have already been reviewed including the Republic of Korea and Japan. We are also encouraging NGOs with specialist knowledge of the DPRK to take full advantage of the opportunity offered by the Universal Periodic Review.
94. We, and international partners, continue to press the North Korean authorities for greater co-operation on human rights. The deterioration of relations with the West throughout this year has hindered our ability to engage with the DPRK directly on human rights issues. But we will continue to seek to bring pressure to bear on them through the EU and the UN. The UK, with EU Partners, sponsored the resolution on North Korean human rights at the UN Human Rights Council in March 2009. This included the mandate for the UN Special Rapporteur on North Korea Human Rights.
95. We have supported the work on DPRK human rights by a number of NGOs over the past year. We assisted in the production of a report on children's rights in North Korea ahead of the February 2009 periodic report by the UN Committee on the Rights of Child in the DPRK. We also supported a leading UK NGO to participate in an international conference on North Korean Human Rights in Canberra in March.
96. Although the DPRK's stance limits the direct activities that we can undertake in the DPRK, our embassy in Pyongyang has given material help to an orphanage outside of the capital and is supporting the project work of Handicap International. It is looking at ways of increasing these activities.

## **Pakistan**

- 42. We conclude that human rights abuses in Pakistan continue to be widespread. In particular, women and girls continue to be subjected to violence and discrimination. (Paragraph 233)**

97. The Government shares the Committee's conclusion that human rights abuses in Pakistan are widespread. Although Pakistan signalled its desire to improve its human rights record by ratifying and signing human rights instruments in 2008, Pakistan needs to make progress beyond this to properly promote and protect fully the human rights of all its citizens in accordance with its Constitution and commitments under international law. With EU partners we are encouraging human rights reform through project and programme engagement and through our regular dialogue with the Government of Pakistan which includes the EU's biannual demarche on human rights. Since publication of the Annual Human Rights Report, the EU-Pakistan Summit on 17 June 2009 has reaffirmed the EU's commitment to strengthening cooperation with Pakistan in a range of areas including democracy, governance and the promotion of human rights.
98. The Government also shares the Committee's conclusion that women and girls in Pakistan continue to be subjected to violence and discrimination. With the EU, we are helping the Government of Pakistan address violence against women and promote gender equality in areas of education, health, employment, access to justice and participation of women in public life. Our project work also supports training of law enforcement agencies on violence against women and aims to strengthen the capacity of civil society to promote women's rights. The EU has called on the Government of Pakistan to review discriminatory legislation and fully implement its obligations under the Convention on the Elimination of Discrimination against Women.
- 43. We conclude that the work of the Forced Marriages and Child Abduction Unit at the British High Commission in Islamabad is to be commended. We recommend that in its response to this Report, the FCO should supply us with an update on the work of the Unit, and on the implementation of the UK/Pakistan Judicial Protocol on Child Abduction, and detail its plans for supporting and promoting the work of the Unit in future. (Paragraph 234)**
99. The Government welcomes the Committee's praise for the work of the Assistance Unit which deals with forced marriage and child abduction issues at British High Commission in Islamabad. The Government is also happy to provide, as requested, an update on the work of the Unit following the Committee's visit to Pakistan in April/May 2009.
100. Since April 2009 the Unit in Islamabad has dealt with a further 46 forced marriage cases, involving 12 rescue visits and 12 repatriations. The team are also dealing with 6 new child abduction cases, bringing the total of ongoing child abduction cases to 16. Following the strengthening of the



Unit from four to six staff in late 2008, the Head of the Unit is now able to devote more time to the proactive work which underpins the strategy of partnership working. There is also a dedicated member of staff dealing with prisoner issues, including death penalty cases and following up on allegations of mistreatment.

101. Greater engagement with the local language media in Pakistan administered Kashmir has resulted in a number of articles raising awareness of the issue of forced marriage and condemning the practice. We have funded a survey on the attitudes of male British nationals living in or visiting Pakistan towards marriage in general and forced marriage in particular. The report of this survey was launched on 21 August 2009 and will help to inform future work on forced marriage. Other projects underway include gender sensitisation training for police officers, to help their response to gender based violence and forced marriage, and a possible visit to the UK for junior police officers to learn about the British police's approach to forced marriage. Later this year the Unit will also be arranging a visit to the UK by local community leaders which will focus on forced marriage and its effect on families and communities.
102. In August 2009 the National Assembly of Pakistan passed a bill on domestic violence. Although this still has to pass through the Senate and much will depend on how effectively it is implemented once it passes into law, this is a positive sign of the Pakistani Government's willingness to take action against gender based violence. The UK Forced Marriage (Civil Protection) Act 2007, which came into force in November 2008, has already proved a valuable tool for the Unit. Not all will relate to overseas cases or to Pakistan but, since the introduction of the Act, 60 Forced Marriage Protection Orders have been issued in the UK.
103. In the UK, the Government's joint Foreign and Commonwealth Office/ Home Office Forced Marriage Unit (FMU) continues to see most of their work having a Pakistan connection. In the first half of 2009, around 70% of all reports involved families of Pakistani origin. The FMU has an ongoing outreach programme aimed at raising awareness in the UK of forced marriage issues and the help that victims can access. The launch of new Multi-Agency Practice Guidelines on handling cases of Forced Marriage in early July 2009 was accompanied by a major publicity campaign to raise awareness amongst professionals and victims. Also in July the FMU launched a new information booklet aimed at helping Members of Parliament and their constituency offices to support victims.
104. On parental child abduction, as well as casework, the Unit in Islamabad are focussing their efforts on improving implementation of the UK/Pakistan



Judicial Protocol. The research by the UK NGO Reunite, mentioned in the Human Rights Report for 2008, and funded by the Foreign and Commonwealth Office, through the FCO's dedicated Child Abduction Unit, has shown this is not working as well as we hoped, particularly in Pakistan. However we have urged the Government of Pakistan to consider passing legislation to give the Protocol legal force. This will be discussed at the next meeting of the Joint UK/Pakistan Judicial Cooperation Working Group, which is expected to meet in late 2009.

105. A training workshop is planned for later this year to raise awareness of the Protocol among junior family judges in Pakistan and to build their capacity to consider child custody cases involving British nationals in line with the Protocol's spirit. We are also funding the UK NGO Reunite to develop the option of mediation in UK/Pakistan cases. They are taking this forward in partnership with the Pakistani NGO Struggle for Change (SACH).
106. We are also encouraging Pakistan's engagement in the international debate on child abduction issues. In August 2009 we supported participation by senior members of the Pakistan judiciary in the International Family Justice Judicial Conference for Common Law and Commonwealth Jurisdictions, organised by Lord Justice Thorpe (the UK Liaison Judge for the UK/Pakistan Protocol). As part of wider work to develop the response of Non Hague Convention countries, we are also active partners in the Hague/Non Hague Working Group on mediation issues which is jointly chaired by Pakistan and Canada and held its first meeting in July 2009.

## **Russia**

- 44. We conclude that President Medvedev's commitment to promoting the rule of law in Russia is undermined by continuing human rights violations. The extent of the threat to press freedom arising from intimidation and even murder of journalists is particularly worrying, as is the rise in xenophobia and racism. We further conclude that there is substantial evidence of major human rights abuses in the republics of the Russian Federation in the North Caucasus. We recommend that the British Government continues to work with its international partners to maintain a constructive relationship with Russia, whilst at the same time taking effective steps to encourage that country to develop a human rights culture which reflects more closely the international norms and commitments to which Russia has voluntarily signed up. (Paragraph 241)**

107. The Government agrees with the Committee's conclusion that continuing human rights violations are undermining President Medvedev's rule of law agenda. While the re-establishment of the Presidential Human Rights Council was a positive sign, as was the package of anti-corruption laws signed in December 2008, concrete steps towards tackling corruption and promoting the independence of the judiciary are fundamental for the development of an open and democratic Russia.
108. The Government shares the Committee's concern over restrictions on media freedom and the increased threat to journalists. We continue to raise Russia's poor record in protecting human rights defenders, particularly those working in the North Caucasus, where we currently fund projects to improve journalists' protection. We have made clear to the Russians that freedom of expression and the protection of journalists are vital. It is important that we continue to press for better support for human rights defenders and an end to the apparent immunity for those that attack them. We will continue to remind Russia that it is important that human rights abuses against civil society activists, journalists and members of the political opposition are investigated fully, promptly and impartially. We believe that those involved should be brought to justice in trials which meet international standards.
109. The Government agrees with the Committee's conclusion that Russia's membership of a wide range of international organisations comes with obligations. We continue to remind Russia that its status as a global player means that it must abide by international commitments and operate from the same international rulebook. We believe respect for human rights is essential to promoting political stability, security, and sustainable economic growth. Human rights standards are universal and apply to all countries.
110. The Government shares the Committee's concern over the rise in xenophobia and racism. We welcome the fact that the Russian government has acknowledged the problem of extremist attacks in Russia by drafting amendments to the Extremist Activity Law. However, we are concerned that these amendments may provide an opportunity to restrict political dissent and that they can be applied to protect public officials against criticism contrary to international standards. We are concerned about the increasing trend for violent attacks on non-Russians and migrants.
111. The Government agrees with the Committee's recommendation that the UK and its partners should maintain a constructive relationship with Russia. We believe that engaging Russia, whether through negotiations on a new EU-Russia agreement, or through the NATO-Russia Council or

indeed bilaterally, through regular meetings between the Prime Minister and President Medvedev or the Foreign Secretary and Foreign Minister Lavrov, should allow us to develop common approaches to shared challenges. Although we have shared interests, we still continue to have significant differences on certain bilateral and wider international issues. We are not afraid to address these and we continue to press Russia, bilaterally and in multilateral fora, on these areas of concern. We also believe that it is crucial for the EU and NATO to speak with one voice.

### **Saudi Arabia**

**45 We conclude that human rights continue to be violated on a massive scale in Saudi Arabia. We consider that the FCO's latest report pulls its punches on this matter. Although it lists Saudi Arabia as a "country of concern", it lays emphasis on the degree of cultural acceptance of severe punishments and of discrimination against women. Whilst we agree with the Government that "sustainable reform cannot be imposed on a country", we conclude that the current policy of "assisting with gradual reform" has borne very little fruit. The fact that Saudi Arabia is a strategic ally of the UK should not lead to an official policy of turning a blind eye to its human rights failings. We repeat our recommendation in last year's Report that the UK's ongoing dialogue with Saudi Arabia should have measurable and time-limited objectives in relation to human rights, and specifically in relation to women's rights, and that the Government informs us of these objectives in its response to this Report. (Paragraph 247)**

112. The Government agrees with the Committee that the human rights situation in Saudi Arabia remains poor. The position of women is of particular concern. We continue to judge that many of the human rights issues in Saudi Arabia pertain to cultural and religious practices which have the support of the majority of the Saudi population. Whether through King Abdullah's Interfaith Dialogue Initiative or through the appointment of the first female Deputy Minister in February 2009, the Saudi government is often more liberal than the Saudi people.

113. In this context the Government judges that the most effective way to promote the application of international human rights standards is through work with those in Saudi society who are advocating reform. Progress is slower than we want. But detached criticism of the situation would hold less prospect of bringing about real change, and has the potential to undermine reformers in their internal Saudi debate with conservatives. In addition to this work we continue to have a frank and honest dialogue with the Saudi government about the human rights

situation in the country. Human rights were a major topic of discussion when the Foreign Secretary met Saudi Foreign Minister Prince Saudi al Faisal in Riyadh in April 2009.

114. The Government does not agree with the Foreign Affairs Committee's recommendation that measurable and time-limited targets for the promotion of reform should be set. We do not believe such targeted objectives would help the UK to continue to play a constructive role in the reform process in Saudi Arabia.

### **Somalia**

- 46. We conclude that the FCO is to be commended for including Somalia as a "country of concern" in its latest report, following our previous recommendation. We further conclude that serious human rights abuses, including violence against women, are continuing across much of Somalia, particularly in Mogadishu and in central and southern Somalia. We conclude that the Government's support for a UN commission of inquiry into abuses in Somalia is to be welcomed, though we do not accept its view that the time is not yet right for such a commission to be established. We recommend that, in its response to this Report, the FCO states what conditions must be satisfied before the time is deemed to be right for a commission to be set up. We further recommend that, in that response, the FCO indicates what steps it is taking to ensure that UK aid is not supplied to Somali police forces where there is reason to suppose that those forces have been complicit in human rights abuses. (Paragraph 256)**
115. The Government is grateful to the Committee for its conclusions on the human rights crisis in Somalia. We recognised the importance of including Somalia as a country of concern as human rights abuses are widespread and frequent. We continue to place great value on the role of the UN Independent Expert on Human Rights in Somalia, who can help provide a clearer picture of the situation on the ground enabling us to see where we can focus our efforts. We are keen for a further extension of the Independent Expert's mandate and will be pushing hard for this when it is discussed in September. Human rights has been established as a mainstream issue for Somalia and was given a dedicated slot for discussion at the recent International Contact Group in Rome. Moreover, UN Political Office for Somalia (UNPOS) now has a dedicated human rights unit including two experts and an assistant.
116. A Commission of Inquiry is still something we strongly support, but there will be a lot of preparatory work before it can be established. This

will likely include feasibility studies and mapping exercises, which can not be dictated from outside. The work will be taken forward by UNPOS working closely with the Transitional Federal Government of Somalia (TFG). We do not have a specific set of conditions that must be met; instead we believe that the process must be Somali-led and the specifics (time period covered and types of crime to be determined) should be developed by the TFG with support from UNPOS. Progress will therefore be dependent on the readiness of the Somalis to implement an investigation. A key first step has recently been taken with UNPOS hosting an Impunity Conference in August, attended by TFG representatives.

117. The Joint Security Committee (JSC) was established as part of the Djibouti Agreement and is responsible for co-ordinating the work of the TFG and its international partners to establish the necessary and appropriate mechanisms for security and stability in Somalia. The JSC is now convening regularly and will cover all areas of security sector reform and the establishment of rule of law.
118. The UN plays a vital role in co-ordinating international effort and support, including training. We have so far focused on providing humanitarian support to Somalia and contributing to the African Union Mission in Somalia but to ensure sustainability the provision of training for Somali security forces, including the police, is vital. We recognise that improving accountability of these forces is crucial. Improved security will allow the TFG to focus on political reconciliation and development of key institutions, including a functioning justice system. Eventually we hope that those responsible for human rights abuses can be held to account including in areas where the TFG currently has limited or no influence or control.
119. The Department for International Development (DFID) is currently not providing any support to the Somali police force. DFID has not paid police stipends since December 2007. The UK is willing to work with the Somali authorities, the UN and AMISOM to help build a stronger and more accountable security sector, providing that a coherent plan is in place. We see strengthening accountability, oversight and respect for human rights as a crucial need for all security forces, including the police.

### **Sri Lanka**

47. **We conclude that the FCO's decision to include Sri Lanka as a "country of concern" in next year's human rights report is amply justified by recent events in that country, and is to be welcomed. We recommend that, notwithstanding the regrettable vote in the UN**

**Human Rights Council on 27 May, the Government should press for the setting up of an international war crimes inquiry, to investigate allegations of atrocities carried out by both sides in the Sri Lankan civil war. We further recommend that the Government uses such leverage as it has at its disposal to encourage the Sri Lankan government to tackle what the FCO refers to as “the prevalent culture of impunity”. (Paragraph 274)**

120. The Government welcomes the Committee’s conclusions. We remain deeply concerned about the human rights and humanitarian situation in Sri Lanka, in particular the fate of the more than 280,000 internally displaced persons (IDPs) still being held in IDP camps in Northern Sri Lanka. We urge the Government of Sri Lanka at every available opportunity to take all efforts to ensure that the humanitarian agencies can help to fully meet the needs of the IDPs. The Foreign Secretary and French Foreign Minister Kouchner wrote jointly to President Rajapakse at the end of July, highlighting the importance of addressing these needs. He repeated these calls most recently in a meeting with Foreign Minister Bogollagama in New York on 25 September.
121. The Government shares the Committee’s view that allegations of war crimes should be investigated. We firmly believe accountability is integral to the process of reconciliation between Sri Lanka’s communities that must take place if lasting peace in the country is to have any chance of becoming a reality. The Government supports the call by the European Union on 18 May for an inquiry into alleged violations of international law in the conflict and for those accountable to be brought to justice. We will continue to press the Government of Sri Lanka to live up to its commitment made during the visit of UN Secretary General Ban Ki Moon to Sri Lanka in May to take measures to address possible violations of international humanitarian law.
122. It is important to note the difficulties that would be associated with the setting up of an international war crimes inquiry. Under international law, it is the primary responsibility of the state against whose forces allegations are made to investigate possible war crimes committed by their own forces. Any inquiry could only proceed with the support and co-operation of the Government of Sri Lanka. It is vital that any investigation should be credible.
123. The Government shares the Committee’s view that action must be taken to tackle the prevalence of impunity. There are continued reports of human rights abuses in Sri Lanka (both inside and outside the IDP camps). We will continue to work with EU and other partners to use



every opportunity to call on the Government of Sri Lanka to thoroughly investigate such allegations and bring the perpetrators of these crimes to justice.

## **Sudan**

**48. We conclude that continuing widespread abuses of human rights in Sudan are a matter of great concern. We further conclude that the recent decision of the UN Human Rights Council, by a narrow majority, to continue the investigation of human rights abuses in Sudan is to be welcomed. We recommend that the British Government continues to be pro-active in offering support for the Darfur peace process and for UN peacekeeping forces. We further recommend that the Government works closely with its international partners in an effort to ensure that the writ of the International Criminal Court operates in Sudan. (Paragraph 283)**

124. The Government agrees with the Committee's conclusion that human rights in Sudan remain a matter of great concern. We strongly support efforts to monitor and improve the application of human rights in Sudan, in particular, as the country is preparing for the holding of national elections next year as part of the crucial implementation of the Comprehensive Peace Agreement.

125. We agree with the Committee that the ceasefire under the terms of the 2005 Comprehensive Peace Agreement has been largely observed. However, we remain concerned by the ongoing tribal violence in Southern Sudan, in particular in the Upper Nile and Jonglei regions, and the continued gross human rights abuses carried out by the Lord's Resistance Army. We will continue, with the European Union and other international partners to urge the Government of National Unity to honour the human rights obligations enshrined in the CPA and the Interim National Constitution and the Bill of Rights. We agree with the Committee that progress must be made on the setting up of a National Human Rights Commission.

126. The Government agrees with the Committee's conclusion that the decision by the UN Human Rights Council to continue to investigate human rights abuses in Sudan is to be welcomed. The UK played an active role, working closely with the United States, European Union and other members of the Council to secure the mandate for an Independent Expert on Human Rights in Sudan. This included extensive lobbying through our network of Posts. We urge the Government of Sudan to continue and intensify its efforts for the promotion and protection of human rights by taking all possible concrete steps to improve the human



rights situation in Sudan and to cooperate fully with the Independent Expert once appointed.

127. We welcome the Committee's recommendation that the British Government continues to be pro-active in offering support for the Darfur peace process and for UN peacekeeping forces. Lord Malloch-Brown and the UK Special Representative for Sudan reiterated our support for the peace process and AU/UN Joint Chief Mediator Bassolé on 6 and 27 May respectively. We have continued to urge all sides to demonstrate their commitment to a peaceful future for Darfur by showing maximum flexibility to resolve current areas of disagreement. Lord Malloch-Brown emphasised this in meetings with representatives of the GoS and the Justice and Equality Movement (JEM) in July.
128. Between 1 April and 31 December 2008 the UK contributed approx \$100 million to the UN in support of the United Nations African Union Mission in Darfur (UNAMID). The UK recently led negotiations for the renewal of UNAMID's mandate. Increasing the mission's effectiveness was our key aim. We were very pleased that the UNSC unanimously voted for adoption of the new mandate. As well as extending UNAMID's mandate for a further 12 months, Resolution 1881 for the first time sets priorities in the mandate and asks UNSG to develop a strategic work plan, including benchmarks, to assess UNAMID's performance with recommendations on how its mandate and configuration could be improved. The UK remains committed to full and effective deployment of UNAMID in order that it can fully undertake its mandate, and bring some measure of peace and security to Darfur.
129. The International Criminal Court (ICC) issued its arrest warrant for President Bashir on 3 March shortly before the publication of the FCO Annual Report on Human Rights. Since the issuing of the arrest warrant, the call for its deferral under Article 16 of the Rome Statute has intensified. We share Human Rights Watch's concern at the subsequent intensification of the campaign and we have made clear that Article 16 is intended for exceptional circumstances only. We would not consider it unless GoS engaged with the ICC and took bold, concrete action for peace in Darfur, reflected in real change on the ground.
130. We will continue our efforts, in line with the Committee's recommendation and in close coordination with international partners, to urge the Government of Sudan to co-operate with the ICC. We will also continue to stress the importance of ICC states parties meeting their legal obligation to provide the court with full co-operation, and to encourage other neighbouring and regional countries to abide by

UNSCR 1593 of 2005 which urged all UN member states to cooperate with the ICC investigation.

## **Zimbabwe**

**49. We conclude that the human rights and humanitarian situation in Zimbabwe continues to be appalling, although the participation of the opposition in a transitional coalition government, and the recent measure of economic stabilisation, offer glimmers of hope. We further conclude that it is difficult to see how fundamental reforms in governance, the rule of law, and ending human rights abuses can be achieved as long as Robert Mugabe and his supporters are still in power and control the security apparatus. We recommend that the Government should provide immediate aid to Zimbabwe's suffering people, subject to safeguards against its falling into the hands of Mr Mugabe and his supporters, of encouraging progress towards the early holding of fair and free elections, and of making preparations for a long-term reconstruction package to be delivered when a genuinely democratic and representative government is finally in place. We further recommend that the FCO should continue to raise the gross violations of human rights in Zimbabwe at the UN Security Council. (Paragraph 294)**

131. The Government agrees that the human rights situation remains appalling, although there have been some modest improvements (e.g. in the position of human rights defenders) since the formation of the Inclusive Government. The humanitarian situation has eased for the time being. The cholera outbreak has been brought under control, with international assistance playing a crucial role, and food is more widely available. However DFID is working with other donors to ensure that support continues to reach the most vulnerable and to be prepared for further outbreaks of disease later in the year. We will also work to improve food security.

132. Robert Mugabe and his supporters presided over an economic and humanitarian catastrophe in Zimbabwe. Their role in the country's decline is clear and EU targeted measures remain against those most closely associated with violence and human rights abuses. In February, the MDC led by Morgan Tsvangirai made the decision to enter into an Inclusive Government with Mugabe and his ZANU(PF) party. The formation of the Inclusive Government (IG) was a significant step forward and we want the IG to succeed in delivering fundamental reforms. Together with our international partners, we are engaging with all elements of the IG, as they seek to implement the Global Political Agreement, though

working most closely with those driving reform. There has so far been little progress on security reform: which remains a crucial area.

133. The UK is the second largest bilateral donor to Zimbabwe and is already providing significant humanitarian and other essential support to the Zimbabwean people. Last financial year we provided around £49m – including a £9m package of food aid through the World Food Programme. None of this money passed through the Government of Zimbabwe or the Reserve Bank – all bilateral funds were channelled through the UN and NGOs.
134. Following a meeting with Prime Minister Tsvangirai in June 2009, the UK Prime Minister announced a £60m package of support for Zimbabwe for this financial year, including an additional £5m to support efforts to improve food security and the education sector. This is the largest ever UK aid programme to Zimbabwe. It also includes a £15m package of support – announced in April 2009 – to support health services, rural livelihoods and water and sanitation systems. All bilateral aid will continue to be channelled through non-governmental sources.
135. But as the Committee recognises the provision of humanitarian aid is not the long term solution. We are ready to deepen our engagement and provide further developmental support as we see commitment and progress towards sustainable economic and political reform including respect for human rights, humanitarian welfare, rule of law and democracy.
136. We continue to monitor human rights issues closely with our partners in Zimbabwe. We raise regularly with the Inclusive Government concerns such as the treatment of political detainees and farm invasions. Progress on these issues, although slow, is being made. Given this progress, and the vetoed Security Council Resolution in July 2008, the Government, in line with the international community, believes that now is not the time formally to revert to the matter at the UN Security Council. However we are fully prepared to do so should the situation deteriorate significantly.

#### **Overseas Territories**

50. **We conclude that the deliberate omission of reference to sexual orientation as a prohibited ground for discrimination in the Cayman Islands draft constitution is deplorable. The possibility cannot be ruled out that the drafting of the constitution in this regard may result in Cayman Islands courts affording to citizens of those islands less than the full protection which they are entitled to under the European Convention on Human Rights. (Paragraph 302)**

137. The Government does not accept that the new Cayman Islands Constitution does not provide comprehensive human rights protection for certain groups on the basis that these groups are not specifically mentioned in Section 16 of the Bill of Rights. All groups, whether or not specifically mentioned in section 16, have the same degree of protection under the new Constitution. The list of grounds of discrimination in Section 16 is extracted from, and is compatible with, Article 14 of the European Convention on Human Rights (ECHR) and, as is the list in Article 14, is open-ended, using both “such as” and “or other status”. It therefore does not exclude sexual orientation as a ground of discrimination or as a status. In areas which the Bill of Rights does not explicitly cover, the Legislative Assembly, as the elected representatives of the people of the Cayman Islands, will decide whether and in what form rights should be set out in law, subject to the Governor’s assent. This reflects the position under the ECHR and in the United Kingdom, and we are satisfied that it complies with our international obligations.

**51. We recommend that in all future discussions with Overseas Territories about revisions to their constitutions, the FCO insists that no specific religion or faith community be singled out for privileged mention, and that anti-discrimination provisions make explicit mention of sexual orientation. (Paragraph 303)**

138. The Government will give careful consideration to this recommendation. Where a specific religious group has been mentioned in a new Constitution, we have ensured that the wording is respectful of other religions and faiths and prohibits discrimination in favour of any one religion or faith. The Government has made it clear to all Overseas Territory governments that it opposes discrimination on the basis of sexual orientation or gender status. It is our practice to press for a specific reference to sexual orientation in the provisions providing for protection from discrimination in each new constitution. We will continue to insist on the inclusion of a Bill of Rights when negotiating new constitutions with the Overseas Territories. But each new Overseas Territories Constitution is the result of a negotiation with the representatives of each individual Territory and therefore the results will not be identical.

## BRITISH EMBASSY PROJECTS UNDER IMPLEMENTATION IN BOGOTA

Tackling Impunity		Freedom of Expression		Equality		Promoting Civil Society		Other/BPP					
Project	Implementing organisation	Value £	Project	Implementing organisation	Value £	Project	Implementing organisation	Project	Implementing organisation				
Policy recommendations for the criminal justice system in the reduction of conflict-related impunity FY 08/09-10/11	CERAC / DaJusticia	96,700	Colombian Reporters: improved capacity for investigative journalism in conflict and peace issues FY 09/10-10/11	Media for Peace / CINEP / Javeriana University	71,240	Tackling structural causes of discrimination by promoting political participation of internally displaced Afro-Colombians in key decision making scenarios. FY 2009/10-10/11	Afrodios	Promoting and protecting civil society through clear public policy recommendations on State - NGO relations. 2009/10-10/11	Corporacion Nuevo Arcoiris	80,055	Through the establishment of a Mine Action Training Centre, assist in increasing Colombia's capacity to rid the country of anti-personnel mines and explosive devices in order to allow the re-establishment of livelihoods in the affected areas. Humanitarian Demining FY 08/09-09/10	BE	90,000
Impunity reduction in human rights violations against HRDs, civil society and minorities. FY 09/10	UNODC / LAPLAC	210,000	Promoting Freedom of Information development in Colombia in line with international standards FY 08/10-10/11	FLIP	127,940	Creation of National Network of Organisations promoting the Ratification and Implementation of the Convention on the Rights of Persons with disabilities.	Foro - Fundacion Saldarriaga Concha	Climate change initiatives	CC Advisor	58,880	15,000		
5 year report on the Criminal Accusatorial System FY 09/10	Excelencia por la Justicia	29,000	Increasing civil society's ability to hold government to account through improving access to information in Colombia. FY 09/10-10/11	Transparencia Colombia	70,275	Building capacity for civil society to monitor public policy implementation in Colombia. FY 08/09-09/10	Transparencia Colombia	G24 Mine Action group	BE		5,000		
Improved case-management and chain of custody protocols for cases of forced disappearances FY 08/09-09/10 End Date: October 2009	UNODC - LAPLAC	36,311	REGIONAL PROJECT: To strengthen Inter-American Freedom of Expression monitoring mechanisms, and assist, educate and empower stakeholders in selected countries in Latin America to ensure that Freedom of Expression information is adequately regulated, fully implemented and thoroughly exercised. FY 08/10-10/11	OAS Special Rapporteur for Freedom of Expression	210,000	Fostering a Favourable View on Civil Society and Human Rights Defenders in Colombia. FY 09/10-10/11	Oxfam GB	FOI public diplomacy campaign in Colombia	BE	143,878	15,000		
Institutional strengthening of the Ombudsman's office for protecting labour, housing, and land property rights. FY 08/09-10/11. End Date: August 2010	Norwegian Refugee Council & Ombudsman's Office	52,280				Visit to improve social dialogue in labour relations with Unions, Employers and GOC	ACAS	15,000	ACAS	15,000			
Increasing capacity in key State institutions in Colombia to tackle forced disappearances FY 08/09-10/11 End Date December 2010	ICMP	86,825				1. Strengthening the effective and transparent implementation of the Human Rights Policy and the engagement of CSOs FY 2008/9-09/10	Ideas para la Paz	21,187	Ideas para la Paz	21,187			
Implementation of Best Practices in Chain of Custody in the Colombian Army. FY 08/09-09/10 End Date August 2009	UNODC - LAPLAC	20,887				8. Implementation of the Colombian MCD's HR and IHL policy through the promotion of the Security Forces' protection and prevention role in relation to forced displacement. FY 08/09-09/10	UNHCR	33,087	UNHCR	33,087			
Initiative for improving trade unionism human rights protection and the development of positive labour relations in Colombia (Labour Violence Analysis and risk-reduction study) FY 09/10	CERAC	15,223											
<b>TOTAL</b>		<b>547,226</b>			<b>479,455</b>			<b>366,721</b>		<b>194,274</b>		<b>1,726,611</b>	



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