House of Commons

Foreign Affairs Committee

The FCO's Human Rights Work 2010–11

Eighth Report of Session 2010–12

Volume II

Additional written evidence

Ordered by the House of Commons
to be published 11 May and 13 July 2011

Published on 20 July 2011
by authority of the House of Commons
London: The Stationery Office Limited

The Foreign Affairs Committee

The Foreign Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Foreign and Commonwealth Office and its associated agencies.

Current membership

Richard Ottaway *(Conservative, Croydon South) (Chair)*
Rt Hon Bob Ainsworth (*Labour, Coventry North East)*
Mr John Baron *(Conservative, Basildon and Billericay)*
Rt Hon Sir Menzies Campbell *(Liberal Democrats, North East Fife)*
Rt Hon Ann Clwyd *(Labour, Cynon Valley)*
Mike Gapes *(Labour, Ilford South)*
Andrew Rosindell *(Conservative, Romford)*
Mr Frank Roy *(Labour, Motherwell and Wishaw)*
Rt Hon Sir John Stanley *(Conservative, Tonbridge and Malling)*
Rory Stewart *(Conservative, Penrith and The Border)*
Mr Dave Watts *(Labour, St Helens North)*

The following Member was also a member of the Committee during the parliament:

Emma Reynolds *(Labour, Wolverhampton North East)*

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including news items) are on the internet at www.parliament.uk/facom. A list of Reports of the Committee in the present Parliament is at the front of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Dr Robin James (Clerk), Mr Eliot Barrass (Second Clerk), Dr Brigid Fowler (Committee Specialist), Ms Zoe Oliver-Watts (Committee Specialist), Mr Richard Dawson (Senior Committee Assistant), Jacqueline Cooksey (Committee Assistant), Mrs Catherine Close (Committee Assistant) and Mr Alex Paterson (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Foreign Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6394; the Committee's email address is foraffcom@parliament.uk

List of additional written evidence

(published in Volume II on the Committee's website www.parliament.uk/facom)

Written evidence

Written evidence from Bahá'í Community of the UK

SUMMARY

— This memorandum of evidence is authored by the Office of External Affairs of the Bahá'í Community of the UK.

— The Bahá'í community of the UK welcomes the 2010 Foreign and Commonwealth Office report: Human Rights and Democracy (Cm8017); and particularly welcomes the priority given to freedom of religion and belief by the Foreign Secretary's human rights advisory group; and the strong advocacy of the Foreign Secretary, the Minister of State and FCO civil servants in support of human rights for Iranian citizens in general and the Bahá'í community in Iran specifically.

— We also note the report gives attention to the situation of the Bahá'í community in Egypt.

— We acknowledge the continuing effectiveness of the FCO's human rights work in areas of concern to the Bahá'í community and we welcome the personal leadership of both the Foreign Secretary, Mr Hague, and the Minister of State, Mr Burt in statements they have made in respect of the imprisonment of seven Bahá'í leaders in Iran and the broader plight of the Iranian Bahá'í community.

AUTHORS

This report has been compiled by the Office of External Affairs being the department of our national community tasked with relating to government, the legislature and broader civil society, under the supervision of the elected governing body, the National Spiritual Assembly of the Bahá'ís of the UK. The Bahá'í community of the UK has more than 30 years of experience in advocacy for human rights and lobbying FCO Ministers and civil servants.

SITUATION OF THE BAHÁ'ÍS IN IRAN

The Bahá'í faith is a world-wide monotheistic religion that emerged from Iran in the mid-19th century. There are believed to be over 300,000 Bahá'ís in Iran today, making them the largest non-Islamic religious minority in the country. The community has faced persecution since the inception of their faith but from 1979 repression of the Bahá'ís has been a specific policy of the Iranian state. Today in Iran the Bahá'í community is facing an upsurge in persecution.

Seven Bahá'ís who had served on an ad hoc leadership body, known as the Yarán (meaning "the friends"), were detained in 2008, eventually to be tried in January 2010 and in August of that year were sentenced to 20 years imprisonment. Nobel Laureate and Iranian jurist Shirin Ebadi had read the dossier of charges against the seven and said that she found no evidence for criminal charges. Foreign Secretary, The Rt. Hon. William Hague MP, led a chorus of international condemnation in August 2010 with a strongly worded statement, and further to an appeal the sentences were reduced to 10 years. However, in March of 2011 the seven were orally informed that the 20 year sentence had been reinstated in a "de novo" hearing. Once again, the Foreign Secretary exercised swift moral leadership and issued a statement on 4 April expressing concern and calling on the Iranian judiciary to review the case. Bahá'í communities from around the world, as well as Bahá'ís across the UK have contacted our offices to express their gratitude to Mr Hague and the UK government for taking prompt and effective action on this issue.

The imprisonment of the seven former leaders is just one element in a wider pattern of arrests, detentions and imprisonments that are complemented by a wide range of attacks on the socio-economic rights of Bahá'ís, notably in terms of access to employment and education.

Information confirmed in April 2011 reveals that 77 Bahá'ís are currently imprisoned with a further 139 on bail awaiting trial and 95 have been tried and sentenced but are currently free pending appeal or summons to prison. One illustrative example of the charges against such Bahá'ís is the case of Mr Navid Khanjani who was informed on 30 January 2011 that he has been sentenced to 12 years imprisonment, including five years for "human rights activities".

Bahá'ís continue to face confiscation of assets, enforced closure of businesses, denial of education and employment and Bahá'í school children face harassment and persecution from their own teachers. These actions are all consonant with the requirements of a 1991 policy memorandum, authored by the Supreme Revolutionary Cultural Council, which provides for the wholesale extirpation of a viable Bahá'í community in Iran.

Our community therefore welcomes the scrutiny given to human rights in Iran as a country of concern and specifically welcomes the section detailing freedom of religion and belief which *inter alia* highlights the plight of the Bahá'ís. The Bahá'í community supports the aspirations of all Iranian citizens to achieve the rights and dignities provided for in Iran's obligations under the International Covenant of Civil and Political Rights and other instruments and we commend the actions of the UK government in support of the Universal Periodic Review of Iran's human rights, carried out at the UN Human Rights Council in February 2010 and referred to in the report.

Freedom of Religion and Belief

The Bahá'í Faith regards the human conscience as sacred and upholds the individual's independent search after truth. We therefore attach profound significance to the rights of freedom of religion and belief as enshrined in article 18 of the Universal Declaration of Human Rights. We enthusiastically welcome, therefore, the attention which the Foreign Secretary gives to this issue in his foreword to the report.

We are greatly encouraged to learn that the new human rights advisory council to the Foreign Secretary will focus on freedom of religion in 2011, and our community has established contact with relevant offices within the FCO to offer the Bahá'í contribution on this important sub-discourse of human rights.

We are also pleased to see freedom of religion and belief given attention in other sections of the report, under the wider theme of Equality and Non-Discrimination. This section of the report discusses the problems facing Christians and Bahá'ís in Egypt, as well as paying attention to incidences of freedom of religion and belief in other countries around the world.

We are aware that the FCO intends to call a conference at Wilton Park to examine the issues of freedom of religion and belief later this year and the Bahá'í community has already been able to offer input towards the planning for this event. We hope that the outputs from this conference may be of use in giving practical guidance to UK diplomats, stationed in embassies around the world, and will address such growing challenges to the exercise of this fundamental freedom such as issues surrounding apostasy, the enacting of legislation on blasphemy, the question of conversion and defamation of religion.

We look forward to the Foreign Secretary's new human rights advisory council taking leadership on the issue of freedom of religion and belief internationally and we hope it will consult with faith communities with an active interest in this area.

UK Policy in 2010–11

Over the period of 2010–11 under the Coalition Government, the FCO has continued to robustly defend the Bahá'í community in Iran, and to also pursue policies that the Bahá'í community in the UK and around the world take an engaged interest in.

The FCO has a history of sustained moral leadership in advocacy for better human rights for all citizens in Iran, and Ministers and civil servants have given specific, and welcome attention to issue of the persecution of the Bahá'ís in Iran.

In our view, the strength of the FCO stand on the struggle for the human rights of Bahá'ís in Iran has been raised to a higher and very influential level by the direct involvement of the Foreign Secretary, The Rt. Hon. William Hague MP, who has issued two strongly-worded statements on the plight of seven Bahá'í leaders in Iran, as well as the support and involvement of the relevant Minister of State, Alistair Burt, MP who has also spoken out on the Bahá'í issue.

At the 16th session of the United Nations Human Rights Council that took place in Geneva that concluded on 25 March 2011 a resolution was adopted on the human rights situation in Iran that includes an operative paragraph that creates a mandate for a new monitoring mechanism, such as a Special Rapporteur, that will scrutinise the entire spectrum of human rights abuses in Iran, including the situation of the Bahá'ís. We understand that UK civil servants played a significant role in working to see the successful adoption of this resolution. The re-establishment of a monitoring mechanism is regarded by the Bahá'í community as a vital added tool in the efforts to emancipate all those whose rights and dignity are abused in Iran, and we gratefully acknowledge the efforts of the UK government in this significant diplomatic success.

Conclusions

UK human rights policy during the period under review has lead or contributed towards a number of achievements that the Bahá'í community had been lobbying for at national and at international level, notably:

- Rigorous scrutiny of Iran's human rights record in a Universal Periodic Review conducted at the UN Human Rights Council in February 2010.
- The re-establishment of a "monitoring mechanism" for the human rights situation in Iran through a resolution of the Human Rights Council that will mandate a Special Rapporteur to examine Iran's compliance with human rights standards.
- Leadership through the statements of the Foreign Secretary and the Minister of State for the Middle East in the international outcry against the unjust incarceration of the seven Bahá'í leaders in Iran.
- The priority given to freedom of religion and belief as a topic of focus for 2011 on the agenda of the Foreign Secretary's human rights advisory group.

Recommendations

- The Bahá'í community of the UK believes that the voice of the FCO should continue to exercise meaningful influence in international human rights debates through the leadership of the Foreign Secretary, his Ministers and civil servants.

— The personal imprimatur of the Foreign Secretary on specific and topical cases of concern where human rights are being abused has significant value and sends a message to those who abuse or would abuse the rights of others that their actions are being followed and scrutinised as the highest level of UK government. This should continue.

— We call on the FCO and the Foreign Secretary in particular to continue to exercise UK leadership in the protection of and the promotion of human rights anywhere in the world, and we specifically welcome the personal leadership of the Foreign Secretary in defence of the rights of the Bahá'í community in Iran.

— We call on the FCO to review and reflect on its work to promote the right of freedom of religion and belief in light of any findings that may obtain from the examination of this topic by the human rights advisory group; and we further hope that the UK government and its diplomatic staff serving in embassies around the world will make freedom of religion and belief a higher priority in their advocacy at a time when the rights enshrined in article 18 of the Universal Declaration of Human Rights are facing growing challenge in many countries across the globe

20 April 2011

Written evidence from UNICEF UK

1. Summary of Recommendations

— The FCO must strengthen and increase the attention it gives to children's rights within its work to promote human rights overseas.

— All FCO staff should receive child rights training to enhance their awareness and understanding of child rights issues and the UK's obligations in this area.

— A child and youth perspective must be reflected in all the FCO's work at the bilateral, regional, and multilateral levels. When assessing the human rights challenges in specific countries, the FCO must consistently analyse children's rights. This should inform their strategies and priorities within different countries, and their work with national governments.

— The FCO must develop and implement a new child rights strategy in consultation with civil society and children and young people, based on the results of a full evaluation of the previous Strategy. The strategy must have clear objectives for promoting child rights and how child rights will be incorporated broadly and effectively into the FCO's work.

— The FCO must reinvigorate the Child Rights Panel and give it a strategic role in developing, implementing, monitoring and evaluating the new child rights strategy.

— The FCO should work more closely with colleagues across Whitehall—especially the UK Department for International Development—to ensure that children's rights are a priority in the UK's international work.

— Future FCO Annual Reports must include significantly more detailed reporting on children's rights:

  — The specific section on children's rights must receive more attention and detail and include a review of how the child rights strategy is being implemented and monitored.

  — The Reports must address a broader range of children's rights issues as defined by the UN Convention on the Rights of the Child (CRC) and its two Optional Protocols,[1] and reports issued by the UN Committee on the Rights of the Child.

  — Future reports should recognise the interconnectedness of children's and women's rights, and the specific situation and vulnerabilities of girl children and young women.

  — In future reports, every country listed in the "Countries of Concern" chapter must include a consistently detailed analysis of children's rights.

— The FCO should invite a child rights organisation or representative with particular child rights expertise to join its Human Rights Advisory Group.

2. Introduction

2.1 UNICEF, the United Nations Children's Fund, is mandated by the UN General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the UN Convention on the Rights of the Child (CRC) and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

2.2 The UK National Committee for UNICEF (UNICEF UK) welcomes the opportunity to submit evidence to the Foreign Affairs Committee's (FAC) inquiry into the human rights work of the FCO. The FAC has played a crucial role in holding the FCO to account and we look forward to seeing the report of this inquiry. We

[1] They are the: Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

would especially like the FAC to ask the FCO what actions they will take to support and uphold child rights in a strategic way.

2.3 This submission will outline UNICEF UK's general position on the FCO's human rights work and also address more specifically the first two points of the inquiry: the content and format of the FCO's 2010 human rights report; and the extent to which there have been any changes in the FCO's approach to human rights under the Coalition Government.

3. General Comments on the FCO's Human Rights Work

3.1 Children are entitled to the same human rights as all adults. However they are especially vulnerable and therefore need special care and protection. This gives them a special status in that adults have certain responsibilities and duties towards children. The framework of human rights law[2] states that all human rights are indivisible, interrelated and interdependent. Promoting, protecting and realising children's rights are crucial because the CRC and the duties and rights defined within it are part of this framework.

3.2 The CRC—the most widely ratified human rights treaty in existence[3]—articulates the full range of children's rights and the non-negotiable standards and obligations to which all governments must aspire to in realising these rights for all children. By agreeing to undertake the obligations of the CRC, national governments have committed themselves to protect and ensure children's rights and to hold themselves accountable for this commitment before the international community.[4] States Parties to the CRC are thus obliged to develop and undertake all actions and policies (including foreign policy) in light of the best interests of the child, and *"undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention"*.[5] This applies to the whole of Government and emphasises the critical role of the FCO in upholding and promoting the rights of children around the world.

3.3 Over the last two decades there has been significant progress achieved in some areas of child rights. For example, under-five mortality fell by one third between 1990–2009, and net primary school enrolment rose to 88% for the developing world as a whole between 2003–08.[6]

3.4 However, despite these gains millions of children around the world continue to have their rights violated. Evidence shows that deprivations of children's rights are disproportionately concentrated among the poorest and most marginalised populations across countries, regions, and within countries themselves.[7] In terms of child survival, sub-Saharan Africa, South Asia and the least developed countries have fallen far behind other developing regions and the industrialized countries, and within many countries, falling national averages of child mortality conceal widening inequities. For example, in 18 of the 26 countries where the national under-five mortality rate has declined by 10% or more since 1990, the gap between the child mortality rates of the richest and poorest quintiles has either increased or remained unchanged. And in 10 of these 18 countries, this breach has risen by at least 10%.[8] The growing inequities between the abilities of children to realise their rights contravenes the principles of universalism, non-discrimination, fairness and justice which underpin child and human rights.

3.5 In addition, issues such as child marriage, trafficking, and children in armed conflict have not received the same attention as issues such as mortality and education, and progress towards ending those rights abuses remains slow. Dangerous and exploitative child labour, the sale and trafficking of children and adolescents, and other forms of abuse, neglect, exploitation and violence, continue to destroy the childhood of millions. For example, child marriage rates continue to soar in Africa and Southern Asia where 42% and 48%, respectively, of women aged 15–24 are estimated to have been married before reaching 18 years of age.[9] Girls living in the poorest 20% of households are more likely to get married at an early age than those living in the wealthiest 20%—in Peru, 45% of women were married by age 18 among the poorest 20%, compared to 5% among the richest 20%.[10]

3.6 The rights of children and young people are also increasingly threatened by cross-cutting issues such as climate change, the food and financial crises, humanitarian crises and conflicts, high levels of youth unemployment, rapid urbanisation, and increased fiscal austerity.[11] These issues will make the lives of today's children and young people more challenging; increase instability and vulnerability; and impact worst on the poorest and most marginalised.[12]

---

[2] The instruments of international human rights law includes the Universal Declaration of Human Rights and the six core human rights treaties: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Elimination of All Forms of Discrimination against Women

[3] The CRC has been ratified by all states except two: the US and Somalia

[4] Through reporting to the UN Committee on the Rights of the Child

[5] Article 4 of the UN Convention on the Rights of the Child http://www2.ohchr.org/english/law/crc.htm

[6] UNICEF Narrowing the Gaps to Meet the Goals, 2010

[7] UNICEF, Progress for Children, 2010

[8] UNICEF, 'Narrowing the Gaps the Meet the Goals', 2010

[9] UNICEF 2005: Early marriage: A harmful practice. 2005 Statistical Exploration.

[10] UNICEF estimates based on DHS 2000 http://www.unicef.org/protection/index_earlymarriage.html

[11] UNICEF Progress for Children Achieving the MDGs with Equity, 2010

[12] UNICEF Progress for Children, 2010 and UNICEF State of the World's Children 2011

3.7 Ensuring positive outcomes for children and young people around the world requires that all signatories to the CRC promote and support laws and practices, across all areas of their work, which reduce the specific vulnerabilities of children and young people. Therefore, the **FCO must strengthen and increase the attention it gives to children's rights within its work to promote human rights overseas.**

3.8 It is important that FCO staff recognise how children's rights are distinct and different to other areas of human rights work, but also their importance to achieving wider human rights goals. Therefore All FCO staff should receive **child rights training to enhance their awareness and understanding of child rights issues and the UK's obligations in this area.**

3.9 As well as "considering human rights in all of its bilateral and multilateral dealings and raising concerns about human rights",[13] the FCO should specifically consider the rights of children and young people and actively promote these in its work. As with gender issues,[14]**a child and youth perspective must be reflected in all the FCO's work at the bilateral, regional, and multilateral levels. When assessing the human rights challenges in specific countries, the FCO must consistently analyse children's rights. This should inform their strategies and priorities in different countries, and their work with national governments.**

3.10 To analyse children's rights more effectively, the FCO could draw on existing expertise and resources to strengthen its reporting of children's rights around the world. For example, it could utilise UNICEF's situation analysis framework to develop a model for measuring progress in implementing child rights principles, in line with the obligations and duties laid out in the CRC. The FCO could also enhance its assessment of children's rights by monitoring the periodic country reports sent to the UN Committee on the Rights of the Child, and the Committee's Concluding Observations. This would help to prioritise important child rights issues within particular countries.

3.11 Ensuring children's rights are upheld and fulfilled around the world is central to all UNICEF's work to improve the lives of children and young people. Therefore in 2007, we welcomed the publication of the FCO's Strategy on Child Rights. The Strategy outlined specific actions that the FCO would take to support and encourage governments and others to promote and protect children's rights. The Strategy demonstrated an impetus and drive towards promoting child rights within the FCO's work. Throughout 2007–08 the FCO Child Rights Panel was involved in inputting into the design and implementation of the Strategy, through regular meetings and communication with the Department.

3.12 However, evaluation of the implementation and success of the Strategy was weak, and the Strategy has now reached the end of its three year timeframe. As yet it has not been evaluated (publicly) or replaced. This is concerning, because without an agreed strategy for pursuing child rights, which is supported by FCO ministers and staff, it is unlikely any significant work on child rights will be undertaken.

3.13 In 2008 the Committee on the Rights of the Child in Geneva recommended that the UK needed to improve its implementation of the CRC and encouraged the UK to adopt "comprehensive plans of action for the implementation of the Convention across all its parts in cooperation with the public and private sectors involved in the promotion and protection of children's rights and based on a child rights approach".[15] The Committee recommended that the UK should take all appropriate measures to ensure that the principle of the best interests of the child is adequately integrated in all legislation and policies which have an impact on children. It is therefore crucial that the FCO has a strategy which demonstrates its commitment to child rights and the actions it plans to take to support and uphold child rights around the world. **The FCO must develop and implement a new child rights strategy in consultation with civil society and children and young people, based on the results of a full evaluation of the previous Strategy. The strategy must have clear objectives for promoting child rights and how child rights will be incorporated broadly and effectively into the FCO's work.**

3.14 To ensure a meaningful evaluation of the previous Strategy, and that the new strategy is as effective as possible, **the FCO must reinvigorate the Child Rights Panel and give it a consultative role in designing, implementing and evaluating the new strategy.**

3.15 To fulfil its obligations and ensure better synergy and effectiveness across the UK Government, **the FCO should work more closely with colleagues across the UK Government—especially the UK Department for International Development—to ensure that children's rights are a priority in the UK's international work.**

4. The Content and Format of the FCO's Report 2010

4.1 As in previous FCO Human Rights Reports, we were pleased to see that the latest edition includes a specific section on children's rights; a section on children and armed conflict; and a section on child abduction. We were also pleased that some (around half) of the countries listed in the final chapter "Human Rights

[13] 2010 FCO Human Rights report, p.4
[14] 2010 FCO Human Rights Report, p.31
[15] Point 15, p. 4, Concluding Observations issued by the Committee on the Rights of the Child, Geneva, to the United Kingdom, 2008

Countries of Concern" include information on children's rights. Within the children's rights section of the 2010 report, there are some positive examples of FCO work to promote child rights.[16]

4.2 However, we are concerned that despite its international obligations, children's rights are not a priority for the FCO. It is worrying that the 2010 Report does not explicitly state the Government's support for the CRC, or give any information about its strategy or objectives with regard to children's rights. Overall, the 2010 Report is too limited in its reporting of children's rights. For example, the specific section on children's rights is limited to just two paragraphs, and focuses on specific projects in a few countries.

4.3 The level of detail on children's rights in the 2010 Report has actually decreased in comparison to the previous two reports (2008–09). For example, the 2008 Report included a special focus on children's rights, and the 2009 Report included more information about the Government's commitment to the CRC and their plan to work with national governments to implement the Convention. It then listed specific projects (of which there were more than the 2010 Report), as well as the other sections on child abduction and armed conflict.

4.4 While we support the inclusion of the sections on child abduction and children in armed conflict, the inclusion of more detail and coverage of a broader range of child rights issues—including the CRC's two Optional Protocols—would have significantly strengthened the Report, and is necessary if the Government is to play a strong role in promoting children's rights around the world. Promoting and fulfilling children's rights is an integral part of promoting and fulfilling human rights. Therefore, children's rights deserve and require equal treatment within the FCO's human rights work—this must be reflected in future reports. **Future FCO Annual Reports must include significantly more detailed reporting on children's rights. The specific section on children's rights must be more detailed, and include a review of how the child rights strategy is being implemented and monitored. The Reports must also include a broader range of children's rights issues as defined by the CRC and its two Optional Protocols[17] and reports issued by the UN Committee on the Rights of the Child.**

4.5 It is positive that girls are specifically mentioned in the section on women's rights, as the issues facing girl children need to be addressed and considered in a different way to those affecting adult women. It is also positive that the Government has included international work in its UK strategy on ending violence against women and girls. However, children's rights are intimately tied to women's rights, and realising the rights and equality of women is not only a goal in itself but is also crucial to the survival and development of children, and to building healthy families, communities and nations. The section on women's rights in the 2010 Report would have been significantly strengthened if it explicitly recognised this link, but also if it recognised the specific vulnerabilities and situation of young women who are among the most vulnerable in many societies.**Future FCO human rights reports should recognise the interconnectedness of children's and women's rights, and the specific situation and vulnerabilities of girl children and young women.**

4.6 As previously mentioned, children's rights are included in *some* of the countries listed in the final chapter of the 2010 Report; although where they are included the level of detail varies significantly.**In future reports, every country listed in the "Countries of Concern" chapter must include a consistently detailed analysis of children's rights.**

4.7 While we welcome the announcement of the new FCO Human Rights Advisory Group, the "variety of perspectives" on the group[18] doesn't include a child rights perspective. **To demonstrate its commitment to children's rights the FCO should invite a child rights organisation or representative with particular child rights expertise to join its Human Rights Advisory Group.**

5. The Extent to which there have been any Changes in the FCO's Approach to Human Rights under the Coalition Government, Compared with the Previous Government

5.1 In the Coalition Agreement, the Government stated its commitment to "stand firm on human rights in all our bilateral relationships", "focus on the rights of children" and to "stand up for freedom, fairness and responsibility".[19] To meet these commitments it is imperative that the FCO strengthens its work on children's rights, and monitors and reports this more effectively in future Annual Reports.

5.2 As previously stated, the FCO's Child Rights Strategy (initiated by the previous Government in 2007) has ended and as yet it has not been replaced or (publicly) evaluated. This is worrying, because without a strategy it is unlikely that any effective, meaningful and consistent work on child rights will be carried out. Disappointingly, the FCO's engagement with its Child Rights Panel has also diminished.

5.3 As previously mentioned, the 2008 Report included a special focus on promoting the rights of children and women, and the 2009 Report included more detail and information on children's rights than the 2010 report.

5.4 This combination of factors highlights the decreasing profile of children's rights in the FCO's approach to human rights under the Coalition Government, compared with the previous Government. With issues such

[16] For example, their active and ongoing engagement in the negotiations of the third Optional Protocol to the CRC

[17] They are the: Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

[18] Foreword by Foreign Secretary to 2011 FCO Human Rights Report, p.4

[19] "The Coalition: our programme for government", 2010

as climate change threatening to push families further into poverty and increase the vulnerability of children and young people, there is an urgent need for the UK Government to fulfil its obligations by prioritising children and young people in its international work, and refocusing its strategies and policies to ensure that they promote and protect their rights.

20 April 2011

Written evidence from the Church of England, Mission and Public Affairs Council

1. The Church of England's Mission and Public Affairs Council welcomes the opportunity to respond to the House of Commons Foreign Affairs Select Committee's inquiry into the Foreign and Commonwealth Offices' human rights work, including the department's 2010 human rights report, Human Rights and Democracy.

2. The Mission and Public Affairs Council is the body responsible for overseeing research and comment on social and political issues on behalf of the Church. The Council comprises a representative group of bishops, clergy and lay people with interest and expertise in the relevant areas, and reports to the General Synod through the Archbishops' Council.

THE CONTENT AND FORMAT OF THE FCO'S REPORT, HUMAN RIGHTS AND DEMOCRACY: THE 2010 FOREIGN AND COMMONWEALTH OFFICE REPORT

3. **We are encouraged that at a time of financial stringency the Government has found alternative ways of making available its annual human rights report**. The report remains an important tool in ensuring that there is accountability and oversight at a time when human rights abuses across the world require Britain to show international leadership.

4. **In today's age of global communications a case can be made to maintain the practice of publishing the report on-line in addition to the traditional paper publication**. An on-line report is likely to be read by a wider audience. It also opens up the opportunity for more frequent updates on the Government's human rights work. Paper publication provides a more secure continuing archive which enables longer-term monitoring of policy and activity.

5. **This is an authoritative report, and it is certainly more comprehensive than previous years, but, unlike its American version, the report still does not cover every country. That is regrettable**, particularly as much of the information provided in the report is drawn from reports provided by national embassies. If the Government continues the practice of publishing this report on-line then it should look again at whether the report's scope can be broadened yet further.

6. **We are heartened by the reports attention to the question of freedom or religion and belief and recognise that this underlines the importance that the Government gives to this particular human right**. For the Church promoting and protecting religious freedom is not a matter of self-interest.

7. A lack of religious freedom creates socio-economic discrimination and reduces citizens' ability to come together and become agents for peaceful change. This can fuel intercommunal tension and extremism. **Where religious freedom is denied human development and flourishing is impaired. For the Church promoting and defending religious freedom is an important element in the process of democratisation and poverty reduction**.

8. That section of the report dealing with freedom of religion or belief documents the British Government's efforts in Nigeria, Laos, Azerbaijan, Turkey, Kyrgyzstan and Indonesia. Section seven of the report dealing with human rights in countries of concern also touches from time to time on this same issue. **This separation can at times be confusing as it is unclear why some concerns are addressed under one and not the other**.

THE EXTENT TO WHICH THERE HAVE BEEN ANY CHANGES IN THE FCO'S APPROACH TO HUMAN RIGHTS UNDER THE COALITION GOVERNMENT, COMPARED TO THE PREVIOUS GOVERNMENT

9. **We welcome the Foreign Secretary's decision of November 2010 to establish a Human Rights Advisory Group comprising expert individuals with a broad range of human rights experience drawn from NGOs**. The Group's establishment underlines the significance of the promotion and protection of human rights as an aspect of foreign policy.

10. **We are encouraged that this group contains experts with knowledge of religious freedom and wider understanding of the pressing human rights problems faced by many religious groups today**. The Group represents a significant advance on the Foreign and Commonwealth Office's Religious Freedom Panel of old.

11. We are encouraged that the twice yearly meetings of this Group will be chaired by the Foreign Secretary and that junior Government ministers and Foreign Officials will also chair additional meetings on key issues agreed by the Group. Pleased as we are with this development it is important that it should be monitored and evaluated so as to ensure it adds value. **This means assessing the quality of advice provided and the assistance that it offers the Foreign Secretary in strengthening the Government's international human**

rights work. Such an assessment should itself be open to Parliamentary and public scrutiny, for example by inclusion as a regular feature in the FCO's Annual Report.

The Eeffectiveness of the FCO's Human Rights Work, and how this can be Assessed

12. **The Foreign Secretary has on more than one occasion noted that Britain is not a nation that could ever have a foreign policy "without a conscience". We agree**. The question is how that aspiration is to be turned into reality. In our view that must involve, inter alia, the Foreign and Commonwealth Office developing a clear human rights policy to help shape its strategic objectives for the mid-term and in turn the annual work programmes of relevant departments. **The absence of any such strategic framework makes it hard to measure the effectiveness of the Foreign and Commonwealth Office's human rights work**.

13. We are grateful for a useful and comprehensive review which the 2010 report provides of the human rights work of the Foreign and Commonwealth Office around the world, and especially that it highlights the UK's human rights concerns in key countries. However, we regret that **missing from the narrative is any indication as to what a successful human rights policy might look like, what lessons can be learnt from recent experience and how all this affects the future work of the Foreign and Commonwealth Office (as it should if a foreign policy with a conscience is to be successfully maintained and prosecuted)**.

14. **This deficit might in future be remedied by an additional chapter to the human rights report**. Such a chapter would provide a clearer strategic framework through which to make sense of the on-line three monthly updates to the human rights report envisaged by the Foreign Secretary.

The Relationship between the FCO's Human Rights Work and the Emphasis which the Government is Placing on the Promotion of UK Economic and Commercial Interests

15. The Foreign Secretary has acknowledged idealism in foreign policy always needs to be tempered by realism. We too recognise that we live in an uncertain and troubled world, where Britain's ability on its own to affect positive change internationally is increasingly circumscribed by global political, financial and economic circumstances**. But such uncertainty increases rather than reduces the importance of the values underpinning foreign policy. Without such underpinning values policy is at the mercy of circumstance and opportunism.** That will mean a constant risk that policy will be driven by short-term factors and that Governments will be tempted to seek narrow economic advantage for the United Kingdom at the expense of our wider interests and values.

16. **This is not to argue that human rights should trump trade. Rather it is to call for greater clarity in the relationship between these different strands of policy. In our view the current strategy of using trade visits to also engage in "dialogue at all levels, including human rights" is an obfuscation and needs revisiting**. Separating out these two strands of Britain's foreign policy would allow a more structured dialogue on human rights concerns as well as on trade policy, which would be doubly advantageous.

17. We share the concerns raised in the 22 March 2011 report by the House of Commons Business, Innovation and Skills, Defence, Foreign Affairs and International Development Committees into the Scrutiny of Arms Export Controls (2011). **We agree with the Committees' recommendation that the government needs to set out how it intends to reconcile the potential conflict of interest between the increased emphases on promoting arms exports with the staunch upholding of human rights**.

27 April 2011

Written evidence from the Campaign Against Arms Trade (CAAT)

1. The Campaign Against Arms Trade (CAAT) in the UK works to end the international arms trade, which has a devastating impact on human rights and security, and damages economic development. CAAT believes that large scale military procurement and arms exports only reinforce a militaristic approach to international problems. Established in 1974, CAAT receives around 80% of its funding from its individual supporters.

Commercial Interests or Economic Benefits to the UK?

2. The Committee's invitation to make submissions talks of the "relationship" between the human rights work of the Foreign and Commonwealth Office (FCO) and the "emphasis which the Government is placing on the promotion of UK economic and commercial interests in UK foreign policy".

3. The UK's economic interests are not necessarily the same as the commercial interests of companies either based, or employing individuals, in the UK and the two should not be conflated. Companies aim to maximise the profits of their shareholders and the consequences for their employees or the UK economy as a whole being subsidiary to this.. Sometimes the interests may coincide, but this is not universally true and certainly not in the case of companies involved in military equipment production or projects.

4. Even the Ministry of Defence (MoD) has questioned the economic benefits of military exports. In its Defence Industrial Strategy (December 2005) the MoD says: "Arguments for supporting defence exports in terms of wider economic costs and benefits eg the balance of payments, are sometimes also advanced". A

group of independent and MoD economists (M Chalmers, N Davies, K Hartley and C Wilkinson—*The Economic Costs and Benefits of UK Defence Export*s. York University Centre for Defence Economics, 2001) examined these by considering the implications of a 50% reduction in UK defence exports. They concluded that the "economic costs of reducing defence exports are relatively small and largely one off...as a consequence the balance of argument about defence exports should depend mainly on non-economic considerations."

5. There is no reason to suspect that the situation has changed since 2005 and others have been even more sceptical about the economic benefits from exporting arms, including Alan Beattie, International Economy Editor of the *Financial Times* who wrote on 10 August 2010: "You can have as many arms export jobs as you are prepared to waste public money subsidising." Certainly, Government support for the arms trade commands resources that could used to support other industries, yet the Government prioritises military production and exports.

6. This means that the choice is often between commercial interests and the UK's economic interests, rather than between these two and the promotion of human rights.

Government Support for Arms Sales

7. Arms exports have received Government support and backing for decades and since 1966 there has been a dedicated department helping sell military equipment overseas. This Government arms sales unit is now located within UK Trade & Investment. There are about 160 staff in UKTI's Defence and Security Organisation (UKTI DSO) dedicated to promoting military exports, more than those providing specific support to all other sectors of industry put together. This is despite arms being only 1.5% of total UK exports, and the fact that even then, 40% of their components are imported.

8. UKTI DSO liaises with the companies they are selling the arms for, builds relationships with overseas governments and military officials, arranges political assistance for arms deals, ensure that members of the UK armed forces are on hand to help the companies' sales efforts, and assists with arms fairs.

9. At least until February 2011, the Coalition Government was a particularly enthusiastic supporter of military sales with Peter Luff MP, Minister for Defence Equipment, Support and Technology telling the Royal Aeronautical Society Corporate Partners Briefing, on 29 November 2010: " ... Ministers are proud to support the biggest exports drive we have seen in decades."

10. Recent events in North Africa and the Middle East have, at least, somewhat tempered the rhetoric. Foreign Office Minister Lord Howell of Guildford said: "Perhaps a year or two ago, many people in this House would have been happy with the number of licences going to Libya, but it turns out that a great many of these—I think 118 of them—have been revoked, and rightly so. All licences for weapons of any kind of concern for Libya have been revoked. .....we are applying the best possible filter and controls, possibly by world standards, that are available to ensure that weapons are not misused, or used for repression in horrible ways." (Hansard, 22.3.11, col 593)

Libya

11. The example of Libya shows exactly what can happen when the commercial interests of arms companies are put ahead of human rights concerns. The arms embargo on Libya was lifted in October 2004. This had nothing to do with any improvement in Libya's human rights record—pressure had been led by Italy which wanted agreements to limit the number of refugees crossing the Mediterranean. Libya was immediately seen as a major marketing opportunity. In June 2005 UKTI DSO's predecessor, the Defence Export Services Organisation (DESO) held a seminar on Libya as an emerging market. According to the Defence Manufacturers Association News in July 2005, Libya was seen as "a relatively sophisticated customer with a political will to procure equipment from the UK". DESO opened an office in Tripoli in January 2006.

12. In May 2007 Prime Minister Tony Blair visited Libya. An Accord on a Defence Cooperation and Defence Industrial Partnership between the UK and Libya was signed. In addition, MBDA, in which BAE has a 37.5% stake, was awarded a £147 million contract from Libya for anti-tank missiles and £122 million for a related communications system while GDUK was given a deal worth £85 million deal to supply the Libyan army with radios.

13. The support for exports continued. In a speech on 21 May 2009, Richard Paniguian, Head of UKTI DSO, said: "There have been high-level political interventions—often behind the scenes—in places like Libya, Oman, India and Algeria. The key here is consistent support over time, delivered at key points in a campaign. You'd expect us to deliver Whitehall support, and we are doing that." Libya was included in the list of UKTI DSO's priority markets for 2010–11 (Hansard, 28.6.10, c*ol. 418–9W*).

14. Trade was also facilitated by arms exhibitions. In September 2009 Libya was invited to the Defence Systems and Equipment international which is co-organised by UKTI DSO. The following month, UKTI DSO exhibited at the Libyan Aviation Exhibition (LAVEX) in Tripoli. The Libyan Airforce was amongst the organisers of LAVEX. In July 2010 Libya was represented at the Farnborough International Airshow and in November 2010 UKTI DSO was back in Tripoli exhibiting at the LibDex arms fair.

15. The Libyan authorities did not begin violating human rights in February 2011, but then the repression hit the headlines and the pressure for action built. In March 2011 an arms embargo was, once again, imposed on Libya and the bombing—to "protect" civilians—began.

"Countries of Concern"

16. Libya is, unfortunately, far from unique in being a repressive regime and a recipient of UK arms. The Consolidated EU and National Arms Export Licensing Criteria and their similar predecessor criteria have been used as a basis for export licensing decisions since 1997 and these include human rights criteria against which export licence applications are measured. While this can sound impressive, in practice human rights considerations play an almost negligible role until potential embarrassment surfaces.

17. There are 26 counties listed in "Human Rights and Democracy" as being "Countries of Concern" and these are looked at in more detail below. While no licences are granted for military exports to some of the countries, others were the focus of UKTI DSO's export promotion efforts. The differences appear to be accounted for by several factors—whether the country will pay for the arms, if other providers have cornered the market, or if there are multi-lateral sanctions in place.

18. There were 17 countries on UKTI DSO's list of priority markets for arms sales in 2010–11 including, besides Libya, three other "Countries of Concern"—Iraq, Pakistan and Saudi Arabia. UKTI DSO also gave "a range of support on behalf of UK defence and security companies marketing defence and security goods and services" to another four "Countries of Concern"—China, Colombia, Democratic Republic of Congo and Vietnam. (Hansard, 17.2.11, *col 977W*).

19. The Democracy index listings refer to the Economist Intelligence Unit's "Democracy Index 2010" which reflected the situation in November 2010. Countries were ranked from 1 to 167, the higher the number, the worse the level of democracy.

20. Afghanistan:

Value of arms export licences 2008–10 = £36.9 million including those for all-wheel drive vehicles with ballistic protection.

UKTI DSO support = No.

Democracy index 150.

21. Belarus:

Value of arms export licences 2008–10 = £200,000.

UKTI DSO support = No.

Democracy index 130.

22. Burma:

Value of arms export licences 2008–10 = nil.

UKTI DSO support = No.

Democracy index 163.

23. Chad:

Value of arms export licences 2008–10 = £224,000.

UKTI DSO support = No.

Democracy index 166.

24. China:

Value of arms export licences 2008–10 = £3.6 million including those for components for air-to-air missiles, components for combat aircraft, components for frigates, military utility helicopters and components.

UKTI DSO support = Yes.

Democracy index 136.

25. Colombia:

Value of arms export licences 2008–10 = £1.1 million including those for all-wheel drive vehicles with ballistic protection, components for military training aircraft.

UKTI DSO support = Yes.

Democracy index 57.

26. Cuba:

Value of arms export licences 2008–10 = nil.

UKTI DSO support = No.

Democracy index 121.

27. Democratic People's Republic of Korea:

Value of arms export licences 2008–10 = nil.

UKTI DSO support = No.

Democracy index 167.

28. Democratic Republic of Congo:

Value of arms export licences 2008–10 = £1.2 million.

UKTI DSO support = Yes.

Democracy index 155.

29. Eritrea:

Value of arms export licences 2008–10 = nil.

UKTI DSO support = No.

Democracy index 152.

30. Iran:

Value of arms export licences 2008–10 = nil.

UKTI DSO support = No.

Democracy index 158.

31. Iraq:

Value of arms export licences 2008–10 = £16.8 million including those for all-wheel drive vehicles with ballistic protection, pyrotechnic hand grenades, smoke canisters, smoke hand grenades, stun grenades.

UKTI DSO support = Yes and on list of UKTI DSO priority markets 2010–11.

Democracy index 111.

32. Israel and the Occupied Palestinian Territories:

Value of arms export licences 2008–10 = £28.1 million including those for components for combat aircraft, components for military training aircraft, components for military support aircraft, components for tanks, all-wheel drive vehicles with ballistic protection, military utility vehicles, components for unmanned air vehicles, unfinished products for air-to-surface missiles, unfinished products for unmanned air vehicles, blank ammunition.

UKTI DSO support = No.

Democracy index 37.

33. Libya:

Value of arms export licences 2008–10 = £67.2 million including those for anti-riot shields, components for sniper rifles, crowd control ammunition, gun silencers, inert smoke canisters, inert smoke hand grenades, inert stun grenades, inert thunderflashes, tear gas/irritant ammunition.

UKTI DSO support = Yes and on list of UKTI DSO priority markets 2010–11.

Democracy index 158

34. Pakistan:

Value of arms export licences 2008–10 = £46.4 million including those for all-wheel drive vehicles with ballistic protection, armoured all-wheel drive vehicles, components for combat aircraft, components for combat helicopters, components for military surveillance aircraft, components for combat naval vessels, components for large calibre artillery, launching equipment for bombs, launching equipment for air-to-air missiles, smoke canisters, stun grenades, tear gas/irritant ammunition.

UKTI DSO support = Yes and on list of UKTI DSO priority markets 2010–11.

Democracy index 104.

35. Russia:

Value of arms export licences 2008–10 = £43.2 million including those for components for ballistic test equipment, components for frigates, military utility helicopters, technology for the production of surface-to-surface missiles.

UKTI DSO support = No.

Democracy index 107.

36. Saudi Arabia:

Value of arms export licences 2008–10 = £211.1 million including those for combat aircraft, aircraft missile protection systems, all-wheel drive vehicles with ballistic protection, armoured personnel carriers, components for air-to-surface rockets, components for aircraft missile protection systems, fast attack craft, equipment for the use of large calibre artillery, components for bombs.

UKTI DSO support = Yes and on list of UKTI DSO priority markets 2010–11.

Democracy index 160.

37. Somalia:

Value of arms export licences 2008–10 = £3 million including those for all-wheel drive vehicles with ballistic protection, armoured all-wheel drive vehicle.

UKTI DSO support = No.

Democracy index 130.

38. Sri Lanka:

Value of arms export licences 2008–10 = £5.2 million including those all-wheel drive vehicles with ballistic protection, components for military utility helicopters.

UKTI DSO support = No.

Democracy index 55.

39. Sudan:

Value of arms export licences 2008–10 = £254,000.

UKTI DSO support = No.

Democracy index 151.

40. Syria:

Value of arms export licences 2008–10 = £65,000.

UKTI DSO support = No.

Democracy index 152.

41. Turkmenistan:

Value of arms export licences 2008–10 = £56,000.

UKTI DSO support = No.

Democracy index 165.

42. Uzbekistan:

Value of arms export licences 2008–10 = £3,000.

UKTI DSO support = No.

Democracy index 164.

43. Vietnam:

Value of arms export licences 2008–10 = £7.9 million.

UKTI DSO support = Yes.

Democracy index 140.

44. Yemen:

Value of arms export licences 2008–10 = £562,000.

UKTI DSO support = No.

Democracy index 146equal.

45. Zimbabwe:

Value of arms export licences 2008–10 = nil.

UKTI DSO support = No.

Democracy index 146equal.

46. It is sometimes argued that arms sales are part of a "defence diplomacy programme to strengthen British influence" (MoD Business Plan 2011–15). However, far from instilling democratic values on the recipient, the evidence suggests that, on the contrary, the seller will try to appease the buyer. A very striking example involving one of the "countries of concern" took place in December 2006 when the Serous Fraud Office investigation into BAE Systems-Saudi Arabia arms contracts was terminated. The relationship between BAE and Saudi Arabian princes, and the need to secure a Eurofighter Typhoon contract, was put before the "rule of law" and the UK's supposed championship of measures to end corruption.

47. The arms companies benefit from supplying arms to repressive regimes, and the regimes benefit from the support and legitimacy given to them by the governments supporting or licensing the sales. Others suffer directly when UK-supplied equipment is used against them by repressive regimes.

Private Military and Security Companies

48. CAAT would also like to comment on "corporate mercenaries", the Private Military and Security Companies (PMSCs). The UK private military sector has increased enormously following the invasions of Iraq and Afghanistan with personnel employed by PMSCs taking on many tasks previously undertaken by members of national armed forces. This growth has been accompanied by hundreds of allegations of human rights abuses committed by mercenaries. How to address this prompted nearly a decade of consultation by the Labour government.

49. CAAT was disappointed that, in September 2010, the Coalition government decided to take forward the Labour government's April 2009 proposals. Under these the Government has abdicated responsibility for regulating the industry to a trade association, A|D|S.

50. This is totally inadequate. The only sanction is that the UK government says it will itself only use companies which meet high standards. This does not, however, address the fact that overseas governments, mining companies, media organisations, aid agencies and others also have contracts with PMSCs—withholding UK government purchasing power is not a solution in these cases.

51. The UK government is also working towards the promotion of higher standards internationally. Desirable as this may be, it is no substitute for rigorous UK regulation.

28 April 2011

Written evidence from the International Campaign for Tibet

Brief Introduction to Submitting Organization

This submission is provided by the International Campaign for Tibet, the largest pro-Tibet group worldwide with offices in Washington, Amsterdam, Brussels, Berlin, and staff in London, Dharamsala (India) and Kathmandu (Nepal). The International Campaign for Tibet (ICT) is a monitoring and advocacy organization founded in 1988, working to promote human rights and democratic freedoms for the people of Tibet. ICT's Mission Statement can be read in full at: http://savetibet.org/about-ict/our-mission

Written Submission

1. As stated in the 2010 FCO report on Human Rights and Democracy, the UK government adopted a "three-pronged approach" to its engagement on human rights with China in 2010. This was characterized as follows: (i) high-level lobbying; (ii) a human rights dialogue between officials and experts and (iii) a portfolio of projects funded by the Strategic Programme Fund of the FCO and focusing on criminal justice reform, abolition of the death penalty, freedom of expression and civil society (http://www.fco.gov.uk/en/about-us/what-we-do/spend-our-budget/funding-programmes1/strat-progr-fund/). This is similar to the framework for the human rights dialogue between the European Union and China, which has been ongoing since 1995. The EU-China dialogue runs on three tracks and includes a diplomatic level, expert seminars and technical co-operation projects. The three levels are supposed to interact with and benefit from each other.[20] It appears that the human rights dialogue between the UK and China is viewed as essential to the continuance of programmatic support, which may mean that the dialogue in its own right is not fully scrutinized for its efficacy, and that change may be resisted for fear of jeopardizing programmatic support.

2. On 13–14 January 2011, the UK government held the 19th round of the annual UK-China Human Rights Dialogue in the UK. ICT is concerned that these annual dialogues have become a familiar ritual that ultimately are not resulting in positive change on the ground. They can even be counter-productive in that they allow the Chinese government to claim an "achievement" on human rights when in fact no progress has been made. Programmatic support remains important but maintaining it should not preclude effective analysis of the efficacy of the dialogue or otherwise. ICT supports engagement with China, but believes that it is time for a new and more robust approach together with other dialogue partners based on achieving real, short-term goals, and recommendations towards that objective are included below in this submission.

3. In terms of overall approach to China, the message that comes across from the UK government appears to be that human rights comes second to the promotion of UK economic and commercial interests. This is at a time when unambiguous messages to Beijing are most needed, given the current imposition of a crackdown in both China and Tibet that differs in both scope, tactics and aims to previous crackdowns. The voice of the

[20] A new paper entitled "Taking Human Rights to China: An Assessment of the EU's Approach" by Katrin Kinzelbach and Hatla Thelle, published in China Quarterly, 2011(doi:10.1017/S0305741010001396), challenges this three-pronged approach. The authors of the paper conclude: "Our main focus has been the interaction between the different levels of the EU—China human rights dialogue and we have demonstrated that this interaction is neither systematic nor constructive. Exactly because the legal seminars are meant to feed into the political talks, they do not provide a safe space for frank discussions, and the content of the talks has to adapt to the political winds of the time. The co-operation projects are less influenced (that is, less exposed to political pressure) because their implementation is, in reality, less connected to the political level, though in some official documents and research papers they are mentioned as part of the whole set-up."

international community at this juncture is crucial because Beijing will weigh that response before deciding on a course of action.[21]

4. After a generation of economic development and numerous rounds of similar human rights dialogues with countries including the US, Canada, Australia and Japan, as well as with the EU, the human rights situation in China and Tibet has deteriorated still further. Indeed in November, 2000, the cross-party Commons Foreign Affairs Select Committee stated that there had been a "serious deterioration" in the human rights situation in China in the past two years since the UK government began its dialogue in 1998. This lack of progress has been noted by the FCO who, in 2008, acknowledged to the Foreign Affairs Committee that: "China has made little progress towards greater respect for human rights in 2008" (Clause 177, http://www.publications.parliament.uk/pa/cm200809/cmselect/cmfaff/557/55710.htm#a48).

5. Since then and despite millions of pounds of assistance, the Chinese government has engaged in a systematic attack on the rule of law and civil society, has developed the world's most sophisticated internet censorship system, has intensified religious repression particularly in Tibet and Xinjiang, and characterises two prominent Nobel Peace Prize winners, the Dalai Lama and Liu Xiaobo, as "criminals". While it is to be welcomed that there was a separate section on Tibet in FCO's report, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, and a mention of China at the press launch by the Foreign Secretary, the scope and context of the deepening crackdown in Tibet was not adequately conveyed in this report. It was also disappointing that names of specific Tibetan political prisoners were not included, given the dramatic spike in imprisonment of Tibetans for peaceful expression of views. This also represented a step back from the previous government's raising of three specific cases, including one Tibetan, at a high level during the previous Foreign Minister David Miliband's visit to China in March, 2010.[22]

6. Given the UK's unique historic connection with Tibet, ICT welcomes and appreciates the UK government's affirmation of the importance of dialogue between the Dalai Lama and the Chinese government. It was unfortunate that the Prime Minister did not raise the coalition government's position on this issue strongly during his visit to China on 8–11 November 2010, particularly in light of his earlier discussions directly with the Dalai Lama on 21 May 2008 (http://www.youtube.com/watch?v=9qXCQjz6CF0).[23] We recommend that strong statements on this matter are made to the highest levels of the Chinese Communist Party and government at every opportunity, and not just within the context of the human rights dialogue; and that these statements are reiterated in public both inside China when the occasion arises and elsewhere. It is notable that the Miliband statement on Tibet made on 29 October 2008, describing the earlier British position on Tibet as "an anachronism" in apparent deference to long-standing concern by the Chinese government, has not led to any apparent gains or concessions from the Chinese side in the UK-China human rights dialogue.[24]

7. The issue of human rights should not be an addendum or after-thought. Human rights must not be allowed to be "ring-fenced" to only be publicly raised within the official bilateral dialogue framework. Rights issues should be integrated into the agendas of the full array of bilateral engagements. Issues such as tainted powdered milk and lead-painted toys should give rise to voicing concerns about the denial of a free, investigative press in China as much as they do about implications to standards of trade and commerce.

8. Similarly, rights issues in Tibet are linked to a bigger picture of China's strategic and economic objectives that is increasingly relevant to the rest of the world given the Tibetan plateau's significance as the earth's "Third Pole" and source of most of the major rivers of Asia.[25] China can no longer argue that rights issues are its own "internal affair". For instance, China argues that it plans to vigorously pursue clean energy, investing in hydroelectric power, windmills, nuclear power and solar cells. But a closer look at this "green growth" suggests it has many costs, and unintended consequences that are particularly acute in Tibet. "Green growth" means that massive dams are being built upstream of rivers including the Mekong, Brahmaputra and Salween, the displacement of too many Tibetan farmers, and the settlement of Tibetan nomads, increasing a cycle of

[21] The current crackdown in China appears to be nothing less than an effort to redefine the limits of permissible expression and roll back the advances made by Chinese civil society over the past decade. See: Nicholas Bequelin analysis: http://www.hrw.org/node/97888

[22] The then UK Foreign Secretary David Miliband visited China in Mid-March, 2010 and raised Tibetan prisoner Dhondup Wangchen's case directly with Chinese Foreign Minister Yang Jiechi, together with the cases of two Chinese political prisoners.

[23] This contrasts with President Obama's clear and unambiguous message direct to President Hu in front of the world's press on the occasion of the US-China Summit in January 2011. Under the last government, during his visit to China in March 2010, the then Foreign Secretary David Miliband raised the issue of Tibet with his direct counterpart, Foreign Minister Yang Jiechi, but not with Chinese Premier Wen Jiabao.

[24] The full statement is at: http://www.fco.gov.uk/en/news/latest-news/?view=News&id=8357859In his statement, Mr Milband said: "Our recognition of China's 'special position' in Tibet developed from the outdated concept of suzerainty." In fact this description of Tibet's status in the era before the modern nation-state was more finely tuned than the versions claimed by Beijing or many exiles, and it was close to the findings of most historians. The Chinese government welcomed the change in language (http://www.china.org.cn/international/news/2008–11/02/content_16700275.htm).

[25] Tibet, the world's largest and highest plateau, is referred to as the "world's third pole" because it contains the biggest ice fields outside of the Arctic and Antarctic. The Tibetan plateau is warming twice as fast as the rest of the world. Tibet's water is a lifeline for millions of people downstream in China, India and other Asian countries. China's policies in Tibet are contributing to the warming of the plateau and excluding Tibetans from the stewardship of their land, and the sustainable management of ecosystems and water has become a serious security issue in the region. Just as China is essential to successful implementation of global climate change solutions, Tibet is indispensable to China's ability to implement them successfully. ICT urges international policy-makers on climate change to ensure that strategies to address climate change include stakeholders in Tibet, particularly nomads. This inclusion is essential to understanding, mitigating and adapting to changes in the Tibetan plateau's water, forest, and grassland resources and ecosystems, which are critical to millions of people and to the stability of the region.

poverty. Those who attempt to express criticism peacefully of such development are routinely silenced and/or imprisoned.

9. No significant improvements in the Chinese people's access to justice or the establishment of an independent judicial system are known to have resulted from the dialogue process with China. Programmes to assist "rule of law" reforms and to facilitate exchanges of "legal experts" should be designed to address specific structural, administrative and legal problems in China that lead to human rights abuses. Legal programmes would be best directed towards addressing problems such as widespread torture, strengthening protection for defence lawyers who face disbarment when defending political cases, and lack of due process.

10. There should be a geographical spread incorporating Tibetan and Uyghur areas when allocating funding for legal training, with a particular emphasis on empowering lawyers in these "minority" areas. Attention should be paid to the need to make lawyers' associations fully independent, insulated from interference by Party officials, security officials, and the Ministry of Justice, and repealing aspects of annual bar registration for lawyers which allow judicial system authorities to put pressure on and arbitrarily retaliate against lawyers for political and other reasons.

Recommendations

11. The UK-China human rights dialogue should be more transparent; maintaining opacity has enabled the Chinese authorities to misrepresent the process and to undermine essential follow-up of discussions that took place behind closed doors. The dialogue should involve participation with expert NGOs and representatives from civil society and, ideally, also with representatives of the Tibetan and Uyghur communities in exile. When the dialogue is taking place in the UK, the UK should set and share specific benchmarks for what would constitute progress, and both substance of the dialogue and benchmarks should be specific and publicly known.

12. Following the dialogue, UK officials should offer to do interviews via the UK-based media outlets with Chinese-language services, and arrange for their remarks to be translated and circulated inside China, which would help to prevent the Chinese government's attempts to prevent its citizens from knowing what the UK says about human rights.

13. Each round of dialogue should be based on realistic and tangible short-term goals. For example, these could include the release of specific prisoners; the agreement on a date for further dialogue between the Dalai Lama's envoys and the Chinese authorities as opposed to vague language on renewing the dialogue; progress towards the repeal of dangerously ambiguous "state secrets" and "subversion" laws; the lifting of restrictions on *weiquan* (rights protection) lawyers. Discussions to further progress should be continued outside the context of the official meetings.

14. Dialogue topics should not focus only on abuses of social and economic rights but should assert the importance of addressing violations of civil and political rights, for instance in the case of environmental issues where the relevance for doing so extends beyond China's borders. Exchanges on specific prisoners should not be sidelined to the margins of the discussion but affirmed as part of the main agenda and information shared with multilateral partners, particularly the E.U. Follow-up based on specific, up-to-date information is critical. The U.N. Human Rights Council should be used to advance human rights principles and thematic issues.

15. Civil society in China, Xinjiang and Tibet should be supported both diplomatically and financially. UK Ministers and senior staff should take every opportunity to meet human rights defenders, lawyers, writers and others who are taking personal risks to promote human rights and the rule of law. Private dialogue should always be accompanied by strong and clear public statements in support of these individuals. Engagement between Tibetan, Uyghur and Chinese scholars and representatives from civil society on key issues such as autonomy and governance should be facilitated and encouraged where possible, for instance in round-table discussions. Further provision should be given to supporting grass roots projects in Tibetan areas of the PRC that involve Tibetans and support their culture. This is particularly vital at a time when Chinese laws and measures on "ethnic autonomy" are not being implemented on the ground. These steps can also help to counter and address the very genuine frustration due to the intransigence from the Chinese side demonstrated in each round of human rights dialogue.[26]

16. Each round of dialogue should be followed with an open discussion of impact and progress towards bench-marked practical goals. Dialogue should be resumed only if mechanisms are put into place that build upon these areas and if some measurable progress appears to have been made. Decision-making needs to be set within the context of a longer-term strategy to tackle the issues at stake and not based on consequences that could be perceived to risk progress in the short-term, for instance a suspension of the dialogue from the Chinese side.

17. Given the Dalai Lama's recent decision to devolve political power to an elected leadership, every effort should be made by the UK government to respond positively to requests to meet representatives from the

[26] According to the report cited earlier, "Taking Human Rights to China: An Assessment of the EU's Approach" by Katrin Kinzelbach and Hatla Thelle, published in China Quarterly, 2011: "The human rights dialogue process […] is based on the (false) premise that a negotiation and exchange between equal partners is taking place, while in reality part A aims at changing part B and part B knows it and does not accept it. The European Union does not conceal that the dialogue is about improving the human rights situation in China; while the Chinese side sticks to the equality-and-mutual-respect label."

Tibetan exile government, based in Dharamsala, India, notably the new elected Kalon Tripa (Prime Minister), Lobsang Sangay.

18. ICT welcomes the UK's strong position on not lifting the EU arms embargo on China and encourages UK officials to urge its EU partners to follow the same approach.

27 April 2011

Written evidence from the Centre for Legal Aid Assistance & Settlement (CLAAS)

Please find enclosed my submission in respect of the FCO 2010 annual report on Democracy and human rights, Pakistan. I don't think justice has been done in the report by the omission of a chapter about blasphemy law and religious minorities, despite us being well aware of the ongoing situation surrounding this law. Pakistan is third in the world for human rights violations and I am unable to understand how it is going to become the no. 1 country in the UK list for grants. I believe this is equal to rubbing salt in the wounds of religious minorities. I am disappointed but hope my views which reflect millions of Pakistan religious minority members' opinions will be taken seriously and future decisions will take into account the situation of human rights and religious minorities.

CLAAS' Submission on the FCO Report on Pakistan

The FCO has dedicated 10 pages for Pakistan but I have to express my regret that the FCO's recent statement on Democracy and Human rights did not include recognition of the enormous human rights abuses being committed in Pakistan due to the country's blasphemy laws. Being a member of a Pakistani religious minority myself and working on the behalf of Pakistan's religious minorities I don't see this report as being comprehensive unless a chapter is included about religious minorities, who are suffering because of their faith both at the society level and the government level because of discriminatory policies.

The FCO praises the Pakistani government for the ratification of the International Covenant on Civil and Political Rights, and of the UN Convention against Torture. If these long awaited signatures can only be welcomed, such positive steps fall short of convincing the international community of the commitment of Zardari's administration to the promotion of human rights. In profound contrast with these initiatives, the human rights situation in Pakistan has greatly deteriorated particularly for members of religious minorities.

Members of religious minorities have often been the main targets of these abuses, notably the Ahmadis and the Christians. Following the recent killing of Governor Salmaan Taseer and Federal Minister Shahbaz Bhatti, questions need to be asked about the government's ability and willingness to protect those who speak out against extremism. Salmaan Taseer, the governor of Punjab, was gunned down after he expressed support for a Christian woman, Asia Bibi, who was imprisoned for the alleged crime of blasphemy. Both persons had vigorously campaigned to reform the blasphemy laws, which have a mandatory death penalty for speaking against the Prophet Muhammad. Long criticized by NGOs for being vaguely worded and open to abuse, these laws are often used to settle rivalries or persecute religious minorities. Although no one has yet been executed, several have been killed by extremists for alleged accusation of blasphemy, many have spent years in prison languishing, waiting for their case to reach the Court and for those who have been released, their lives have never been the same again.

In its report, the FCO rightly put forward issues with the Pakistani judicial system crippled with under-trained staffing, lack of resources and more importantly corruption. Judges and lawyers are often intimidated resulting in shambolic trials falling short of Pakistan's International Human Rights obligations. Furthermore, such trials are often brought to justice, based on blemished police investigations. Police forces and the military are too often accused of abductions and extrajudicial killings, not to mention death in custody.

The amendment or repel of these laws is an absolute necessity for the survival of religious minorities in Pakistan. Yet the Government is paralysed by fears of Islamist street power from those who are against any changes to these laws. As a result it is unable to ensure protection for those who speak against the laws. After the assassination of the Punjab governor, his killer, bodyguard Mumtaz Qadri, was greeted with showers of rose petals from many lawyers who went to watch his initial court hearing. Isn't the government's lack of condemnation for such endorsement of crime, a way to abandon opponents to the blasphemy laws? The door has been tacitly left open for more violence and Shahbaz Bhatti was another victim. In these circumstances, no one can blame the last prominent opponent of the blasphemy laws, member of national assembly, Sherry Rehman who was threatened by the extremists and forced by the government to drop her campaign for amendments.

The killings of Governor Taseer and Minister Shahbaz Bhatti have been investigated but for the latter, serious doubts have been caste over the enquiry. As a result, representatives of religious minorities are calling on the Government to institute an independent Commission of inquiry, directed by a Supreme Court Judge. Paul Bhatti, Shahbaz's brother and current Director of the "All Pakistan Minorities Alliance" (APMA) (the network founded by Shahbaz Bhatti to promote the rights of religious minorities in Pakistan) believes that attempts have been made to clear Islamic extremists from blame and to look for causes of the murder among personal enmities.

So where does that leave the Christian community in Pakistan? Well clearly at the mercy of fanatics unleashed against them should they utter a word of protest against the lethal weapons that are the blasphemy laws. As of today, the Government of Pakistan is unable or unwilling to protect its citizens, failing to meet its fundamental Human rights obligations. Politicians in Pakistan have chosen to promote "political cowardice" rather than human rights. It is time for the UK government to recognize the plight and danger religious minorities are facing in Pakistan and open up its doors to all refugees who have nowhere else to go. Since diplomatic efforts have not delivered safety for religious minorities in Pakistan, European governments must prepare to shelter them.

I urge the Government to carefully scrutinise the operation of the blasphemy laws and to undertake a detailed assessment of the need for their abolition or reform. I also urge the Government to take urgent steps to protect those at risk of vigilante violence due to blasphemy issues and to fully investigate and fairly prosecute all persons involved in the recent spate of killings.

28 April 2011

Written evidence from Liz David-Barrett, Research Fellow, Oxford University Centre for Corporate Reputation

SUMMARY

I argue that the UK Bribery Act exacerbates a tension between the FCO's human rights work and the government's emphasis on promoting UK economic and commercial interests in foreign policy. One of the aims of anti-bribery laws is to reduce the supply of bribes in developing countries, helping those countries to combat corruption and, in doing so, to protect human rights and reduce poverty. However, there is evidence from academic research that the passage of anti-bribery laws can mean that companies under the jurisdiction of those laws simply stop doing business in corruption-prone countries. Rather than staying and doing business cleanly, companies show a tendency to withdraw, or stop expanding. This raises a concern that the "gap" is then filled by investors from other countries who are happy to pay bribes in order to win business. Thus, anti-bribery laws might not be effective in reducing the supply of bribes in developing countries. They might rather lead to an increase in the supply of bribes, and to an increase in investment by companies which are less concerned to protect human rights or promote Responsible Business Practice. These problems are best addressed by increasing the global reach of anti-bribery regulation. In order to achieve the broad goals of the UK Bribery Act, the UK government should do three things: (i) use its powers under the Bribery Act to pursue cases against foreign companies listed in the UK; (ii) exert pressure on China, Russia and other countries to enforce AB laws to the same standards as the US; (iii) adequately support UK companies that do business in corruption-prone countries.

Liz David-Barrett is a Research Fellow at the Oxford University Centre for Corporate Reputation, Said Business School, where she is researching the way that companies view and respond to the risks of operating in corruption-prone environments. Last year, she wrote a report on corruption risks in the City of London for the City of London Corporation and Transparency International. That research drew on interviews with mid- and senior-level executives to assess the potential impact of the new UK Bribery Act.

EVIDENCE

1. The UK Bribery Act is due to come into effect on 1 July 2011, allowing the UK to fulfil its obligations as a signatory to the OECD Anti-Bribery Convention (hereafter the Convention). The Convention requires signatories to enact their own national laws which criminalise the bribery of foreign public officials, and to ensure that those laws are effectively implemented (through regular monitoring based on peer review). The Convention currently has 38 signatories, comprising all 34 OECD member states and four other countries, and has thus led to an increase in the number of anti-bribery laws in force in the major exporting countries.

2. The concern of all of these laws is with the transnational bribery of foreign public officials. There is thus potential for anti-bribery laws—and their enforcement—to have an impact not only on the way in which international business is conducted, but also on the welfare and development of countries where bribes might be paid. As such, the UK Bribery Act might contradict or further FCO objectives pertaining to human rights work and UK policy towards international development. Indeed, the preamble to the Convention alludes to such broad ambitions: "...bribery is a widespread phenomenon in international business transactions including trade and investment, which raises serious moral and political concerns, undermines good governance and economic development, and distorts international competitive conditions..." and "...all countries share a responsibility to combat bribery in international business transactions." It is thus implied that one of the aims of the Convention is to reduce the payment of bribes in international business and, further, that by reducing the supply of bribes in developing countries, anti-bribery laws might help developing countries to combat domestic corruption. This appears to be in line with the FCO's commitment to promoting Responsible Business Practice, as well as with DFID's commitment to provide development assistance to poor countries.

3. I suggest that anti-bribery laws only lead to a reduction in the supply of bribes in developing countries in certain conditions. I make this argument with reference to academic research regarding the impact of the Foreign Corrupt Practices Act on the behaviour of US companies, as well as extrapolating from recent trends

in global investment activity. I would like to emphasise that the particular argument made here has not yet been tested empirically and hence what follows is a suggestion for further investigation.

4. Most of the academic research on the impact of anti-bribery laws focuses on the US Foreign Corrupt Practices Act (FCPA), which has been in force since 1977 and hence there is sufficient data to support analysis. Much of this research suggests that companies respond to anti-bribery laws by ceasing to do business in corruption-prone countries. For example, Hines (1995) found that US foreign direct investment (FDI) into high-corruption countries fell after the FCPA was passed. In other words, rather than staying and doing business cleanly, companies under the jurisdiction of the FCPA rather tended to withdraw entirely from high-corruption countries, or at least stop expanding. Cuervo-Cazurra (2008) looked beyond the FCPA to examine the effectiveness of anti-bribery laws in countries that implemented the OECD Convention. Cuervo-Cazurra found that investors from countries that have implemented the OECD Convention have become more sensitive to host country corruption as reflected in reduced investments. This heightened sensitivity to corruption is in addition to the general negative influence of host country corruption on FDI.

5. These results imply that the impact of the OECD Anti-Bribery Convention—and the UK Bribery Act—might be to reduce investment in developing countries by companies from signatory countries (or by companies under the jurisdiction of the relevant laws). This raises a concern that the "gap" could then be filled by investors from other countries that are not constrained by anti-bribery laws. These investors might be happy to pay bribes in order to win business, and they might also have less respect for human rights or corporate social responsibility than companies from OECD countries.

6. Competition to penetrate emerging and frontier markets is already intense, with the BRICs—and China in particular—having increased their outward FDI significantly in recent years (see attached charts 1 and 2). In some parts of the world, the impact of the BRICS is particularly significant. Figures 3 and 4 compare data for FDI from developed countries (USA, UK, France, Germany, Italy, Netherlands, Japan) into Africa, with FDI from China.

7. According to Transparency International's Bribe Payers Index, which uses survey evidence to measure the propensity of companies from certain countries to pay bribes, competitors from the BRICs are significantly more likely to pay bribes than UK companies. Out of 22 top exporting countries, Russian companies are seen as most likely to bribe when doing business abroad, followed by Chinese companies, while India's companies are 4th most likely to bribe, closely followed by Brazil's.

8. It would be unfortunate if the increasing global adoption of anti-bribery laws would have the unintended consequence of increasing the supply of bribes in developing countries. This problem might be best avoided by boosting efforts to make anti-bribery laws truly global. The UK government could contribute to this effort in three ways. First, it could use its powers under the Bribery Act to pursue cases against foreign companies carrying on business in the UK. This is also essential to ensuring that the UK Bribery Act has the effect of boosting the UK's reputation for upholding high ethical standards in international business. However, the remarks of Justice Minister Kenneth Clarke in late March that "mere listing on the London Stock Exchange, or just the fact of having a UK incorporated subsidiary, would not necessarily mean the act applies," (quoted by Reuters, 30 March 2011) raised questions about the government's commitment to using the full scope of the Act to prosecute foreign companies.

9. Second, the UK government could exert pressure on China, Russia and other countries to enforce anti-bribery laws to the same standards as the OECD Convention. Brazil is the only BRIC to have signed the OECD Convention, in 1997, and is one of only four non-OECD member countries to have done so. It subsequently passed a law criminalizing bribery of foreign public officials in June 2002. However, it has a very weak record for investigating cases and had recorded no convictions for foreign bribery as of December 2009. China and Russia both ratified the United Nations Convention Against Corruption (UNCAC) in 2006, but have only recently, in February 2011, moved towards introducing domestic legislation prohibiting foreign bribery. The Standing Committee of China's National People's Congress has issued an amendment to the Chinese Criminal Law which prohibits bribery of foreign officials and will take effect on 1 May 2011. Also in February 2011, the Russian President sent draft amendments to Russia's anti-bribery laws to the Duma. These include a prohibition on bribery of foreign public officials, although several aspects of the Russian law and the broader political context suggest that enforcement will not be significant. India signed the UNCAC in 2005, but had made little effort to fully adopt it until recently, when it introduced to parliament a Bill on the Prevention of Bribery of Foreign Public Officials and Officials of Public International Organisations.

10. Third, the UK government could do more to support UK companies that do business in corruption-prone countries, eg, by offering locally tailored advice on how to avoid paying bribes and by taking up complaints with the local authorities where UK companies report the solicitation of bribes. Bribery is damaging to business as well as to developing countries. Although a bribe promises to offer a "business advantage", a culture of paying bribes undermines companies' ability to judge the quality of their own products and may encourage internal fraud, as well as exposing them to legal and reputational risk. Most companies would rather not pay bribes. However, it is truly difficult to do business cleanly in some corruption-prone countries. My own research suggests that companies feel that the UK government sometimes encourages them to do business in certain countries without recognizing the difficulty of doing so whilst keeping within the boundaries of the law and of

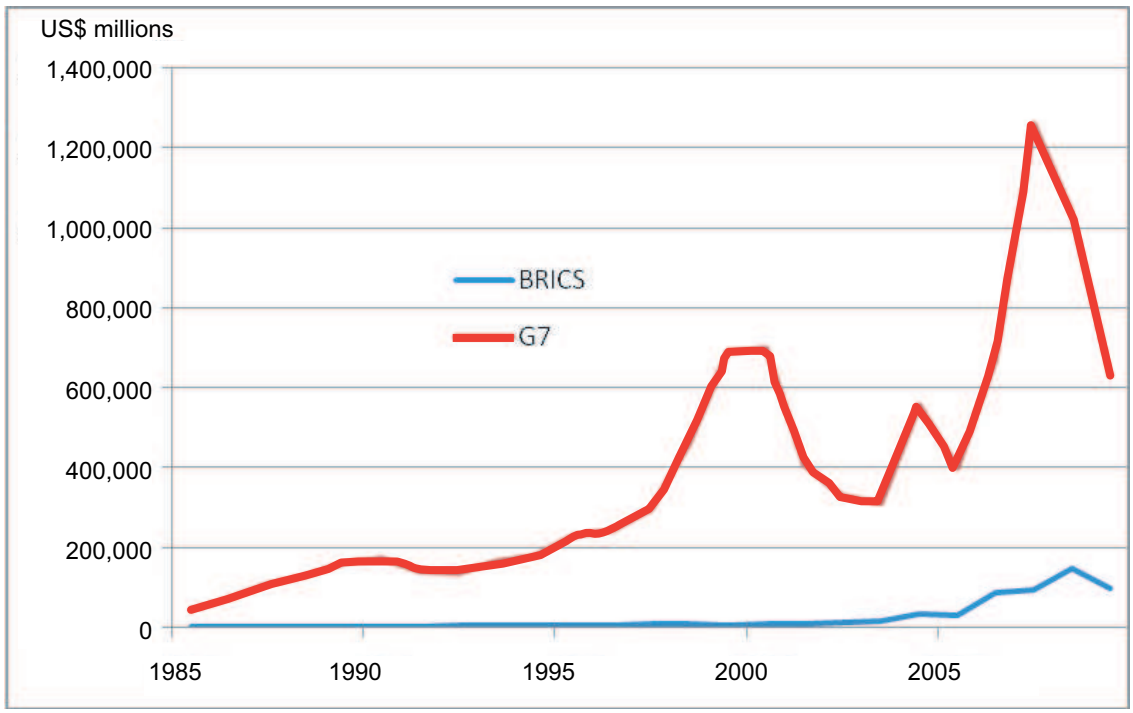
the commitment to Responsible Business Practice. When advice is sought on how to do this, there is little support or even recognition of the difficulties.

11. In conclusion, the UK government needs to recognize the demands placed on business by the introduction of the Bribery Act and provide concrete support to companies to ensure that they can continue to benefit from the opportunities offered by conducting business in emerging and frontier markets. Without such support, UK companies may calculate that it makes more sense to withdraw from corruption-prone markets, thereby harming the UK economy at the same time as undermining the potential for the UK Bribery Act to promote laudable objectives in foreign policy and international development.

28 April 2011

Figure 1

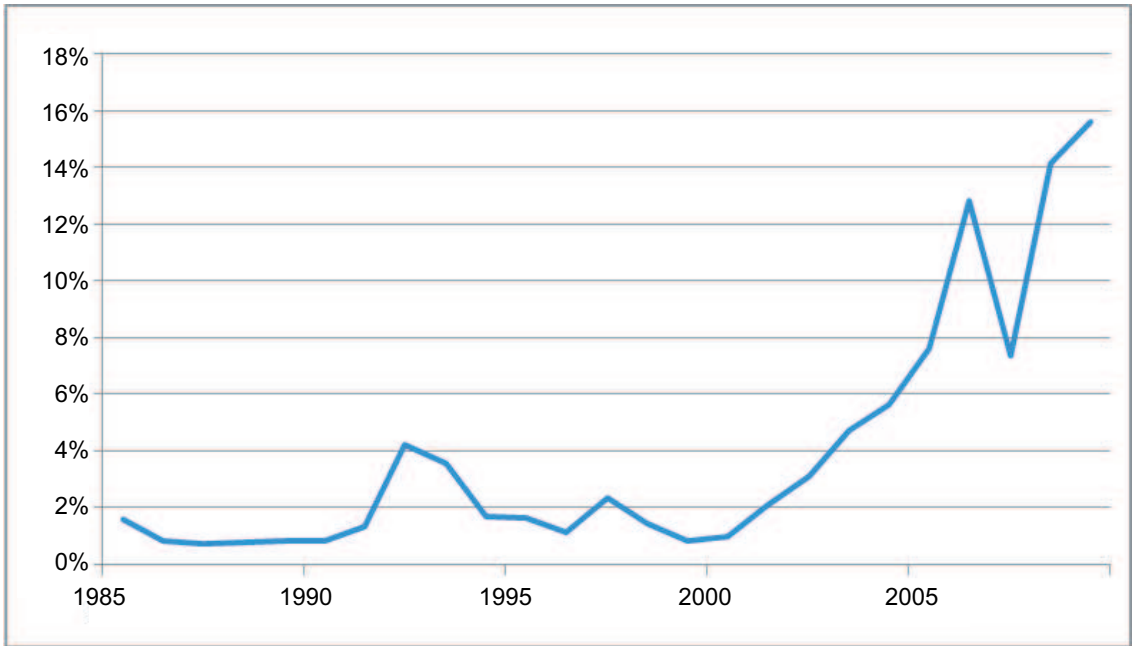
TOTAL FDI OUTFLOWS FROM G7 COUNTRIES AND BRICS



Source: UNCTADStat

Figure 2

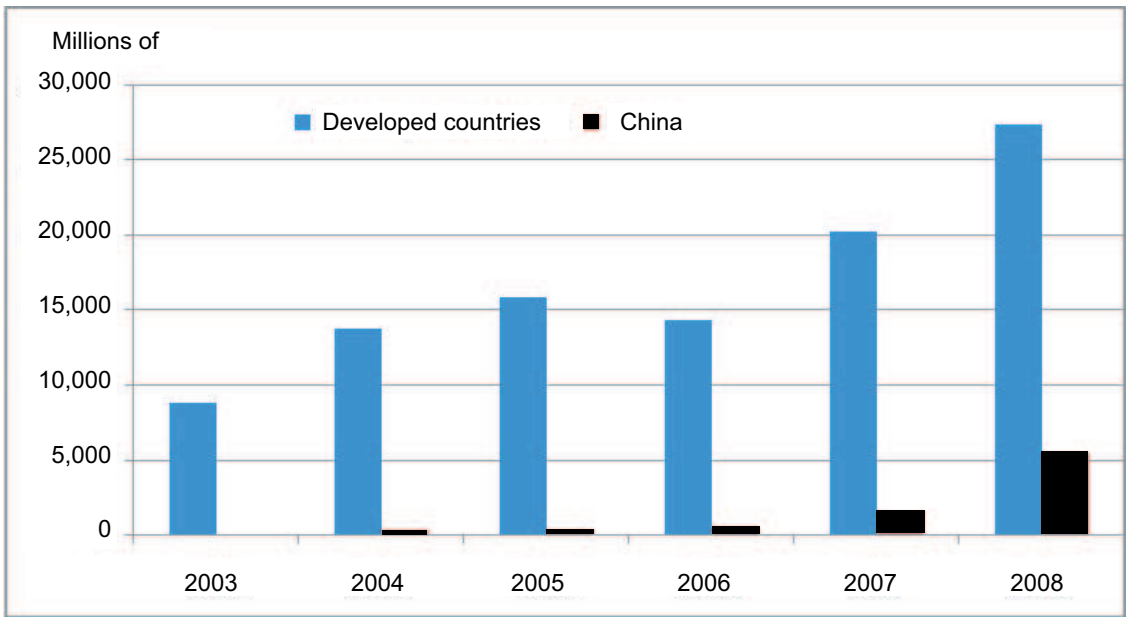
BRICS FDI OUTFLOWS VS. G7 FDI OUTFLOWS



Source: UNCTADStat

Figure 3

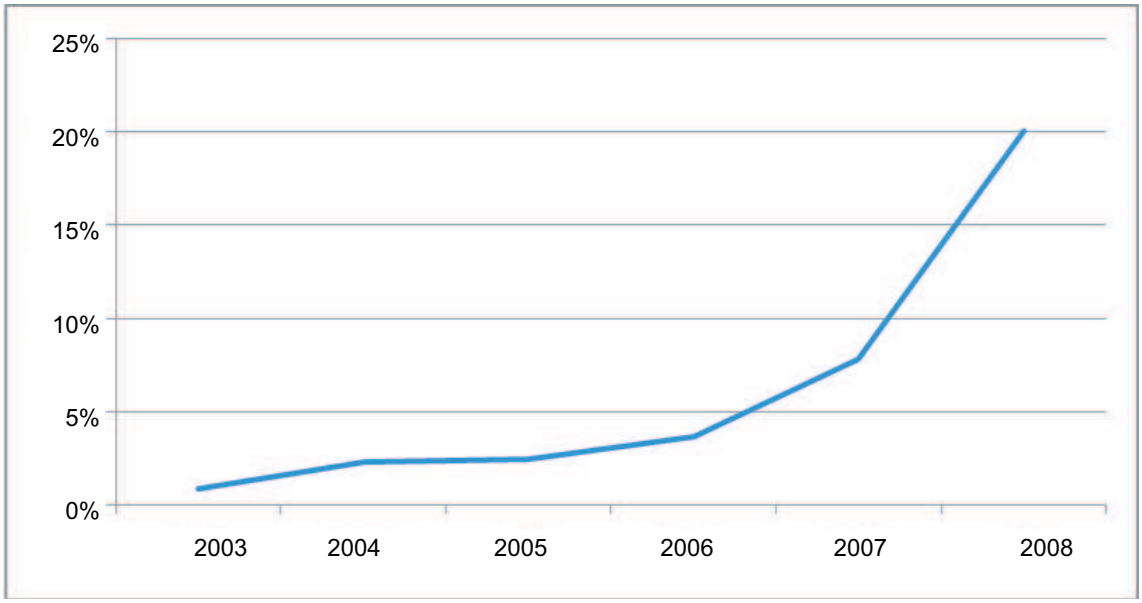
DEVELOPED COUNTRIES AND CHINESE FDI INTO AFRICA



Sources: Chinese Ministry of Commerce: 2008 Statistical Bulletin of China's Outward FDI and OECD

Figure 4

CHINA'S FDI IN AFRICA AS A PERCENTAGE OF DEVELOPED COUNTRIES



Sources: Chinese Ministry of Commerce: 2008 Statistical Bulletin of China's Outward FDI and OECD

References

Cuervo-Cazurra, Alvaro. 2008. "The Effectiveness of Laws Against Bribery Abroad." Journal of International Business Studies, Vol. 39, No. 4, pp. 634–651.

Hines Jr, James R. 1995. "Forbidden Payment: Foreign Bribery and American Business After 1977", NBER Working Paper No. 5266, September 1995.

Written evidence from Amsterdam & Peroff LLP on behalf of the National United Front for Democracy Against Dictatorship (UDD)

1. Executive Summary

1.1 The past several years have witnessed a systematic assault on the fundamental rights to self-determination and freedom of expression for the citizens of Thailand. As the elections (currently scheduled for Summer this year) approach, Thailand faces increasing levels of political unrest, a situation that is exacerbated by the deadly violence on the Thai-Cambodian border. The importance of impartial international scrutiny at the time of this submission cannot be overstated.

1.2 The campaign started with the 2006 coup, when Thai generals overthrew the country's democratic constitution for the purpose of obliterating the ruling political party. This campaign continued after the country was formally returned to civilian rule. 215 former party executives were stripped of their civil and political rights by virtue of their association with the disbanded Thai Rak Thai and People Power Party. This is in direct contrast to Article 20 of the Universal Declaration on Human Rights. The Abhisit administration has, since 2008, persecuted opponents through repressive legislation and censored virtually every source of alternative information. The net result has been to severely curtail the free discussion, debate and criticism of state institutions that the International Covenant on Civil and Political Rights (ICCPR) is meant to protect.

1.3 Of an altogether more serious nature is the reckless violence and extra-judicial executions that the Abhisit administration has unleashed against its opponents under the guise of the Internal Security Act (which remains in force to this day.) In crushing United National Front For Democracy against Dictatorship (UDD or "Red Shirts") demonstrators, basic crowd control principles were ignored and little care was taken to "minimize the risk of endangering uninvolved persons", as outlined in the "United Nations Basic Principles on the Use of Force and Fire Arms by Law Enforcement Officers." The actions and tactics of the Royal Thai Army resulted in 91, largely civilian, casualties, and drew unanimous condemnation by international human rights organisations. In the wake of the authority's crackdowns, hundreds of protestors were detained (some in secret locations) for violating the emergency decree. Multiple reports, including one from the National Human Rights Commission, a governmental organisation frequently criticised for its pro-establishment bias, have emerged attesting to the Royal Thai Army's habitual recourse to the torture of detainees. Disturbingly, a series of local Red Shirt activists have turned up dead, in unexplained circumstances.

1.4 While evidence collected by various independent sources suggests that the Royal Thai Government and Army are responsible for a series of human rights violations, possible crimes against humanity, and a systematic campaign of political persecution, there has been nothing in the steps that the Royal Thai Government has taken since the dispersal of the Red Shirt rallies last May (2010) that suggests that a serious, independent inquiry is forthcoming. Given Thailand's strategic importance and its historically close relationship with the United Kingdom and NATO, it is hoped that future FCO reports might do more to highlight the deplorable state of Thailand's democracy and civil liberties, perhaps to the point of inclusion as a "Country of Concern."

2. Introduction

2.1 This report is submitted on behalf of Thailand's National United Front for Democracy against Dictatorship (UDD, or "Red Shirts"). As the largest movement for democracy in the history of Thailand, since 2008 the "Red Shirts" have repeatedly mobilized tens of thousands of people in large street demonstrations, some of which were repressed brutally by the Thai authorities in April 2009 and April–May 2010. In large part to silence the Red Shirts, moreover, the administration of Prime Minister Abhisit Vejjajiva (in office since December 2008) has systematically had recourse to repressive measures resulting in the destruction of democracy in Thailand. This report provides information pertaining to the state of human rights and democracy in Thailand—particularly in regards to violations of the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights (ICCPR) committed by the Royal Thai Government against the UDD-led pro-democracy movement since the military coup of 19 September 2006.

2.2 While the report on "Human Rights and Democracy" issued by the Foreign and Commonwealth Office in 2010 only contains a single reference to the state of democracy and human rights in Thailand (condemning the censorship of opposition media), it is hoped that future reports might do more to highlight the deplorable state in which Thailand's democracy finds itself, perhaps to the point of inclusion as a "Country of Concern." Given Thailand's strategic importance and its historically close relationship with the United Kingdom and NATO, international pressure by Western nations would go a long way towards promoting the "British values" that are the subject of the FCO report in a country where liberal democracy is now in a state of disrepair.

3. Information Relevant to the FCO Report

3.1 For over four years, the people of Thailand have suffered a systematic and unrelenting assault on their most fundamental right—the right to self-determination through genuine elections based on the will of the people. The assault against democracy was launched with the execution of a military *coup d'état* in 2006. In collaboration with members of the Privy Council, Thai military generals overthrew the popularly elected, democratic government of Prime Minister Thaksin Shinawatra, whose Thai Rak Thai party had won three consecutive national elections in 2001, 2005 and 2006. The restoration of Thailand's *ancien régime* entailed first and foremost the annihilation of Thai Rak Thai, an electoral force that had come to present a major, historical challenge to the power of old moneyed elites, military generals, high-ranking civil servants, and royal advisors. Subsequently, it required that Thailand's conservative establishment stop at nothing to extirpate the movement for democracy that emerged as a result. In the process, several of the basic rights sanctioned in the Universal Declaration on Human Rights and the ICCPR were systematically undermined or curtailed.

3.2 The past several years have witnessed a sustained attack on freedom of association. The campaign started with the 2006 coup, when Thai generals seized the state and overthrew the country's democratic constitution for the purpose of obliterating the ruling political party. Based on a retroactive statute introduced after the coup, a junta-appointed Constitutional Tribunal dissolved Thai Rak Thai in May 2007. The 111 members of Thai Rak Thai's executive committee were banned from voting and from seeking elected office for a period of five years.

3.3 The campaign continued after the country was formally returned to civilian rule. The 2007 Constitution imposed by the generals enshrined into law the right of the courts to intervene in the country's politics by ordering the disbandment of lawfully registered political parties and by stripping the executives of such parties (even those who were not found guilty of any offenses) of their right to hold public office. Section 237 of the 2007 Constitution, written at the junta's insistence, gave the Constitutional Court the option to dissolve any party whose executive committee includes at least one politician found guilty of fraud by the Election Commission of Thailand. Concurrent with the dissolution of a political party, the Constitutional Court may also ban the party's *entire* executive committee from politics.

3.4 Freedom House has noted that the elections held on 23 December 2007—the first and to date the only post-coup general elections—were not "free and fair," as "[the junta] maintained tight control over the electoral process and deliberately maneuvered to influence the outcome."[27] In spite of overwhelming opposition, the People Power Party—the successor of the now defunct Thai Rak Thai—managed to form a coalition government after winning a plurality of lower house seats. Less than a year later, however, the PPP-led coalition collapsed when the Constitutional Court (consisting of judges hand-picked by the junta) dissolved the PPP as well as two other governing parties (Chart Thai and Matchima Thippathai).

3.5 While a total of 215 former party executives were stripped of their right to vote and stand for election as a result of the court-ordered dissolution of Thai Rak Thai, the People Power Party, Chart Thai, and Matchima

[27] Freedom House, "Freedom in the World, 2010 Edition," http://www.freedomhouse.org

Thippathai, it should be noted that only a fraction were ever even accused of any wrongdoing. More than two hundred of them were deprived of their civil and political rights just by virtue of their association with the parties in question. In and of themselves, these rules represent violations of several individual rights sanctioned in the ICCPR—the right to "take part in the conduct of public affairs, directly or through freely chosen representatives" (Article 25) and the right to "to freedom of association with others" (Article 22)—as well as Article 20 of the Universal Declaration on Human Rights. It matters little that a military junta managed to write the provisions into the Constitution. These provisions stand in direct contrast to the treaty obligations Thailand has freely contracted. The notion of "collective guilt," in particular, cannot be the basis for the dissolution of an entire political party that represents millions of members and in some instances the electoral choices of more than ten million voters. Nor should a sitting parliamentarian (or indeed any citizen) be deprived of his/her political rights based on infractions committed by others without his/her knowledge.

3.6 After coming to power in December 2008, thanks to a Constitutional Court decision that gutted the House of Representatives and effectively overturned the result of the election held a year earlier, the Abhisit administration has systematically stifled freedom of expression. It has done so by:

(a) Persecuting opponents through repressive legislation such as Thailand's draconian *lèse-majesté* laws and the Computer Crimes Act, which has resulted in hundreds of arrests. The year 2009 saw a record number of prosecutions for crimes of conscience.[28]

(b) Censoring virtually every source of alternative information, including the opposition's TV station, dozens of community radios, and as many as 400,000 websites that were blocked or shut down by the authorities.

3.7 Once again, it makes little difference that the arrests and the censorship are grounded in laws like the Computer Crimes Act and Article 112 of the Criminal Code. Those laws themselves constitute illegal restrictions placed on the Thai people's right to free expression and their freedom to "seek, receive, and impart information and ideas of all kinds" (Article 19 of the ICCPR). While, moreover, government officials have often justified these restrictions based on the need to protect national security (something the ICCPR explicitly provides for), there exists no rational argument in support of the case that a speech containing statements critical of the monarchy has an effect on public order and morals worthy of a eighteen-year prison sentence, of the kind handed down against opposition activist Darunee Charnchoensilpakul. This, in fact, is precisely the kind of expression that the ICCPR is meant to protect—the freedom to criticize the institutions of the state.

3.8 Of an altogether more serious nature is the campaign of violence and extra-judicial executions that the Abhisit administration has unleashed against its opponents, chiefly among them the "Red Shirts" of the United Front for Democracy against Dictatorship (UDD).

3.9 Beginning in March 2010, massive demonstrations were staged in Bangkok to protest the destruction of Thailand's democracy. For the next two months, the Red Shirts remained holed up behind barricaded encampments built in locations of strategic and symbolic significance in the heart of Bangkok, demanding new elections and a dissolution of what they perceived to be the illegal, military-backed government of Prime Minister Abhisit Vejjajiva.

3.10 Faced with demands for its immediate resignations, the Abhisit administration suspended most of the civil liberties and political rights the Thai people are formally guaranteed by the 2007 Constitution. Before the Red Shirts even set foot in Bangkok, Abhisit imposed the Internal Security Act (which remains in force to this day, more than a year later). In addition, though the rallies had been overwhelmingly peaceful up to that point, by the second week of April the government had resolved to crush the Red Shirts. In preparation for the crackdown, the government declared the State of Emergency, which was not lifted until late December 2010.

3.11 It should be noted that the prolonged enforcement of the Internal Security Act and the Emergency Decree itself constitute a violation of the ICCPR. Article 4 does permit the suspension of certain ICCPR rights, such as the right to demonstrate, but only in instances where a public emergency "threatens the life of the nation" and only "to the extent strictly required by the exigencies of the situation"—in any event, under no circumstances can a State of Emergency be used to "undermine the rule of law or democratic institutions." According to the International Commission of Jurists, Human Rights Watch, the International Crisis Group, Amnesty International, and virtually every other human rights organization around the world, the Thai government's continued recourse to emergency powers fails this crucial test.

3.12 The imposition of the Emergency Decree provided the government with the legal foundation upon which it based the crackdowns of the Red Shirts on 10 April and 13–19 May 2010. A total of ninety-one people were killed and around two thousand injured in the six weeks leading up to the dispersal of the rallies on 19 May. Hundreds of eyewitness accounts and thousands of video clips have documented the systematic use of live fire by the security forces against unarmed civilians—including journalists and emergency medical personnel.

3.13 In crushing the Red Shirts, the Abhisit administration and Royal Thai Army appear to have ignored crowd control principles altogether. Contrary to the standards outlined in the "United Nations Basic Principles on the Use of Force and Fire Arms by Law Enforcement Officials," the dispersal operations made little use of

[28] Marwaan Macan-Markar, "Thailand: Lese Majeste Cases Rise but Public in the Dark," *Inter Press Service*, 14 May 2010. http://ipsnews.net/login.asp?redir=news.asp?idnews=51434

"non-lethal incapacitating weapons." Little care was taken to "minimize the risk of endangering uninvolved persons" and to "preserve human life." The shoot-to-kill policy for demonstrators burning tires and setting off firecrackers was not undertaken "in proportion to the seriousness of the offense." Attacks on medical workers were not ordered in the interest of ensuring that "assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment." Even if the Red Shirts demonstrations could be regarded as "violent" and "unlawful"—if only because the State of Emergency declared them to be illegal—expert testimony and the wealth of eyewitness accounts that emerged from the government's "live fire zones" strongly suggests that the use of force was not limited to the "minimum extent necessary." Indeed, the testimony suggests that many of the victims were murdered solely as part of a campaign to suppress evidence that might incriminate the Army and the Thai Government.

3.14 Major international human rights organizations have offered unanimous condemnation of the 2010 crackdowns. On May 15, 2010, Human Rights Watch called on the government to revoke the "live fire zones" and slammed the administration for failing to abide by the "United Nations Basic Principles on the Use of Force and Fire Arms by Law Enforcement Officials."[29] A few days thereafter, Amnesty International called on the government to "halt the reckless use of lethal force."[30] Some time after the rallies were dispersed, organizations like Reporters Without Borders (RSF) and the International Crisis Group (ICG) issued detailed reports that sharply condemned the indiscriminate killings committed by the Thai armed forces. Reporters Without Borders denounced the government for giving the Royal Thai Army a "license to kill" Red Shirt demonstrators, and accused the Royal Thai Army of "taking advantage of Emergency Decree to 'run roughshod' over international law and Thai legislation protecting civilians."[31]

3.15 In the wake of the crackdown, hundreds of protesters were mopped up and detained (some in secret locations) for violating the emergency decree. Most of those arrested by the authorities were denied their due process rights.[32] Since the end of the demonstrations, moreover, multiple reports have emerged attesting to the Royal Thai Government's habitual recourse to the torture of detainees—both as a punitive measure and as an instrument to coerce prisoners into furnishing confessions. Even the National Human Rights Commission, a governmental body frequently criticized for its conservative, pro-establishment bias, has issued a report denouncing that "Red Shirt detainees are being tortured, forced to confess to crimes and jailed without any chance to defend themselves."[33] Disturbingly, a series of local Red Shirt activists have turned up dead, in mysterious circumstances, in the provinces of Chiang Mai, Chonburi, Korat, and Pathum Thani.

3.16 The Universal Declaration on Human Rights as well as the ICCPR guarantee that no one shall be arbitrarily deprived of his or her life. Such documents also guarantee, among other things, the right to be free from torture, cruel or degrading treatment, and arbitrary detention. The ICCPR, moreover, obligates Thailand to hold a complete and fair investigation conducted by "independent and impartial bodies" resulting in the prosecution of those responsible. Recently, the United Nations General Assembly reiterated the obligation of all states, in suspected cases of extrajudicial, summary or arbitrary executions, "to identify and bring to justice those responsible […] and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions."[34] Thailand's failure to properly investigate the killings potentially amounts to a separate violation of the ICCPR.

3.17 While evidence collected by various independent sources suggests that the Royal Thai Government and the Royal Thai Army are responsible for a series of human rights violations, possible crimes against humanity, and a systematic campaign of political persecution, nothing in the steps that the Royal Thai Government has taken since the dispersal of the Red Shirt rallies suggests that a serious, independent inquiry is forthcoming. While the Abhisit administration has outwardly acknowledged the need for an investigation into the abuses committed in April and May 2010, the measures it has taken in the months since the carnage are rather more indicative of a cover-up. The inquiries launched by the Royal Thai Government are plagued by unjustifiable delay as well as a complete lack of independence and impartiality. As initially suspected, it is now apparent that the main objective of the proceedings is to shield those involved from criminal responsibility. This is in keeping with previous massacres of pro-democracy demonstrators perpetrated in 1973, 1976, and 1992, for which no state official has ever been held accountable.

3.18 In January 2011, Amsterdam & Peroff formally submitted on behalf of the UDD an Application to investigate the situation of the Kingdom of Thailand to the Prosecutor of the International Criminal Court (ICC). The Application establishes a reasonable basis to believe that the Royal Thai Government is responsible for the commission of crimes against humanity, including murder, political persecution, arbitrary imprisonment and other severe deprivation of physical liberty. Because these offenses constitute clear violations of the ICCPR

[29] Human Rights Watch, "Thailand: Revoke 'Live Fire Zones' in Bangkok," 15 May 2010. http://www.hrw.org/en/news/2010/05/15/thailand-revoke-live-fire-zones-bangkok

[30] Amnesty International, "Thai Military Must Halt Reckless Use of Lethal Force," 18 May 2010. http://www.amnestyusa.org/document.php?id=ENGNAU2010051816851&lang=e

[31] Reporters Without Borders, "Thailand: Licence to Kill," July 2010. http://en.rsf.org/IMG/pdf/REPORT_RSF_THAILAND_Eng.pdf

[32] Human Rights Watch, "Thailand: Repeal the Emergency Decree," 24 November 2010. http://www.hrw.org/en/news/2010/11/24/thailand-repeal-emergency-decree

[33] See "Panel Claims Red Shirt Inmates Tortured," *Bangkok Post*, 7 December 2010. http://www.bangkokpost.com/news/politics/210009/panel-claims-red-shirt-inmates-tortured

[34] UN General Assembly Res. 63/182, 16 March 2009, par. 3.

and the Universal Declaration on Human Rights, the evidence presented to the ICC should also be germane to the activities of the Foreign Affairs Committee.[35]

4. Recommendations/Relief Sought

4.1 Based on the evidence presented in this report, as well as the vast body of evidence that speaks to the deteriorating situation in Thailand with regard to human rights and democracy, it is recommended that future reports issued by the Foreign and Commonwealth Office on the worldwide state of human rights and democracy address the omission of the Thai case. Whereas the section in the FCO report that discusses human rights in specific "countries of concern" is reserved for countries governed by the most repressive autocracies responsible for human rights violations of the worst kind, based on the assessment of several international organizations Thailand's democracy does not fare much better than Belarus, Russia, or Sri Lanka. Meanwhile, Thailand's historically undistinguished human rights record has gone from deficient to outright disastrous since the 2006 coup. As such, whether or not Thailand is singled out as a "country of concern," it no doubt deserves greater scrutiny in subsequent FCO reports.

4.2 More broadly, this report recommends that:

— The British Government conduct a hearing on democracy in Thailand.

— A detailed independent international investigation be conducted into the circumstances surrounding the ninety-one, largely civilian, deaths and two thousand injured protestors in the six weeks leading up to the dispersal of the rallies on 19 May 2010.

— The installation of domestic, regional, and international monitors and a well-publicised electoral code of conduct to minimise the risk of violence, third-party intervention and enhancement of the credibility of the forthcoming elections.

— The increase of funding for British NGOS operating in Thailand.

28 April 2011

Written evidence from World Vision UK

World Vision is a child focused Christian relief, development and advocacy organisation dedicated to working with children, their families and communities to overcome poverty and injustice. We are the world's biggest local charity, working in 100 countries and to improve the lives of 100 million people worldwide. We have three million supporters and employ 40,000 locally based staff, 97% of whom are nationals of the country in which they work.

World Vision believes the best way to change the life of a child is to change the world in which they live. We see children and their communities as active participants in shaping a better future, empowering them to find sustainable solutions to poverty.

World Vision welcomes this opportunity to provide written evidence to the Foreign Affairs Select Committee on the FCO's human rights work 2010–11.

Children's Rights (p.32–33)

World Vision welcomes the statement in the FCO report, "Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report" that "the UK Government's embassies and high commissions promote child rights internationally" and the examples given of this, as well as the UK Government's involvement in the 2010 negotiations on the drafting of a third Optional Protocol to the UN Convention on the Rights of the Child.

However, World Vision is concerned that the restricted focus of this section of the report to these two areas of work indicates a watering-down of the FCO's approach to children's rights and a reneging on the Foreign Secretary's commitment in September 2010 that "The will be no downgrading of human rights under this Government".[36]

In 2007, the Government "identified the rights of the child as a key human rights theme to prioritise"[37] and identified a number of tools, over and above their network of posts overseas, which they would use to support children's rights internationally. These tools included:

— A child rights panel comprised of NGOs and experts in the field of child rights to support the FCO's implementation and promotion of child rights—The FCO has indicated that there are no plans to reconvene this panel.

[35] The full text of the Application can be downloaded at: http://robertamsterdam.com/thailand/?p=530.

[36] Speech made on 15 September 2010 on "Britain's values in a networked world" http://www.fco.gov.uk/en/news/latest-news/?view=Speech&id=22862713

[37] FCO Strategy on Child Rights (2007)

Recommendation: The FCO should ensure experts in the field of child rights, drawn from non-governmental organisations, including academic institutions, with international reach, are included in the Foreign Secretary's new Human Rights Advisory Group that meets twice a year.

— The Global Opportunities Fund (GOF) Human Rights Programme, which included the promotion of child rights as a core objective and child rights as a particular focus for project funding. This Fund is no longer operational—The new Human Rights and Democracy Programme announced on 1 February 2011 by the Foreign Secretary does not specifically refer to children's rights.

Recommendation: The FCO should insert a strand into the Human Rights and Democracy Programme that specifically supports programmes that contribute to creating and supporting enabling environments for children's rights in priority countries.

World Vision UK is disappointed that the FCO has indicated that it will not be renewing their child rights strategy, which sought to encourage universal ratification and implementation of key instruments for the protection and promotion of children's rights as well as to guide action on specific issues of violence against children in priority countries.

The FCO should fill this gap by working with other government departments to develop a joint strategy on this issue. This would support greater coherence in relation to the UK Government's objectives and activities in relation to children's rights internationally.

Recommendation: The FCO should work with other UK Government departments responsible for policy which has significant implications for the lives of children in economically poor countries and countries affected by conflict (such as the UK Department for International Development, the Ministry of Defence, the Department for Business Innovation and Skills and the Department for Energy and Climate Change) to develop a joint strategy on children's rights based on shared analysis of the child rights situation in priority countries.

Recommendation: The FCO should **e**nsure the existence of cross-government mechanisms to implement this strategy and that strong incentives are in place across government to ensure these mechanisms work in practice.[38]

Children and Armed Conflict (p.66–67)

World Vision welcomes the UK Government's commitment to "ending violations of children's rights in conflict-affected countries and, in particular, to stopping the recruitment and use of child soldiers."

However, World Vision is disappointed that the UK Government still fails to set an example of establishing high standards on the issue of children and armed conflict by failing to remove the interpretative declaration on the minimum age for recruitment and participation in hostilities entered upon ratifying the Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. The UK Government therefore continues to permit a lower standard for children in the UK than that proposed by the international community.

Recommendation: The FCO should work with the Ministry of Defence to withdraw the UK Government's interpretative declaration on the minimum age for recruitment and participation in hostilities as an indication of its commitment to the human rights of children impacted by armed conflict.

World Vision UK is also disappointed that the Government is not taking forward plans to revise its strategy in relation to children and armed conflict.

Recommendation: The FCO should work with the UK Department for International Development and the Ministry of Defence to develop a joint UK Government strategy on children and armed conflict.

The International Criminal Court (pp. 22–23)

World Vision welcomes the support the UK Government has given to the ICC over the past year. The UK Government has taken a leading role in promoting and supporting the work of the ICC, and it should continue to use its influence to ensure that the Court enables children or their representatives to seek remedies or reparations when their protection rights have been violated.

There is growing evidence that children are being increasingly targeted in conflicts.[39] World Vision believes the UK Government could do more to emphasise the specific needs of children in the ICC process. The ICC will increasingly play an important integrated role in the protection of children, particularly those affected by conflict and fragility and the UK Government should work with the ICC to maximise the beneficial impact this will have for children, and limit the risks it can bring.

[38] Research by the Institute of Public Policy Research (IPPR) on policy coherence for development, commissioned by World Vision UK in 2010, concluded that "greater coherence is not usually being prevented by a lack of cross-government mechanisms. While particular barriers to cooperation and coordination can be identified, a more important issue is the incentives (or lack of incentives) in government to make these mechanisms work well in practice." Matthew Lockwood and Sarah Mulley, with Emily Jones, Alex Glennie, Katie Paintin and Andrew Pendleton, Policy coherence and the future of the UK's international development agenda: A report to World Vision UK, (ippr, 2010), p75.

[39] Gow, M, 2002. World Vision International, The International Criminal Court: Finding Justice for Victims, Ending Impunity for Perpetrators.

We also welcome the diplomatic efforts the UK has made to promote the wider ratification of the Rome Statute.

Recommendation: The UK Government should work towards reforming the ICC in order to meet the needs of children. It should prioritise reforms to ensure:

- The Rome Statute is in line with existing international child rights and labour laws.
- That children are systematically prioritised across the ICC's work, at all legal stages—opting to monitor, investigate, try and punish crimes committed against children.
- Improved interaction of the ICC with children. This should include prioritising grave crimes against children and prosecuting them in a timely manner.
- The ICC improves its interaction with other child protection actors and initiatives, particularly its formal relationship with the UN Security Council, sharing information directly with the working group for children and armed conflict (of which the UK Government is a key member).
- The ICC maintains a strong and focused field presence and manages its outreach activities to target children and those protecting children in affected communities so that they are informed and can better respond to threats of violence against children.

Summary of Recommendations

- The FCO should ensure experts in the field of child rights, drawn from non-governmental organisations, including academic institutions, with international reach, are included in the Foreign Secretary's new Human Rights Advisory Group that meets twice a year.
- The FCO should insert a strand into the Human Rights and Democracy Programme that specifically supports programmes that contribute to creating and supporting enabling environments for children's rights in priority countries.
- The FCO should work with other UK Government departments responsible for policy which has significant implications for the lives of children in economically poor countries and countries affected by conflict (such as the UK Department for International Development, the Ministry of Defence, the Department for Business Innovation and Skills and the Department for Energy and Climate Change) to develop a joint strategy on children's rights based on shared analysis of the child rights situation in priority countries.
- The FCO should **e**nsure the existence of cross-government mechanisms to implement this strategy and that strong incentives are in place across government to ensure these mechanisms work in practice.
- The FCO should work with the Ministry of Defence to withdraw the UK Government's interpretative declaration on the minimum age for recruitment and participation in hostilities as an indication of its commitment to the human rights of children impacted by armed conflict.
- The FCO should work with the UK Department for International Development and the Ministry of Defence to develop a joint UK Government strategy on children and armed conflict.
- The UK Government should work towards reforming the ICC in order to meet the needs of children. It should prioritise reforms to ensure:
  - The Rome Statute is in line with existing international child rights and labour laws.
  - That children are systematically prioritised across the ICC's work, at all legal stages—opting to monitor, investigate, try and punish crimes committed against children.
  - Improved interaction of the ICC with children. This should include prioritising grave crimes against children and prosecuting them in a timely manner.
  - The ICC improves its interaction with other child protection actors and initiatives, particularly its formal relationship with the UN Security Council, sharing information directly with the working group for children and armed conflict (of which the UK Government is a key member).
  - The ICC maintains a strong and focused field presence and manages its outreach activities to target children and those protecting children in affected communities so that they are informed and can better respond to threats of violence against children.

28 April 2011

Written evidence from Saferworld

UK ARMS EXPORTS AND HUMAN RIGHTS

INTRODUCTION

1. Saferworld is an independent international NGO that works to prevent violent conflict and promote co-operative approaches to security. We believe everyone should be able to lead peaceful, fulfilling lives free from insecurity and armed violence.

2. Saferworld is concerned about the supply of defence and security equipment to regions affected by conflict and where human rights are at risk. Preventing the transfer of such equipment to unstable regions through responsible arms transfer controls is a critical element in preventing conflict and promoting peace, as well as upholding human rights.

3. In order to keep this submission focused, we have limited our response to questions three and four.

Q3. *The extent to which there have been any changes in the FCO's approach to human rights under the Coalition Government, compared to the previous Government*

4. The 2008 EU *"Common Position" defining common rules governing the control of exports of military technology and equipment* requires the UK Government to update its Consolidated Criteria on export licensing so that it will "deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used in the commission of serious violations of international humanitarian law". HMG is yet to do this.

5. Moreover, the UK's Consolidated Criteria state that "The Government will … give full weight to the UK's national interest, including [inter alia] the potential effect on the UK's economic, financial and commercial interests …[and] the protection of the UK's essential strategic industrial base".[40] This is inconsistent with the EU Common Position and so the UK should to remove reference to national interest from its Consolidated Criteria.

6. Despite the EU Common Position being agreed almost two and a half years ago, neither the previous Government nor the current one has yet introduced the necessary changes. In a letter to the Committees on Arms Export Controls (CAEC) dated 10 February 2011, the FCO Minister, Alistair Burt, stated the Government was "currently examining [the differences between the Consolidated Criteria and the Common Position] with a view to updating the wording of the Consolidated EU and National Arms Export Licensing Criteria before the end of 2011."[41] The CAEC in its most recent report called upon the Government to make the necessary changes more quickly; we would support the CAEC in this matter.

7. The Consolidated Criteria form a strong basis for a ensuring that UK defence and security exports are subject to responsible controls. However, the implementation of the criteria has not always been pursued with sufficient political will to ensure that UK arms are not exported to destinations where there is a clear risk that they will be used to facilitate violations of human rights. Saferworld identified this as a problem under the previous government,[42] and although only two quarterly reports on strategic export controls has been published covering licensing decisions made since the change of Government in May 2010, this evidence suggests implementation remains problematic. The CAEC recently acknowledged that this has been a problem for successive governments, concluding that, "both the present Government and its predecessor misjudged the risk that arms approved for export to certain authoritarian countries in North Africa and the Middle East might be used for internal repression."[43]

8. There are three areas, however, in which Government's approach to arms exports has changed significantly since May 2010, although it is unclear as to whether they are a consequence of the change in government specifically. These areas are the process for reviewing export licensing procedures; the speed with which licences are revoked after reports of possible misuse are made; and the level of priority given to the promotion of defence and security exports.

Reviewing export licensing procedures

9. Recent events in the Middle East and North Africa have highlighted the need for the UK to review its export licensing procedure and, in this regard, Saferworld welcomed the indication by the Secretary of State for Foreign and Commonwealth Affairs that a review would take place.[44] However, the process by which the review has been conducted has been less than transparent, has not involved external consultation, and has had a considerably shorter timescale than the previous review of export control policy in 2007.

---

[40] The Consolidated EU and National Arms Export Licensing Criteria, *House of Commons Hansard* 26 October 2000, col 200W–203W

[41] Committees on Arms Export Controls, *Scrutiny of Arms Export Controls (2011): UK Strategic Export Controls Annual Report 2009, Quarterly Reports for 2010, licensing policy and review of export control legislation* (2011), p 24, paragraph 35.

[42] Saferworld, *The Good, the Bad and the Ugly: a Decade of Labour's Arms Exports* (2007), http://www.saferworld.org.uk/downloads/pubdocs/The%20Good,%20the%20Bad%20and%20the%20Ugly%20rev.pdf.

[43] *Op cit* Committees on Arms Export Controls, p 10, paragraph 29.

[44] Foreign Affairs Committee, *Developments in UK Foreign Policy—uncorrected evidence—16 March 2011* (2011), http://www.publications.parliament.uk/pa/cm201011/cmselect/cmfaff/uc881-i/uc88101.htm.

10. The 2007 review of the Export Control Act was conducted with extensive consultation of external stakeholders, including parliamentarians, NGOs and the defence industry. The Government published a consultation document online, held a public consultation in which views were solicited using a questionnaire, and published all of the substantive responses online.[45] Government officials also organised a series of meetings with NGOs and the defence industry, in which Government solicited and responded to recommendations on the content of the review. The review undoubtedly benefited from the constructive input of external stakeholders, and offers an excellent model for how the current export licensing review could be conducted. However, at the time of writing, the Government has conducted no external consultation with parliamentarians, the defence industry nor NGOs on its current review, though we understand the results are due to be announced shortly.

Speed with which licences are revoked

11. Under the previous government, Saferworld had concerns over the speed with which some export licences were revoked in the light of events. For instance, in 2009, five export licences to Israel were revoked after questions were raised in the House of Commons about the possible use of British-supplied weapons or components by Israel during its military action Gaza (which began in December 2008). However, the licences were only revoked *six months* after these questions were first raised.

12. It appears that practice has changed with the new government, particularly in relation to recent events in the Middle East and North Africa. For instance, unrest in Tunisia began on 17 December 2010: 41 days later, on 27 January 2011, the Government revoked licences for Tunisia, and removed Tunisia as a permitted destination from another licence the next day. Similarly, the Government began revoking export licences to Egypt 13 days after mass protests began in Cairo on 25 January. The current phase of unrest in Bahrain began on 14 February and in Libya on 15 February. Three days later, on 18 February, Minister for the Middle East Alistair Burt MP announced that the UK would be revoking 44 licences for Bahrain and eight for Libya.

13. The government should certainly be commended for the speed with which it revoked these licences. *However, the fact remains that rigorous application of existing criteria would probably have meant that these licences would not have been issued in the first place.*

14. While in the case of Gaza the Government waited for evidence of the misuse of UK exports before revoking licences, the present Government revoked licences to Tunisia, Bahrain, Egypt and Libya despite having no evidence at the time that British-supplied equipment had been misused in those countries. Again, this is to be commended if export licensing is to be based, as it should be, on the *risk* of misuse rather than evidence of past misuse.

Export promotion

15. The Coalition Government has set out on multiple occasions its intention to make the promotion of UK defence and security exports a key priority, as part of a wider export-promotion drive. For example, the Strategic Defence and Security Review (SDSR) makes repeated reference to the intention to increase promotion of defence exports for strategic and commercial reasons.[46] More recently, in a recent MOD Green Paper entitled *Equipment, Support, and Technology for UK Defence and Security*, the Government set out its intention that all UK Ministers will be "more personally involved in supporting defence and security exports", including the expectation that, as part of every overseas trip, they will engage in export promotion.[47] Although the previous government also allocated resources to the promotion of defence and security exports, such an increase in the priority and political weight given to the area does mark a significant shift in policy from the previous government. This is discussed in greater detail in response to question four.

Q4. *The relationship between the FCO's human rights work and the emphasis which the Government is placing on the promotion of UK economic and commercial interests in UK foreign policy*

16. Saferworld has serious concerns as to how the Government will reconcile its drive to give increased priority to the promotion of defence and security exports with its human rights commitments. As Saferworld and its partners in the UK Working Group on Arms set out in a recent submission to CAEC, we are concerned that prioritising commercial success could come at the cost of undermining responsible arms transfer controls and increasing the likelihood of UK exports contributing to human rights concerns.[48]

17. It is important to recognise that both the UK Government and defence manufacturers already have extensive export promotion operations and are well aware of existing and potential markets for their goods and associated services. As such, it is important not to overplay the idea that if the Government does not do more to champion UK arms exports vital opportunities will be missed. On the other hand, given the competitiveness

[45] Department for Business, Innovation and Skills, *Review of Export Control Legislation 2007* (archived webpage), http://webarchive.nationalarchives.gov.uk/+/berr.gov.uk/whatwedo/europeandtrade/strategic-export-control/legislation/export-control-act-2002/review/index.html.

[46] HM Government: *Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review* (2010), p 12, 17, 30, 66, 67.

[47] Ministry of Defence, *Equipment, Support, and Technology for UK Defence and Security* (2010), p 33, paragraph 124.

[48] UK Working Group on Arms, written evidence to the Committees on Arms Export Controls (2011), http://www.publications.parliament.uk/pa/cm201011/cmselect/cmquad/writev/arms/m5.htm.

of the international arms market and the dominance of the US, coupled with the emergence of new centres of arms production in the developing world, there are unlikely to be many "easy gains" for the UK defence industry in terms of expanding its export base. Accordingly, efforts to expand defence export volumes could run the risk of promoting and authorising transfers of arms that—in terms of the application of the Consolidated UK and EU Criteria—are on the margins of advisability. The lessons currently being learned from the UK and EU members' supply of military and security equipment to authoritarian regimes in the Middle East and North Africa point to the need for a strengthened application of UK and EU arms export controls rather than a relaxation.

18. There have been considerable efforts over the past decade to streamline UK export control process including through the establishment of the online export licence application process "SPIRE". This has undoubtedly facilitated easier and quicker access to arms transfer licensing decisions on the part of UK defence and security equipment exporters and Saferworld agrees that such increased efficiency is desirable. However, Saferworld is concerned by the Government's intention to "increase the use of open licences for lower risk transactions".[49] It is important to recognise that the open licensing regime has undergone progressive liberalisation over the past decade or more. Forty-five Open General Licences for the export, trade or transhipment of military and/or dual-use goods and technologies now exist, and the Export Control Organisation (ECO) has been actively promoting the use of or application for open rather than standard licences. The typical validity period for Open Individual Export Licences (OIELs) has been extended from two to five years. Saferworld would urge caution in extending this liberalisation process further and would highlight the need for the potential implications for the UK's obligations under the EU Common Position to be fully assessed before any further adjustments are made to the open licensing regime.

19. There may also be potential budgetary implications if the twin priorities of export promotion and export control have to compete for resources. This possible tension should be assessed in the context of on-going pressures on the budget of the ECO that have the potential to weaken its ability to devote sufficient resources to ensure that the rigour and effectiveness of the UK's arms transfer control system is not only maintained, but strengthened where necessary.

Case studies: Libya and Saudi Arabia

20. The UK's defence relationship with Libya since 2004 offers an example of how promoting defence and security exports for commercial reasons can lead to ill-advised arms transfers borne out of a failure to properly and rigorously implement existing export licensing criteria.

21. The Defence Services Organisation (formerly the Defence Export Services Organisation) established a full time office in Tripoli in 2006. In 2007, then Prime Minister Tony Blair visited Libya to secure defence contracts worth £350 million. More recently, in June 2010, Minister for Business and Enterprise Mark Prisk listed Libya as one of the Defence and Security Organisation's priority markets over 2009–10 and 2010–11.[50] In November 2010, UK Ambassador to Libya Richard Northern was reportedly accompanied by representatives of more than 50 UK defence and security companies to the LibDex arms fair in Tripoli.[51]

22. But long before the current unrest in Libya began, there were serious questions about Libya's status as a responsible arms importer. The Libyan regime repeatedly attempted to source orders that far outstripped its defence needs and a 2008 UN report showed that Libya shipped weapons—originally sold to it by Spain, Belgium and Bulgaria—on to Darfur in clear breach of the UN arms embargo on the region. Similarly, governmental and NGO reports from the period illustrate the authoritarian and repressive nature of a regime that was the subject of repeated and serious human rights concerns.

23. While Saferworld welcomes the revocation in February 2011 of export licences for Libya, the risk of equipment being misused should have been foreseen. This is just one of a number of cases in which the obligation to ensure that risk assessments are thorough and that transfers are refused where there is a clear risk that equipment might be used to facilitate human rights violations appears to have been compromised for reasons of commercial expediency.

24. As the current situation in Libya demonstrates, the economic benefits derived do not justify the risks inherent in transferring defence and security equipment to regimes which do not respect the human rights of their citizens. In navigating a complex, multi-polar world, the best compass the UK can have is a clearly defined commitment to its core principles.[52] Systematically applying a criteria-based system of export controls is one important way in which the Government can put its principles into practice.

25. Another case where economic concerns appear to have overridden the application of human rights criteria is Saudi Arabia—a country with which the Government has recently made clear its intention to build on its long-standing defence relationship.[53] Saudi Arabia continues to be classed as a "country of concern" by the

[49] *Op cit* Ministry of Defence, p 32, paragraph 117.
[50] *House of Commons Hansard*, 28 June 2010, column 418W.
[51] Mark Townsend, "UK arms companies visited Tripoli three months ago", *The Observer*, 27 February 2011, http://www.guardian.co.uk/world/2011/feb/27/libyan-arms-fair-attended-by-uk-firms.
[52] Saferworld, *Promoting sustainable security in a complex world, 2011,* http://www.saferworld.org.uk/Saferworld%20submission%20to%20BSOS%20-%20March%202011.pdf.
[53] *Op cit* Ministry of Defence, p 20, paragraph 72.

FCO due to its persistent domestic human rights abuses.[54] Indeed in recent weeks, Saudi police are reported to have opened fire on Saudi demonstrators in the city of Qatif after imposing a nationwide ban on protests.[55]

26. Recent interventions by the Saudi regime in Bahrain and Yemen also highlight the role that country can play in facilitating human rights violations in the region. In March 2011 Saudi Arabia sent around 1,000 troops to Bahrain, and while it is unclear what role they are playing in assisting Bahraini security forces responding to anti-government protests, some eyewitness reports suggest that they have been involved in human rights violations.[56] Reports of the transfer of armoured vehicles and personnel carriers on 14 March from Saudi Arabia to Yemen, where peaceful protesters have been attacked and killed in recent weeks, require further investigation.[57]

27. However, despite all these concerns, governments past and present have been willing to export to Saudi Arabia a range of equipment such as smoke grenades, stun grenades, semi-automatic pistols, submachine guns, armoured all-wheel drive vehicles, combat aircraft, sniper rifles, assault rifles and combat shotguns and small arms ammunition, as well as components for air guns and air-to-surface rockets, among other things.[58]

28. The UK Working Group on Arms set out in our most recent submission to the CAEC our concern about the possible use of UK-supplied Typhoon aircraft by Saudi Arabia in aerial attacks over Yemen in autumn 2009.[59] Amnesty International has gathered evidence of sustained and intensive bombardment by Saudi Arabian planes reported to have killed hundreds of people, caused widespread damage to homes and infrastructure, and displaced up to 280,000 people in what Amnesty describes as "apparently indiscriminate and disproportionate attacks."[60] In a letter to the CAEC in February 2011, the UK Government confirmed that UK-supplied aircraft were used in this case, but stated that Saudi Arabia "had a legitimate right to respond proportionately to incursions into its territory resulting from the conflict between the Houthi rebels and the Government of Yemen" and, as such, this was "not inconsistent with the export licensing criteria."[61] It is not clear how this can be reconciled with the evidence gathered by Amnesty International, which would suggest that this use of UK-supplied equipment may have been in breach of the criterion on international humanitarian law.

Recommendations

29. The Foreign Affairs Committee should consider recommending that HMG ensures its arms exports regime does not undermine its human rights work by:

- conducting a thorough, comprehensive and transparent review of its export licensing procedures which includes meaningful consultation with external stakeholders;
- basing assessments of export licence applications not only on evidence of past misuse, but on the risk and likelihood of future misuse;
- improving its analysis of how equipment could be used in internal repression in certain circumstances, for example in the context of "brittle regimes" in the Middle East and North Africa;
- better utilising external expertise, including in-country, when undertaking situational analysis as part of the risk assessment process;
- reviewing the use of open licences to transfer arms to authoritarian regimes;
- bringing the UK's Consolidated Criteria into line with the EU Common Position, thereby reducing the scope for licensing decisions to give undue weight to economic, political or strategic factors;
- explaining how it will reconcile the potentially competing priorities of export promotion and the strict implementation of export controls;

and that, at the international level, the UK should:

- advocate for a comprehensive review of arms transfer controls at EU level on both policy and *practice*;
- use the UK's diplomatic networks to promote the responsible application of arms transfer controls by other states; and
- continue to play an active and progressive role in the Arms Trade Treaty process.

28 April 2011

---

[54] Foreign and Commonwealth Office, *Annual Report on Human Rights 2010* (2011).

[55] BBC News, "Saudi Arabia police open fire at protest in Qatif", 10 March 2011, http://www.bbc.co.uk/news/world-middle-east-12708401.

[56] Amnesty International, *Bahrain: Ensuring accountability for excessive force and protection for protesters*, 24 March 2011, http://www.amnesty.org/en/appeals-for-action/bahrain-ensuring-accountability-excessive-force-and-protection-protesters; Sean O' Hare, "Bahrain protests: eye-witness report", *The Telegraph*, 16 March 2011, http://www.telegraph.co.uk/health/expathealth/8385486/Bahrain-protests-eye-witness-report.html.

[57] Al Jazeera Arabic, "A ship supplied by Saudi Arabia arrived in the Port of Aden in Yemen loaded with 75 armoured vehicles and personnel carriers to counter the protests led by the military attaché", 13 March 2011, http://www.altajdednews.com/default.aspx?view=article&id=28eb1022–99db-422b-8833–0163af7f2407.

[58] Data from Strategic Export Controls annual reports 1999–2010.

[59] *Op cit* UK Working Group on Arms, paragraphs 50–54.

[60] Amnesty International, *Yemen: Cracking down under pressure* (2010).

[61] *Op cit* Committees on Arms Export Controls (2011), paragraphs 128–9.

Written evidence from Oxfam

1. Oxfam welcomes the opportunity to make a submission to the Foreign Affairs Committee's inquiry into the FCO's Human Rights Work 2010–11. Oxfam works with partners around the world to find lasting solutions to poverty and injustice. Currently, we work in more than 70 countries—including the UK—and respond to an average of 30 emergency situations each year. Oxfam believes that people are entitled to five fundamental rights: a sustainable livelihood; basic social services; life and security; to be heard; and equity. We work to support people in realising these rights and fight poverty and suffering through campaigning, long-term development work, and emergency response. Oxfam GB is a member of Oxfam International, a confederation of 14 Oxfam affiliates around the world.

Summary

2. The following submission focuses on two key human rights challenges where Oxfam has particular expertise, based on our work globally: Protection of civilians in conflicts and reducing the harm caused by arms.

- Protection of civilians should be a central pillar of UK foreign policy in places affected by conflict. This requires efforts to protect civilians in forgotten conflicts such as areas affected by the rebel Lord's Resistance Army in DR Congo, Southern Sudan and Central African Republic. We encourage the UK to give greater personnel support to UN peace-keeping operations throughout the developing world, and to invest further in security-sector reform initiatives, on which the UK record is good. However, we ask the FAC to pay particular attention to the failure of the UK and others to date to ensure that the Afghan forces are sufficiently accountable and will not cause harm to civilians as they assume more responsibility for security.
- UK policy is rightly aimed at reducing the humanitarian harm caused by UK arms sales. We welcome progress to date but urge further action in this field. In particular the UK should maintain a high level of engagement in negotiations towards an Arms Trade Treaty. We urge the FAC to oppose any measures which undermine the cluster munitions ban, and, following the recent UK sales to Libya and elsewhere, to actively monitor the implementation of UK arms export controls.

3. We also address directly the Committee's questions over the relationship between the FCO's human rights work and the emphasis which the Government is placing on the promotion of UK economic and commercial interests in UK foreign policy. Trade has the potential to bolster and secure people's economic, social, political, and cultural rights. However this requires government action to ensure fair trade rules and ensure great care in the use of economic sanctions in order to avoid harm to the local population. It also requires government action to ensure responsible business practice, which stronger OECD guidelines and a new UK Commission for Business, Human Rights and the Environment could greatly encourage.

Protection of Civilians in Conflicts

4. In 2010, millions of men, women and children around the world were threatened, killed, raped, displaced, injured, forcibly recruited or deprived of safe water and food. In contravention of the basic laws of war, civilians continue to account for a vast majority of casualties in situations of armed conflict, including as a result of deliberate targeting and deprivation.[i] The primary responsibility for protecting civilians lies with national governments and parties to conflict. But when these actors are unwilling or unable to protect the civilian population, the international community has a responsibility to act. As the UK Strategy on the Protection of Civilians in Armed Conflict (2010) acknowledges, however, the "international efforts to protect civilians in conflict can often be insufficient, inconsistent or ineffective."

5. We welcome the UK's stated commitment to conflict prevention, which is a crucial aspect of protection. But much more needs to be done by the international community, including the UK, to prevent violence at the earliest possible stages of a foreseeable crisis through early, multilateral diplomacy. This requires investment in early warning capabilities to monitor and respond to threats before they erupt.

Protecting civilians in forgotten crises

6. We welcome the important commitments made by the UK to protect civilians in its 2010 cross-governmental strategy. In line with those commitments, we urge the UK to work to protect civilians wherever they are caught up in conflict or at grave risk of violence. This must include concerted efforts to protect civilians in forgotten corners of the world, such as areas affected by the rebel Lord's Resistance Army in DR Congo, Southern Sudan and Central African Republic,[ii] as much as in places in the international media or political spotlight.

Pressing the Security Council and peacekeeping missions to be effective protection actors

7. With its mandate to maintain international peace and security, the UN Security Council (UNSC) has particular obligations to protect civilians. As a permanent member of the UNSC, the UK, in turn, has an important role in ensuring that the UNSC is an effective civilian protection actor. The UK should press the UNSC to consistently engage in preventative diplomacy and to monitor and report on protection violations wherever they occur.

8. The UK has been at the forefront of efforts to ensure that UN peacekeeping mandates for countries like DR Congo and Sudan prioritise civilian protection. We urge the UK to continue this effort on the UNSC.

9. Getting civilian protection language into peacekeeping mandates is, however, only the first step. The mandates of UN peacekeeping missions must be matched with the requisite resources, training, in-country leadership and, ultimately, robust action on the ground. Although the UK is one of the top funders of UN peacekeeping operations through its assessed contribution, it only contributes a fraction of the personnel: as of July 2010, the UK had provided 302 of some 90,000 UN peacekeeping personnel.[iii] Effective peacekeeping requires adequate funding, but also expertise, capability and personnel. After UK operations in Afghanistan are drawn down, we urge the UK to shoulder a fair burden of UN-mandated peace support. The UK should also press for peacekeepers to systematically engage with affected communities, in particular women, to better understand the threats they face and improve protection responses.[iv]

10. It is vital that the moral imperative of "protecting civilians", which is at the heart of humanitarian law, should mobilise disinterested international action by the Security Council and by individual states, and should not be instrumentalised to justify actions that are driven by wider political and strategic objectives, however worthy those objectives might be. The current situation in Libya, where the UN Security Council resolution calls for the protection of civilians by all necessary means, raises fundamental questions as to what actions, above all military actions, can reasonably be considered as justified and legitimate within the terms of that mandate. If the mandate is interpreted too broadly, the concept of "protection of civilians", as a pillar of a principled foreign policy and of the role of the United Nations, will become devalued and treated with great suspicion in future. The Libya case also illustrates the importance of not only using international force as a last resort but also ensuring that international diplomacy and non-military pressure is brought to bear both before and during a conflict, since there is rarely, if ever, a "military solution" to a protection crisis.

Security-Sector Reform: maintaining and putting into practice a progressive approach

11. Ultimately, national governments must have the will and capacity to protect their citizens and nationally driven peacebuilding and security sector reform processes must be supported more than ever. The UK is among the more progressive security-sector reform (SSR) donors in viewing the provision of security *and* justice as an integrated set of basic services for citizens. This approach should be maintained. Oxfam's experience in a number of unstable settings shows that although physical security is vitally important, access to justice is an equally significant component of security for community members, particularly women and other marginalised groups for whom the absence of judicial recourse may be a matter of life and death.

12. The international credibility of UK SSR efforts rely on the UK having clear guidelines to ensure that all its efforts help not just to communicate international human rights and humanitarian law obligations, but to operationalise them in the practices and operating procedures of security and justice sector institutions. At a minimum, the UK must be able to demonstrate that its SSR efforts never resource further human rights violations.

13. In Afghanistan, however, the UK's progressive approach to SSR has yet to be translated in practice. A forthcoming Oxfam report—*No Time to Lose: Promoting the Accountability of the Afghan National Security Forces* (10 May 2011)—finds that the UK and many of its allies have focussed too much on fighting the war and paid insufficient attention both to building accountable security forces trained to uphold the rule of law, and establishing effective, accessible mechanisms that deliver justice to Afghan people.

14. As greater responsibility is handed over to the Afghan National Security Forces (ANSF), there is a serious risk that violations of human rights and humanitarian law will escalate unless adequate accountability mechanisms are put in place. This risks further fuelling the conflict. The UK is the International Security Assistance Force's second largest troop contributor but its contributions to the main trust funds that support the ANSF have been relatively small. Between 2002 and 2010, the UK contributed just £4 million to the Afghan National Army trust fund (which funds equipment, services, salaries and training)—much less than Luxembourg (£9 million).

15. The UK and its international partners have also neglected police and justice sector reform. The increase in size of the Afghan National Police (ANP) must be accompanied by an increase in quality, but this will only be achieved through strong mentoring, monitoring and advice for senior and middle-ranking Afghan officials. To this end, it essential that the UK provides greater support to EUPOL—the key actor supporting the ANP.

Supporting the protection activities of local civil society organisations and communities themselves

16. While national governments have the primary obligation to protect their citizens, it is important to recognise that national and local civil society organisations, as well as communities themselves, often play a crucial role in civilian protection through advocacy, mediation with local or national authorities, and monitoring and reporting on human rights and protection violations. The UK should support the activities of such organisations and communities. In eastern DRC, for instance, Oxfam has helped establish community-based Protection Committees. In some villages, after negotiation with the army and police, they have been able to dismantle illegal checkpoints where people were previously stopped by armed men demanding payment or goods, and in some cases attacking and even killing those who refused. In some instances, they have also addressed the problem of illegal detentions, often used to extort money from the families of those detained.

The UK's civilian protection strategy

17. We reiterate our support for the UK's 2010–13 protection of civilians strategy. We understand that the strategy will be reviewed annually and hope that this process will incorporate a wide range of external expertise and perspectives, culminating in findings that are publicly available. We encourage the FAC to participate actively in such a review, given the centrality of civilian protection to contemporary foreign policy.

Arms and Human Rights

18. UK policy on arms and disarmament is a vital component of a rounded policy on human rights. Inappropriate uses of arms and ammunition contribute to breaches of human rights and international humanitarian law, either through internal repression or as part of conflict. This in turn inhibits socio-economic development. UK policy is rightly aimed at reducing the humanitarian harm caused by UK arms. We welcome progress to date but urge further action in this field.

Arms Trade Treaty

19. The adoption of a global treaty that will set the same rules for all nations on the sale and purchase of arms and associated equipment will be a vital component in the prevention of human rights abuses and conflict. In the recently published Report on Human Rights the FCO states a solid commitment to the Arms Trade Treaty (ATT), which has been a flagship initiative of UK policy for several years. The report says: "Securing a robust and effective treaty is a priority for the Government and an essential part of the Strategic Defence and Security Review". In September, in his speech on "Britain's Values in a Networked World", the Foreign Secretary specifically highlighted the Arms Trade Treaty as an instrument with the potential to both promote British values, on issues such as human rights, whilst also benefiting British industry.

20. There were initial concerns that the new government was backing away from the commitment of its predecessor to be a leader on the ATT. At the First PrepCom in July 2010, the UK was significantly less engaged than previously, and at UN First Committee in October 2010, its participation was minimal. However, in 2011 UK support for the Treaty has once again been robust, and engagement at the February/March 2011 PrepCom was at a high level.

21. It is imperative that this level of engagement is maintained, and the decision not to directly replace the role of UK Ambassador for Multilateral Disarmament is a concern in this regard following the departure of Ambassador John Duncan. The new ATT delegation leader, Jill Morris, Head of Counter Proliferation at the FCO, has significant duties beyond the ATT which will make full participation in informal negotiations and inter-sessional meetings between PrepComs very difficult. These meetings form a vital part of the overall negotiation and a major commitment of resources to them is essential if the UK is to maintain its lead on this treaty.

The UK Review of Arms Sales Policy under EU Criterion 2 on Human Rights

22. In March, the Foreign Secretary announced a review of the UK's application of Criterion 2 on arms sales, which addresses the risks of the use of arms to commit abuses of human rights and international humanitarian law.[v] The review was initially in response to the use of UK-supplied weapons in Libya and Bahrain to suppress protest, but is now a global review.

23. In the case of Libya and perhaps Bahrain and other Middle East and North African (MENA) countries, the UK and other members of the EU have consistently failed to give due weight to their legally binding obligation to refuse arms sales under Criterion 2, in favour of other strategic and commercial interests. UK equipment, such as armoured cars, has been used by the government of Libya against the civilian population.

24. These decisions have also undermined the UK's position on the ATT. The licensing of sales to Libya and elsewhere, under supposedly rigorous regulation, allows sceptic countries to argue that the treaty will be meaningless, or that powerful countries such as the UK have a policy of "do what I say, not what I do". Strict enforcement of arms sales criteria is vital in maintaining UK credibility as a leader in this field.

25. There is a risk that the current review will not substantively alter the situation. Conducted behind closed doors, with no formal input from civil society, industry or outside expertise, there may not be the required hard look at policy and practice. The embarrassing failure of the arms exports control process in Libya calls for a transparent investigation with maximum external consultation. We believe there is a vital role for Parliament in monitoring this area of policy, and encourage the Committee to pay particular attention to the issue in future.

Promoting Arms Exports or Promoting Strong Controls

26. Oxfam is concerned that some of the weaknesses in export control implementation in MENA have been caused by the dual role of FCO, UKTI and MOD personnel in embassies around the world. Under the current government they are expected to be vigorous advocates for the sale of UK arms and other controlled items. At the same time, they are the principle source of analysis for the FCO when assessing existing licenses and potential new sales. This represents a major conflict of interest. Personnel in diplomatic posts are being put

under enormous pressure to support UK industry, and at the same time are expected to report human rights and other abuses that will make those sales harder. We encourage the Committee to examine this problem.

Cluster Munitions

27. We welcome UK ratification of the Cluster Munitions Convention (CMC) and the progress made to date in destruction of UK stocks of these weapons. The humanitarian harm they cause has recently been demonstrated to terrible effect in Misurata. Cluster munitions are particularly pernicious, as they remain long after a battle or war has ended, causing more death and suffering to civilians.

28. We are deeply concerned that this progress is being undermined by UK participation in developing a protocol under the Convention on Certain Conventional Weapons to make legal the use of cluster munitions by states which have not ratified the CMC. This protocol would allow states such as the US or Russia to use cluster munitions indefinitely. We view as a matter of the gravest concern the possibility that the UK government should facilitate the undermining of the cluster munitions ban. We would ask the Committee to look into this as a matter of some urgency.

Trade and Human Rights

29. The UK Foreign Secretary, has stated that human rights are considered "essential to and indivisible from our foreign policy objectives".[vi] Such statements support the commitments made by the UK as a member of the World Trade Organisation in the Vienna Declaration (1993) to uphold the protection and promotion of human rights and fundamental freedoms as the "first responsibility of governments".

Fair and sustainable trade rules

30. Trade has the potential to act as a powerful motor for poverty reduction, as well as economic growth, and as such can bolster and secure people's economic, social, political, and cultural rights. Much of that potential is, however, being lost. The problem is not that trade inherently undermines poor people's basic rights, but the rules that govern it are too often rigged in favour of wealthy countries.

31. The UK government should pursue with the EU, in its trade and trade-related policy formulation, and negotiations that affect poor countries and poor people, rules that are based on the principles of fairness and sustainability, and on respect for basic rights.

Political conditionality and trade

32. "Positive conditionality" is used to grant economic benefits, such as market access preferences, to a state if it fulfils certain conditions. The EU's special incentive arrangement for sustainable development and good governance, known as GSP+, offers additional tariff reductions to support vulnerable developing countries in their ratification and implementation of international conventions in these areas.[vii] While this scheme provides a welcome incentive to promote respect for international conventions, the UK government can play an important role in ensuring that the EU is consistent in its implementation. This is important, as some countries benefiting from the GSP+ have poor human rights records, without investigation,[viii] while other recipients have had preferences withdrawn following investigation.[ix]

33. "Negative conditionality", involving a state or international organisation imposing trade sanctions if there is a perceived violation of human rights or non-compliance with international conventions on the part of a trading partner, is highly problematic Broad trade sanctions against countries can have harmful and sometimes disastrous consequences for the local population. For example, the strict controls on what could be exported to Iraq between 1991–2003 greatly obstructed the rehabilitation of the water network. Consequently, water was not safe for consumption, leading to high child mortality; 70% of child deaths were due to diarrhoea caused by unsafe water, or acute respiratory infection sometimes aggravated by unsafe water.[x] The UK should not support the use of other economic sanctions such as asset freezes unless these are carefully targeted and cause minimal harm to ordinary people, especially those living in poverty, and should instead support pragmatic solutions that best safeguard the right to life and right to a livelihood of the affected populations.[xi]

34. The UK should also discourage governments from placing restrictions on imports on the grounds of labour-rights violations in the exporting country, when the motives are, in fact, protectionist. The judgement of whether restrictions on trade are justified or not should not be left to the World Trade Organisation alone but should involve other agencies such as the ILO.

Responsible Business Practice

35. Oxfam welcomes and has supported the development of the UN Business and Human Rights Protect, Respect and Remedy Framework which we believe can play an important role in closing the governance gap that too often allows corporations to operate with impunity and to exploit the powerlessness of poor communities.

36. The associated Guiding Principles submitted to the UN Human Rights Council by Prof Ruggie in late March are also a significant step towards strengthening corporate accountability for human rights abuses.

However, Oxfam believes that the Principles could more forcefully and specifically articulate the duties of States and business, and offer more concrete support for affected communities and individuals to assert their human rights with respect to States and businesses. While most States have laws in place that could address a range of potential human rights violations, States do not adequately implement and enforce them. It is therefore critical that the Guiding Principles re-affirm the mandatory nature of the duties of States to respect and protect human rights. Similarly, the company responsibility to avoid infringing on human rights and to redress any human rights violations must be stated in unequivocal terms.

37. We welcome the negotiations underway in the OECD to update the OECD Guidelines on Multinational Enterprises. The UK and other EU member states need to ensure that the National Contact Points (NCPs), which supervise implementation of the Guidelines, provide a more effective mechanism for investigating breaches of the Guidelines and ensuring responsible corporate behaviour in their operations overseas. We welcome the FCO's 2010 Human Rights Report call for expanded guidelines to include practical guidance to assist companies respect for human rights, including in their supply chain, and to improve the effectiveness of National Contact Points and the complaints procedures across the OECD. In addition, we recommend that the UK government establishes a specialised Commission for Business, Human Rights and the Environment that would have coordinating, capacity-building and informational roles, while also operating as a dispute resolution body.[xii]

28 April 2011

References

[i] This was most recently reflected in UN Security Council Presidential Statement on "Protection of Civilians in Armed Conflict", S/PRST/2010/25 (22 November 2010).

[ii] For more information on the devastating impact of the Lord's Resistance Army and how civilians can be better protected from that threat see *Ghosts of Christmas Past: Protecting Civilians from the LRA*, Joint NGO paper, 14 December 2010 at http://www.oxfam.org.uk/resources/policy/conflict_disasters/ghosts-christmas-past-protecting-civilians-lra.html

[iii] http://ukun.fco.gov.uk/en/uk-at-un/thematic-issues/resolving-conflict/peacekeeping/uk-personnel-contributions

[iv] For more information on how engaging with community can improve protection by peacekeepers, see *Engaging with Communities: The Next Challenge for Peacekeeping*, Oxfam briefing paper, 22 November 2010 at: http://www.oxfam.org.uk/resources/policy/conflict_disasters/engaging-with-communities.html

[v] The EU regulation states that the Government will not issue an export licence if there is a clear risk that the proposed export might be used for internal repression. http://www.fco.gov.uk/resources/en/pdf/3849543/eu-arms-export

[vi] Foreign Secretary: Britain's values in a networked world, 15 September 2010

[vii] For the period 2009–11, 16 beneficiary countries have qualified to receive the additional preferences offered under the GSP+ incentive arrangement. Any GSP+ beneficiary country must be considered "vulnerable" in terms of its size or the limited diversification in its exports. GSP+ beneficiaries must also have ratified and effectively implemented 27 specified international conventions in the fields of human rights, core labour standards, sustainable development and good governance

[viii] See, for example, EU trade agreement with Colombia and Peru, ABC Colombia/Peru Support Group. November 2010. (http://www.abcolombia.org.uk/downloads/EU_trade_agreement_with_Colombia_and_Peru.pdf)

[ix] For example, El Salvador maintained its preferences following investigation into its ratification of ILO Convention 87 (October 2009), while Sri Lanka temporarily lost its preferential access to the EU market on 15 August 2010. The decision was based on dialogue with the Sri Lankan authorities on shortcomings in its implementation of three UN human rights conventions.

[x] Protecting Iraqi civilians, Oxfam Briefing paper, February 2003 (http://www.oxfam.org.uk/resources/policy/conflict_disasters/downloads/bp40_iraq.pdf)

[xi] Though the UN Security Council must be fully prepared to act in a timely and effective manner to exert diplomatic pressure on states (and non-state actors) that fail to safeguard life, it must be willing, as a last resort, to impose targeted sanctions on states that fail to exercise responsible sovereignty by wilfully causing the deaths of civilians, either by negligent or deliberate acts. In doing so, they must of course find the most pragmatic solutions that best safeguard the right to life of affected populations—and not engage in fruitless condemnation of a national government's failures. They must recognise that the threat of sanctions may not always be the best way forward. See Right to Survive: The humanitarian challenge in the twenty-first century, Oxfam Report, April 2009

[xii] As proposed by the UK Corporation Responsibility Coalition (CORE)—see link for more information. http://corporate-responsibility.org/core-values-why-the-uk-needs-a-commission-for-business-human-rights-the-environment/

Written evidence from PLATFORM

Summary

1. Prioritising the promotion of British business interests has conflicted and currently conflicts with the promotion of values including democracy and human rights.

2. Oil exploration and extraction in undemocratic countries almost invariably leads to increased human rights abuses, escalating conflict and repression, and entrenchment of undemocratic regimes.

3. Thus when the FCO lobbies on behalf of British oil & gas corporate interests, it is often undermining and weakening human rights and democracy abroad.

4. Two case studies of Azerbaijan and Turkmenistan highlight the negative impact that FCO support for British oil interests can have on local human rights.

5. The structure of the FCO's Human Rights & Democracy report doesn't include a reflective or self-analytical examination of the FCO's own complicated impacts on human rights.

Background

1. PLATFORM is a London-based research organization that has monitored the impacts of the British oil industry for over 15 years, exploring the social, economic, environmental and human rights shifts that result from oil and gas exploration, extraction and transportation. Our work is regularly published and cited by governments, academia and media, corporations. We are consulted for expertise on specific contracts by human rights defenders, parliamentarians and journalists. We have deep knowledge of the interaction between British oil companies and Nigeria, Iraq, the Caspian and North Africa.

2. This submission has been produced by Mika Minio-Paluello, who has worked on conflict and human rights issues in the Middle East for over a decade. Since 2005, Minio-Paluello has focused on the impacts of oil in the Caspian region and North Africa.

Factual Information

1. In July 2010 the Prime Minister announced that:

> "I want to refashion British foreign policy, the Foreign Office, to make us much more focused on the commercial aspects…making sure we are demonstrating Britain is open for business. […] I want to reorientate the Foreign Office to be much more commercially minded. […] I want us to be much more focused on winning orders for British business overseas, attracting inward investment back into Britain."

2. Further,

> "I want to make sure that whenever any British minister, however junior, is meeting any counterpart, however junior or senior and for however short a time, they have always got a very clear list of the commercial priorities we are trying to achieve, whether that is pushing forward British orders, attracting inward investment or promoting bilateral or unilateral trade talks."[62]

3. At the same time, the FCO's Human Rights & Democracy report states that although each country is different,

> "This does not mean that we will ever overlook human rights abuses; indeed, we raise our human rights concerns wherever and whenever they arise."[63]

4. So Ministers and the FCO abroad are to promote British business interests whenever possible, and human rights concerns whenever they arise. Inevitably, prioritising one means deprioritising the other, particularly when two conflict with one another. Such conflict is very difficult to avoid when the business being supported is fossil fuel exploration, extraction or transportation.

5. Oil extraction in undemocratic countries tends to contribute to increased human rights abuses because (a) such strategically important resources are closely controlled by and linked to the regime; (b) sites of extraction are then militarised by forces already connected with human rights violations; (c) oil extraction provides vast revenues, which are comparatively easy to siphon off and steal; (d) even when used "legitimately" in the budget, revenues are directed towards entrenching regimes, through arming militaries, police forces and short-term patronage.

6. Paul Stevens, then BP Professor of Petroleum Policy at the Centre for Energy, Petroleum and Mineral Law and Policy in Dundee described how "The revenues support existing regimes simply because they allow

[62] http://www.financenews.co.uk/politics/cameron-wants-to-focus-on-promoting-uk-business-abroad/
[63] p11, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report

low tax rates and large patronage. They also allow large spending on internal security further entrenching regimes. The revenues increase the potential for internal conflict and even civil war. Such countries also tend to be more heavily militarised."[64]

7. We have seen how undemocratic and repressive regimes have repeatedly used their oil reserves, and involvement of foreign companies in exploiting these, to bolster both their ability to oppress their own people and to prevent democratization. This happened in Libya,[65] Egypt,[66] Syria, Burma,[67] Iraq under Saddam Hussein, Saudi Arabia, Oman[68], Yemen and elsewhere.

8. Current government ministers William Hague and Andrew Mitchell recognised the principle that oil exports and arm imports empower regimes and increase acceptability after a visit to Sudan in 2006:

> "International diplomatic initiatives intended to decisively influence Khartoum continue to be thwarted by other countries more interested in pursuing their economic or political advantage than in promoting human rights… and that Sudan's status as an [...] oil exporter and a significant importer of arms has proven to be a successful deterrent against any united international action."[69]

9. Thus when a British minister meets a counterpart minister representing a repressive regime and promotes British business, this usually empowers the regime to continue to torture and arrest critics. Sometimes British government representatives will mix in words of concern over human rights, although not "wherever and whenever they arise", as claimed in the FCO's Human Rights report.[70] But even when such questions are brought up, careful words of critique carry far less weight and impact than the hard support of revenues and business relationships.

10. British foreign energy policy currently tends to prioritise guaranteed supplies of energy resources and access to profitable contracts and access to oil fields, while deprioritising the human rights of foreign citizens.

11. During a 1993 meeting between Foreign Secretary Douglas Hurd and several directors of BP, "The Secretary of State emphasised that there were some parts of the world, such as Azerbaijan and Colombia, where the most important British interest was BP's operation." An expose later revealed BP's co-operation with parts of the Colombian army responsible for attacking civilian villages.[71] When the FCO allows corporate oil interests to over-ride other concerns, human rights will fall by the way-side. This happened in Libya after 2005, in Algeria, in Nigeria. It is currently the case in Azerbaijan, Turkmenistan, Congo (DRC), Oman and elsewhere.

Azerbaijan

1. Britain is the dominant player in Azerbaijan's economy by a long way. Last year, the UK invested almost £1 billion in the country or 51.9% of total foreign investment in Azerbaijan.[72] Most of this was made by BP, the largest foreign company operating in the country. Yet British involvement in the country has not led to an improved human rights situation. The current President Ilham Aliyev was touted as a potential "reformer" when he inherited power from his father.

2. However, the human rights situation has not improved. Dissent is met with repression, journalists are imprisoned on spurious charges and there is no freedom of assembly. In April, calm attempts at pro-democracy protests inspired by Egypt and Tunisia were violently quashed[73] and journalists are being harassed, kidnapped and beaten on a daily basis.[74]

3. Parliamentary elections in November were condemned by OSCE and European Parliament monitors as "not sufficient to constitute meaningful progress in the democratic development of the country", due in part to "restrictions of fundamental freedoms, media bias, the dominance of public life by one party, and serious violations on election day".[75] Ilham Aliyev and his father Heydar Aliyev have ruled Azerbaijan for all but a handful of years since 1969.

4. In interviews with PLATFORM in 2009 and 2010, civil society actors and independent observers operating in Azerbaijan were clear that BP's role in the country buttresses and bankrolls the regime.[76] British corporate investments provide Aliyev's authoritarian government with international acceptability and relevance as a

[64] "Resource Curse and Investment in Oil and Gas Projects: The New Challenge", Professor Paul Stevens, June 2002
[65] "How BP made friends with Mu'ammar Gaddafi" http://blog.platformlondon.org/content/how-bp-made-friends-muammar-gaddafi
[66] "BP support for Mubarak dictatorship revealed" http://blog.platformlondon.org/content/bp-support-mubarak-dictatorship-revealed
[67] Total oil: Fuelling the oppression in Burma, http://burmacampaign.org.uk/images/uploads/total_report.pdf
[68] http://blog.platformlondon.org/content/royal-dutch-shell-profiting-sultans-absolute-rule-oman
[69] http://conservativehome.blogs.com/platform/2006/04/william_hague_m.html
[70] p11, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report
[71] "BP hands tarred in dirty pipeline war" http://www.guardian.co.uk/world/1998/oct/17/1
[72] http://www.ft.com/cms/s/0/7a3080c8–4e59–11e0–98eb-00144feab49a.html#axzz1KlUGQlTk
[73] http://www.bbc.co.uk/news/world-europe-13136598
[74] http://www.ifex.org/azerbaijan/2011/04/13/coe_recommendations/
[75] http://www.osce.org/odihr/elections/74100
[76] Minio and Marriott, "The Oil Road", Verso, (forthcoming in 2011)

"strategic partner of the West",[77] enabling continued denial of freedom and democracy to the people of Azerbaijan.

5. Trade missions and invitations boost President Aliyev's reputation further. In particular, the Duke of York's repeated visits have enabled Aliyev to build an "image as someone … received at the very highest level of the European aristocracy", according to Ilgar Mammadov, an opposition spokesperson. "We never felt that Prince Andrew's contribution has helped the democratic process."[78]

6. Meanwhile the Aliyev regime has been explicit that BP oil revenues will be spent on militarizing and arming the country so that it can outmatch Armenia. In October 2010, President Aliyev announced that "Next year, our total military spending will be more than $3 billion. If we consider that the entire state budget of Armenia, which continues to keep our lands under occupation, is slightly above $2 billion, we can see that the task we have set earlier that Azerbaijan's military expenses should exceed Armenia's total budget has already been fulfilled. It is a reality today. Over time, we, of course, will further increase our costs."[79]

Turkmenistan and Nabucco

1. The FCO has taken an active role in promoting British oil investments in Turkmenistan, and British oil majors like BP and Shell are very eager to break into and expand operations in the country. According to the History page on the Embassy's website, 2010

> "has been very fruitful in terms of further strengthening UK-Turkmen relations, a further Ministerial visit by the UK's Minister of State for Energy, Lord Hunt, took place in early March. Lord Hunt had a number of high level meetings with key Turkmen officials. His meeting with the President of Turkmenistan was another push for the development of further co-operation in energy and the fuel sector as well as diversifying energy routes from this hydrocarbon rich country. During the visit, Lord Hunt also kicked off the second British-Turkmen Energy Business Forum in Ashgabat."[80] No activities are mentioned in relation to human rights.

2. According to the FCO's Human Rights & Democracy 2010 report, Turkmenistan is a country of concern, highlighting torture, prison conditions, the fact that human rights defenders can't operate and a lack of freedom of expression and freedom of belief.[81] The FCO's report claims that "The UK took all appropriate opportunities to raise human rights with the government in 2010."[82]

3. However, the lack of explicit mention of any human rights concerns on the UK Embassy's website is marked. Further, it's very clear from the FCO's report of Lord Hunt's visit in 2010 that promoting oil interests was prioritized over human rights concerns

4. During his meeting with President Berdimuhamedov, Lord Hunt expressed Britain's wish to co-operate in the development of Turkmenistan's energy sector.

> "I congratulated the President for the successful diversification of gas export routes, and reconfirmed UK support for a Southern Corridor and Nabucco", said the Minister. "I also took the opportunity to thank the President for Turkmenistan's constructive role in Afghanistan, including humanitarian assistance. I also encouraged further developments on democracy, human rights and good governance, while welcoming areas of progress and noting the range of UK assistance projects in these areas."

5. Which areas of progress Lord Hunt was welcoming is unclear. Purported legislative "reforms" under President Berdymukhammedov, including a revised constitution, have removed government term limits and enabled increased repression, not less.[83] Since President Berdymukhammedov took power in 2006, physical and legal attacks on civil society organisations and individuals have intensified, particularly on those who "slander our democratic, legal, secular state."[84]

6. When the British Ambassador, visiting Ministers or the Duke of York promote increased co-operation, access and involvement by British companies in the Turkmen oil sector, they are promoting a change that will strengthen Berdymukhammedov's regime and leave it with less interest in democratic reforms.

7. Crude Accountability, the foremost and most knowledgeable watchdog of human rights in Central Asia,

> "does not advocate for isolation of Turkmenistan, but, rather, engagement through a principled stance. Standards of engagement should be uniform, regardless of whether the country of operation is in Europe or in Central Asia. Seeking to 'improve' human rights and civil society conditions in Turkmenistan—or any country—by engaging with oil and gas companies is an exercise in absurdity. Pretending that the

[77] http://www.upstreamonline.com/live/article236111.ece
[78] http://www.ft.com/cms/s/0/7a3080c8–4e59–11e0–98eb-00144feab49a.html#axzz1KlUGQlTk
[79] "Opening Speech", Ilham Aliyev, http://www.president.az/articles/922/print?locale=en
[80] http://ukinturkmenistan.fco.gov.uk/en/about-us/our-embassy/embassy-history/
[81] p318–322, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report
[82] p318, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report
[83] p8–15, *Reform in Turkmenistan: A Convenient Façade* http://www.crudeaccountability.org/en/uploads/File/turkmenistan/Reform%20in%20Turkmenistan.pdf
[84] p12, Reform in Turkmenistan: A Convenient Façade http://www.crudeaccountability.org/en/uploads/File/turkmenistan/Reform%20in%20Turkmenistan.pdf

presence of one or another US oil company in Turkmenistan is going to improve the lives of average Turkmen citizens is the height of cynicism."[85]

8. The same holds for British support for UK oil companies, and when the FCO lobbies in favour of the proposed Nabucco Pipeline, which could bring Turkmen gas to Austria.

9. British oil companies do not have a progressive role in Turkmenistan, and have proven that they are willing to engage with the regime in illegal and undemocratic activities. In November 2010, Shell "and six other companies agreed to pay a combined $236 million to settle allegations that they or their contractors bribed foreign officials to smooth the way for importing equipment and materials into several countries," including Turkmenistan.[86]

REPORT STRUCTURE

1. Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report highlights the FCO's work towards improving human rights, and also details certain concerns over conditions in other countries. However, it does not explore or evaluate those situations in which the FCO has found itself in conflict or has contributed to a worse human rights situation. As a result, the first 118 pages read like a celebratory funding report, detailing all the wonderful work completed—but without an honest evaluation of overall impacts and complications faced.

RECOMMENDATIONS

1. The next such report should include a more reflective chapter, identifying situations in which the FCO has *not* raised human rights concerns and the reasons for this, and situations in which the FCO feels like it contributed to a weaker human rights situation. This is standard practice in the charity sector, and should also be so in government.

2. There is currently limited oversight and accountability over the FCO's human rights abroad. Specific embassies should report on their websites as to the work they are conducting.

3. The FCO should make a clear statement that values will be prioritised over business interests. Human rights are meaningless and not universal if they are negotiable.

4. Before the FCO commits itself to lobbying heavily on behalf of a particular oil or gas project—as it did over the Baku-Tbilisi-Ceyhan pipeline in the Caspian-Caucasus region and over BP and Shell's contracts with Gaddafi in Libya—it should commission an independent human rights impact assessment. This should lay out the current human rights context, and likely changes resulting from the oil or gas project being developed. The human rights impact assessment should be made available both in Britain and the partner country.

5. The FCO should not provide support for fossil fuel projects that will contribute to human rights abuses, increased repression or conflict.

6. Any British company hoping to gain government support should operate with transparency, clear human rights standards and democratic values. This is not currently the case for much of BP or Shell's operations in North Africa, the Middle East, the Caspian or sub-Saharan Africa.

7. British oil companies should be held legally responsible in Britain for their part in human rights violations abroad caused by contracted private mercenaries and security entities.

29 April 2011

Written evidence from the Bangladesh Hindu Baudhha Christian Unity Council

1. It needs no reminder that the people of Bangladesh made tremendous sacrifices during their liberation struggle to safeguard these very rights and the 1972 Constitution of Bangladesh specified Four State Principles viz. Democracy, Nationalism, Secularism and Socialism duly reflecting and underscoring this, though seen from the viewpoint of 2010 these in part reflected the cold war period and the role of Non Aligned Movement, and "nationalism" and "socialism" as defined political cornerstones of a pluralist liberal democracy would no longer be considered appropriate these days, least of all from someone as myself from a centre-right political family, and would perhaps be better replaced today with the more neutral terms of "national independence" and "social welfare".

2. It is another matter that post independence, the Bangladeshi state underwent several transformations, at times undermining some of the very principles mentioned above, thus jeopardizing the very existence of Bangladesh as a modern, progressive state. The various political parties at the time did not always cover themselves in glory by their petty politicking, frequent recourse to gimmickry and demagoguery, which sadly left the common people confused and in disarray.

[85] p40, p12, Reform in Turkmenistan: A Convenient Façade http://www.crudeaccountability.org/en/uploads/File/turkmenistan/Reform%20in%20Turkmenistan.pdf

[86] http://www.marketwatch.com/story/shell-six-other-firms-settle-foreign-bribery-probe-2010–11–04

3. We must nevertheless acknowledge that since the restoration of democracy in 1991, there has been some solid achievements like the Peace Accord in Chittagong Hill Tracts and the small / rural credit revolution led by the NGOs freeing up the rural economy, and a praiseworthy transparent, free and fair election in 2008. However, reliable and consistently good governance for the people of Bangladesh still requires some work to be done for it to become a lasting legacy of the liberation struggle.

4. Bangladesh has tremendous human resources, substantial international assistance and a firm place in the globalised economy. But somehow, these resources and potential remain underutilized and unfulfilled. The worst sufferer of this underachievement are the most marginalized sections of the society especially those from the minority communities. The Bangladeshi state has not yet been able to fully ensure a just and equitable system, though progress has been made such as the vastly improved rights of the Ahmadias, particularly when compared to Pakistan where their treatment remains appalling and massacres are still perpetrated on this vulnerable community. The traditional Bangladeshi political parties as representative of the people in a democratic system play a crucial role in guiding and directing the state for fulfilling its responsibilities and duties. The political leadership of the country must constantly re-evaluate their role and achievement and devise a better future course to correct the remaining deficiencies.

5. Democracy, Good Governance and Human Rights are inter-related issues and should not or rather can not be compartmentalised. It is our firm belief in Europe that only stable democracy can ultimately provide and ensure good governance and accountability and there can not be any democracy without firm commitment to fully respecting fundamental human rights. Every citizen of Bangladesh must feel that he or she has a stake in the system. Repression, persecution and exploitation on sectarian grounds, if allowed to continue unabated and unchecked, would undermine the very basis of democracy and good governance. It is therefore the sacred duty of all political parties of Bangladesh to ensure that every citizen of this great nation is proud of his or her country and its achievements and do not feel marginalized and exploited in any manner. Only when you are able to convince each and every community and section of Bangladesh that they have an equal and firm stake in the country and that their livelihood, religious and socio-cultural beliefs and political rights are safe, then and only then will the many international friends of Bangladesh be able to proudly and confidently proclaim the enduring success of good governance and democracy in Bangladesh.

8 June 2011

Written evidence from Mr Andrew Tyrie MP, Chairman, All-Party Group on Extraordinary Rendition[87]

The Foreign Office's 2010 Human Rights and Democracy Report addresses rendition and related issues, in particular the forthcoming Detainee Inquiry. I am writing in the hope that your Committee will be able to examine this issue and add to its important work on these areas in the past.

The Detainee Inquiry

There are two issues of specific concern with Sir Peter's Inquiry that I hope your Committee will address.

Sir Peter Gibson has confirmed to me that *"military detention operations should not be one of the key themes for the Inquiry"*.[i] This is a mistake. As you know, in 2004 two detainees were handed over to the US in Iraq and subsequently rendered to Bagram.[ii] Separate arrangements made by the MOD in response appear inadequate.[iii] Only a full examination of this issue by the Inquiry can obtain closure on rendition and restore public confidence. I hope your Committee will support this.

It is also crucial that the Detainee Inquiry secures all information relevant to its work. Simply accepting information from government and NGOs is insufficient. A more proactive approach is needed. For example, despite the conclusions of your Committee[iv] and requests by me and others the government has persistently refused to ask the US for information about rendition "circuit flights"—that is, flights on the way to or from carrying out a rendition. Another example is Diego Garcia.[v] The Inquiry will need government support to request such information from those who hold it, including the US administration. It will also need an investigator to seek out information. Again, I hope you will support these proposals.

Consolidated Guidance to Intelligence Officers

This is mentioned at pages 52–53 of the FCO report. It appears to be defective. It does not address rendition. It is also incomplete as regards unlawful detention. I have set this out in more detail, and made specific proposals for improvement, in correspondence with the Prime Minister (attached).

In a nutshell, whilst unlawful detention is addressed in the annex to the guidance it is barely touched upon in the guidance itself. The table at paragraph 11 of the guidance, which officers should use when considering whether to proceed with action in specified circumstances, makes almost no reference to unlawful detention.[vi] It leaves open the possibility that despite concluding, through application of the annex, that a detainee was

[87] Attachments not printed: available on the website of the All-Party Group on Extraordinary Rendition, www.extraordinaryrendition.org

being held incommunicado, officers could nonetheless proceed without even consulting Ministers.[vii] This is inadequate. I hope you will consider recommending that the guidance should be strengthened on this point.

16 June 2011

REFERENCES

[i] See Sir Peter's letter to me of 13 April 2011, attached.

[ii] See Rt Hon John Hutton MP, Records of Detention (Review Conclusions), 26 February 2009, *Official Report*, Column 394. Your Committee examined this issue in paragraphs 86–113 of its 2008 Human Rights Report.

[iii] I raised this with the Secretary of State for Defence in January (attached) but have yet to receive a reply.

[iv] Foreign Affairs Committee, *Human Rights Annual Report 2007*, 20 July 2008, paragraph 47. It is also clear that the government does not hold all information relating to the two renditions through Diego Garcia in 2002.

[v] For example, the names of the two detainees, where they were held, how they were treated, the specific dates of the flights and the relevant flight logs, etc. In relation to Diego Garcia, the following Parliamentary Question (dated 26 February 2009) makes clear that the UK government has "*very limited specific information*" about the two confirmed renditions through the island:
Mr. Tyrie: To ask the Secretary of State for Foreign and Commonwealth Affairs pursuant to the answer of 25 November 2008, *Official Report*, column 1201W, on Diego Garcia: rendition, for what reasons he has not passed this information to the police; whether he has examined the possibility that criminal offences may have been committed in relation to the two rendition flights through Diego Garcia; and if he will make a statement. [246740]
Bill Rammell *[holding answer 12 January 2009]:* We have considered the possibility that criminal offences may have been committed in relation to the two rendition flights through Diego Garcia. We have very limited specific information about these flights and, despite enquiry, have not been able to establish further details that would be essential for purposes of further investigation.

[vi] The only reference to unlawful detention is in the second row of the table, which states that where "*there is a lower than serious risk of CIDT taking place and standards of arrest and detention are lawful… You may proceed…*"

[vii] The annex highlights both the lawfulness of arrest and the lawfulness of detention (including incommunicado detention) as two of the four main heads under which standards of arrest, detention and treatment should be judged. While officers can use the annex to determine what might constitute unacceptable treatment, when it comes to determining what action to take once it has been determined that an individual is being held unlawfully, the table at paragraph 11 provides little assistance. In circumstances in which arrest and detention are unlawful, but the officer does not know or believe that torture will take place, row three of the table ("*In all other circumstances*") will be applicable. Yet the advice in the second column of this row refers only to "*torture or CIDT*". There is no reference to the standards of arrest and detention set out in the annex. This appears inadequate. The changes I proposed, attached again here, would improve the guidance.

Written evidence from Sir Emyr Jones Parry, Chairman of the Board of Trustees, REDRESS

Thank you for inviting me to submit comments to the Foreign Affairs Committee (FAC) for its annual inquiry into the FCO's human right work. I am delighted to do so in my capacity as Chairman of the Board of Trustees of REDRESS.

I shall focus on some aspects of the recently published *Human Rights and Democracy: The 2010 Foreign and Commonwealth Office Report* ("the Report"). It is heartening to read that the Coalition Government, in the words of the Foreign Secretary in his Forward to the Report, *"is determined to strengthen the human rights work of the Foreign and Commonwealth Office, as part of our commitment to a foreign policy that has the practical promotion of human rights as part of its irreducible core."*[88]

During the last few years it has repeatedly been brought home to me that while torture is something we all instinctively abhor, and which is absolutely prohibited at all times and in all places, it continues to be widely practiced. It is right, therefore, for the scourge of torture to inform important sections of the Report, including an examination of twenty-six states *"where we have the most serious wide-ranging human rights concerns."*[89]

Saudi Arabia is rightly highlighted as one of those states, and here I believe it is important for the FCO to take a more robust and consistent approach when drawing attention to torture abroad, including when it concerns our allies. While the Report covers the period January–December 2010, when applicable the problem of torture should be considered in the context of it being a long-standing problem in some states, as it is in Saudi Arabia. Thus in the case of Zimbabwe this aspect is clearly recognised, it being stated "*The use of torture **remains** endemic across Zimbabwe..."*[90] [emphasis added]. The section on torture in Saudi Arabia, on

[88] Page 4
[89] Page 119
[90] Page 351

the other hand, is muted and not contextualised: *"There were a number of cases of individuals alleging mistreatment at the hands of Saudi authorities."*[91] Regrettably, many torture related issues in Saudi Arabia are of serious and long-standing concern as emerges, for example, from the Committee Against Torture's July 2009 "List of issues" for that country.[92]

For several years REDRESS has had a specific interest in Saudi Arabia as there are a number of British citizens who have suffered torture there, including Ron Jones, Les Walker, Sandy Mitchell and Bill Sampson; we have intervened in their case pending before the European Court of Human Rights.[93] The failure of Saudi Arabia to acknowledge having tortured these (and other) UK nationals, or to offer reparations to survivors, or to bring the officials responsible to justice, illustrates how important it is for the FCO to continue to put pressure on Saudi Arabia to come to grips with this issue. REDRESS' founder, Keith Carmichael, who was tortured in Saudi Arabia in the early 1980s, has never been compensated.

I also note that Bahrain is not one of the states singled out. While the Report makes clear that the list is not exhaustive, the fact of its omission is unfortunate, given the history of torture there and the close links between Bahrain and the UK. Even before the current uprising which commenced earlier this year, torture was once more revealed as a serious problem in August 2010 when 24 persons were detained and then put on trial in October for political reasons, almost all of whom showed symptoms of torture, including a dual UK-Bahraini national Jaffar Al-Hasabi, another long-standing client of REDRESS.

These two states, only examples, do create the unfortunate impression that less vigorous criticism is made of torture when committed by our allies. Formulating British policy towards such states is not easy, and of course there are complex factors to be taken into account. But if we are to be consistent on our support for human rights and our opposition to torture, then we should not dilute the principle for pragmatic reasons. Egypt has demonstrated how the West failed to be sufficiently robust on values and rights, and tolerated policies and practices which it has taken the courage of the people of Egypt to bring us closer to ending them. Silence, defended by discrete diplomatic pressure to make clear British opposition to torture, fails to put us publicly on the right side of the argument and has demonstrably not produced improvements within the countries concerned. (Incidentally, Egypt is another state which is not specifically listed, although torture has been a serious problem there for decades).

Turning to some thematic aspects of the Report, the UK is rightly proud of the leading role it is playing in strengthening the Optional Protocol (OPCAT) to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). In this way the UK is making an important contribution to Torture Prevention:[94] here we are a good example to other states.

Nevertheless, more could be done, and were the UK to accept the individual petitions procedure under article 22 of UNCAT itself, this would send an important further message in the international campaign against torture. The UK should therefore be a good example here too, and by accepting the right of individual petition help to strengthen the Committee Against Torture as the institution created to develop international standards. Such a step could positively impact on domestic jurisprudence abroad and provide much needed acknowledgment of the harm suffered by individual complainants.

Deportations with Assurances[95] has arisen in the context of counter-terrorism when for evidential reasons it has been decided that terrorist suspects present or resident in the UK could not be brought to trial here. Dealing with threats to our national security is essential but difficult, and there are no easy solutions. However, enhancing the collection of admissible evidence for prosecutions in terrorist-suspect cases, for example through statutory changes relating to the use of intercept evidence and/or post-charge questioning, could be viable alternatives to "deportations with assurances." The Report does not deal with such arguments.

REDRESS believes that there are fundamental problems with deporting persons on the basis of assurances. Post-deportation monitoring is not an adequate safeguard where torture is known to be authorised, and raises the question whether detainees should be returned to such regimes at all. Another related aspect of concern is that the use of special advocates in closed deportation proceedings also increases the difficulties in challenging evidence that may have been obtained by torture.

The Report raises further counter-terrorism issues under the rubrics Detainee package/The Detainee Inquiry/ Consolidated guidance to security personnel.[96] My comments and concerns here can be summarised as follows:

— The Detainee (Gibson) Inquiry should explicitly include addressing systemic problems and achieving truth and justice for victims.

[91] Page 267
[92] Available at http://tb.ohchr.org/default.aspx?country=sa
[93] See http://www.redress.org/Jones%20v%20UK_%20Mitchell_and_Others_v_UK24%20February_2010.pdf
[94] Torture prevention is dealt with at pages 20–21 of the Report.
[95] Pages 49–50
[96] Pages 51–53

— Is the Inquiry sufficiently independent, open and transparent to comply with human rights standards and obligations to properly investigate allegations relating to torture? REDRESS and other NGOs which have sought to clarify some of these issues are still waiting for responses from the Inquiry's advisers.

— The time frame of one year to investigate and report may not be sufficient.

— The Inquiry's lack of statutory powers to compel the production of documents and the attendance of witnesses, and the less than transparent process of drawing up the protocol between the Government and the Inquiry, are worrying; so too is the lack of clarity on what will be heard in public and what will not be ie the processes to deal with challenges by interested parties for disclosure of documents and/or evidence led in secret.

— The requirement that UK security services must not proceed where they "know or believe" that torture will occur (table in paragraph 11 of the Guidance) is too narrow. It is not consistent with the UK's obligations under UNCAT to absolutely prohibit torture *and* not to be complicit in it; the Guidance should explicitly prohibit an officer from proceeding where there is a serious or real risk of torture.

— Where an officer knows or believes that torture will take place, he or she must report it but may, with authorisation, under the Guidelines continue to co-operate with the foreign agencies responsible under the apparent discretionary power given to Ministers (paragraph 14 of the Guidelines), which could lead to complicity in torture contrary to the UNCAT as already referred to above.

— The guidance also allow officers to rely on assurance that detainees will not be tortured (paragraph 17 of the Guidelines), but such assurances may not be reliable and cannot provide absolute protection from regimes which are known to authorise torture.

— There is concern that under s. 7 of the Intelligence Services Act 1994 the Home Secretary is empowered, by issuing authorisation warrants, to condone what would be unlawful if done in the UK when it is done abroad.

— The Green Paper will reportedly recommend that special advocates be used in *all* legal proceedings, including civil cases, where sensitive "national security" evidence is involved; our concern is that this will further restrict access to relevant facts and information in cases where torture is alleged, the disclosure of which could be crucial for survivors seeking to enforce their human rights in civil cases.

Another important section of the Report refers to Overseas Prisoners[97] as part of the FCOs central work of promoting and protecting the human rights of British national overseas. What is needed is an explicit policy to make clear to all states that the mistreatment of UK nationals in breach of international law will not be tolerated; such a policy should include vigorous follow-up on all such allegations even after the mistreatment ends and/or the victim is released and/or the person has returned to the UK, including the effective exercise of diplomatic protection.

Further, the UK's policy and practice of exercising diplomatic protection in torture cases should be explained and developed. Where UK nationals have been tortured abroad and have been unable to obtain reparation through local remedies, diplomatic protection should be more than a theoretical avenue for justice, and the FCO should provide annual relevant statistics about allegations of torture and ill-treatment abroad, the number of cases, action taken, and outcomes.

I would also like to raise some points regarding Afghanistan[98] and Iraq:[99]

— The UK continues to consider that the UNCAT does not apply extra-territorially; this is contradictory in both law and principle, at the very least to the extent which the UK's highest court found in *Al Skeini* that article 3 of the ECHR does have extra-territorial application to detainees held in custody by UK personnel anywhere abroad.

— Although UK detentions in Iraq ceased on 1 January 2009, issues arising from many alleged incidents in Iraq prior to that date have yet to be fully resolved; there are also issues still arising or pending from the *Al Skeini* case and other cases, and inquiries such as the Baha Mousa Public Inquiry.

— In Afghanistan the *refoulement* issues raised and decided in the *Evans* case concerning the transfer of detainees to the Afghan authorities should be mentioned, along with details of post-transfer visits and monitoring.

Finally, I wish to mention Lord Peter Archer's private member's Bill, the Torture (Damages) Bill passed in the Lords but not in the Commons. The Joint Committee on Human Rights in 2009 called on the previous Government to support it,[100] but it did not. The Bill was re-introduced in the Lords in November 2010 where it is awaiting its second reading.

[97] Pages 83–84

[98] Pages 120 et seq

[99] Pages 216 et seq

[100] See *Closing the Impunity Gap*, 11 August 2009, available at http://www.publications.parliament.uk/pa/jt200809/jtselect/jtrights/153/153.pdf

In declining to support the Bill, the previous Government said "it remains of the opinion that the Torture Damages Bill would not be of practical assistance ... and would not live up to its promise of providing victims of torture with redress and rehabilitation."[101] I disagree, and REDRESS believes the Coalition Government should re-assess how this Bill could be a very significant and legitimate weapon in the arsenal of those such as the UK committed to the fight against torture on all fronts.

Thank you once more for inviting me to comment.

20 June 2011

Printed in the United Kingdom by The Stationery Office Limited
07/2011 012345 19585

[101] *The Government's Response to the Joint Committee on Human Rights,* October 2009, at page 12, available at http://www.official-documents.gov.uk/document/cm77/7704/7704.pdf