



House of Commons
Foreign Affairs Committee

The FCO's human rights work in 2012

Fourth Report of Session 2013–14

Volume I: Report, together with formal minutes, oral and written evidence

Additional written evidence is contained in Volume II, available on the Committee website at www.parliament.uk/facom

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The Foreign Affairs Committee

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The current staff of the Committee are Kenneth Fox (Clerk), Peter McGrath (Second Clerk), Zoe Oliver-Watts (Senior Committee Specialist), Dr Brigid Fowler (Committee Specialist), Louise Glen (Senior Committee Assistant), Vanessa Hallinan (Committee Assistant), and Alex Paterson (Media Officer).

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Summary

The Foreign and Commonwealth Office continues to provide a valuable service in producing an annual report on human rights and democracy across the world and on its work to improve human rights standards. The Department is to be commended for its authoritative analysis of conditions in each of the so-called 'countries of concern', and we welcome the FCO's decision to define more clearly the criteria for designating such countries. However, we have some quibbles with the criteria. We question why the extent of the UK's engagement in a particular country and the impact of the human rights situation there on wider UK interests should be regarded as factors in evaluating human rights standards, and we recommend that those criteria should no longer apply.

Sri Lanka and the Colombo CHOGM

The Prime Minister and the Foreign Secretary announced in May that they would attend the Commonwealth Heads of Government Meeting in Sri Lanka in November 2013, despite persistent evidence of human rights abuses in the country. In 2009 the FCO objected to a proposal that Sri Lanka might host the 2011 CHOGM on human rights grounds but not a proposal that it might do so in 2013. Nor did it insist that Sri Lanka's right to host in 2013 should be conditional on improvements in human rights. That approach now appears timid. The UK could and should have taken a more principled stand in 2009, and should have taken a more robust stand after the 2011 CHOGM in the light of the continuing serious human rights abuses in Sri Lanka.

Burma

We are satisfied, on balance, that the decision to lift economic sanctions against Burma in April 2013 was the right one. Serious reservations remain in some areas, but the Burmese government is to be commended for what it has achieved in others, such as elections and freedom of speech. Nonetheless, in order to ensure that progress is sustained, the UK should be prepared to advocate re-imposition of economic sanctions on Burma if undertakings by the Burmese government to improve human rights standards in the country are not followed through. It should also urge opposition leaders in Burma, as well as Government figures, to be more forthright in condemning those responsible for the violence in Rakhine State in 2012.

Russia

The 2014 Winter Games in Sochi provide a platform for concerns about human rights in Russia to be voiced in a way which is difficult for the host country to brush aside, and we do not support suggestions that the Games should be boycotted.

The Detainee Inquiry

We encourage the Government to take whatever steps it can—including swift publication of as much as possible of Sir Peter Gibson's report on the Detainee Inquiry's preparatory work—to ensure that the process of inquiring into allegations of rendition or improper

treatment of detainees by the UK Government and its security and intelligence agencies does not come to a complete halt while criminal investigations are under way.

Deportation with assurances/Abu Qatada

We welcome the Government's decision to use a treaty base for assurances on the treatment of persons returned to Jordan, such as Abu Qatada. It may have been instrumental in securing Abu Qatada's return and, with hindsight, could perhaps have done so months or years ago had the Government chosen to follow this route sooner. We note with approval that the Government has not ruled out the use of treaties to underpin DWA arrangements with other countries.

Violence against women and girls

We join others in commending the Secretary of State for taking the lead in conceiving and promoting the Prevention of Sexual Violence in Conflict Initiative. Some have suggested that work on preventing violence is being overshadowed by work to address the culture of impunity: but we believe that addressing impunity is an essential part of prevention. There is a pressing need for concerted efforts at an international level to develop a recognition of degrading crimes of sexual violence for what they are and to bring to justice those responsible. Giving this aspect of the Initiative particular prominence is a strength rather than a failing.

Many assurances have been given by the FCO over the years about its support for women's and girls' rights in Afghanistan, but legislation outlawing violence against women is not being implemented. We are not as optimistic as is the Minister that progress will be made in Afghanistan once ISAF troops have withdrawn: if anything, we believe that a reversal is more likely. The emphasis for the FCO should now be on ensuring that gains made so far are not lost.

Freedom of expression in broadcast media: jamming and blocking

Effective solutions to the problem of jamming of radio and television broadcasts lie principally with satellite providers, which have a commercial interest in ensuring that the services which their satellites carry reach their audience unimpeded. We encourage all providers, not just those suffering jamming, to recognise the value of investing in technology which protects broadcast signals from interference. Given that national interests are involved, we see a role for the Government in encouraging a concerted approach by satellite providers.

The BBC World Service makes a huge contribution to the projection of the UK, its values and strengths, across the world. It would be astonishing if that work were to be diminished purely because the BBC lacked the resources to protect its broadcasts from interference by states where tolerance and freedom of expression are not entrenched. We urge the BBC, as the future funder of the BBC World Service, to recognise in future funding plans the need to provide the resources necessary to afford that protection.

Freedom of expression and export of technology and software

The FCO should not simply allow UK commercial interests to proceed without restraint in developing and exporting equipment which, although not subject to export controls under the EU Dual Use Regulation, could nonetheless limit or punish freedom of expression on the internet. The FCO and the Department for Business, Innovation and Skills should be ready to intervene by controlling exports if there is obvious potential for abuse by end-users. The FCO should indicate what mechanism the Government has in place to maintain its awareness of product development in this field and exports of such products.

Conclusions and recommendations

Countries of concern

1. We welcome the FCO's decision to define more clearly the criteria for designating 'countries of concern', although we question why the extent of the UK's engagement in a particular country or the impact of the human rights situation there on wider UK interests should be regarded as factors in evaluating human rights standards. We recommend that these criteria no longer apply. (Paragraph 11)

The 2013 CHOGM in Colombo

2. We recommend that the Prime Minister should obtain assurances from the Sri Lankan Government that people who approach him to talk about human rights while he is in Sri Lanka to attend the CHOGM do not face reprisals or harassment by security forces. (Paragraph 16)
3. On the information available to us, the policy followed by the FCO during discussions at the 2009 Commonwealth Heads of Government meeting in Port of Spain on venues for future Commonwealth Heads of Government Meetings seems to have been inconsistent. The FCO objected to a proposal that Sri Lanka might host the 2011 CHOGM on human rights grounds but did not obstruct a proposal that it might do so in 2013; nor did it insist that Sri Lanka's right to host in 2013 should be conditional on improvements in human rights. That approach now appears timid. The UK could and should have taken a more principled stand in 2009, and should have taken a more robust stand after the 2011 CHOGM in the light of the continuing serious human rights abuses in Sri Lanka. (Paragraph 20)

Sri Lanka

4. We recommend that the FCO, in its response to this report, state whether it still holds the view that there is no substantiated evidence of torture or maltreatment of people who have been returned by UK immigration authorities to Sri Lanka. (Paragraph 23)
5. It is a matter of concern to us that the UK Border Agency's assessment of risk to Sri Lankans on being returned from the UK to Sri Lanka, which will have been partly based upon information provided by FCO staff in Sri Lanka, was found by the courts to be flawed and in need of revision. The FCO should examine whether it could have enabled the UK Border Agency itself, rather than the courts, to have reached the conclusion that a change to the guidance on risk was required. We also observe that the FCO's Strategy on the Prevention of Torture makes no mention of the UK's obligations under Article 3 of the UN Convention Against Torture and how the FCO should play its part in ensuring that these are met. We recommend that the FCO amend its Torture Prevention Strategy accordingly. (Paragraph 26)

Burma

6. We recommend that the FCO should press the Burmese Government for a clear statement on what influence the committee set up to review the cases of political prisoners in detention will have on decisions on who qualifies as a 'political prisoner'; what procedure, if any, there will be for challenging any decision not to release a particular detainee on the grounds that he or she is not a political prisoner; and whether releases will be unconditional. (Paragraph 29)
7. Shocking acts of violence against the Rohingya minority have taken place in Rakhine State. The report of the Rakhine Investigation Commission is only a preliminary step towards bringing to justice those responsible for serious human rights abuses. The FCO is right to encourage a national process for investigation and prosecution of crimes in Rakhine State, but it should signal that it does not rule out support for an internationally-led process if the Burmese Government fails to show a serious intention to act. We recommend that the FCO should urge opposition leaders in Burma, as well as Government figures, to be more forthright in condemning those responsible for the violence in Rakhine State in 2012. (Paragraph 34)
8. We are satisfied, on balance, that the decision to lift economic sanctions against Burma in April 2013 was the right one. Serious reservations remain about the continued incarceration of political prisoners and the failure, so far, to bring to justice those responsible for intercommunal violence; but the rate of progress in many areas, such as elections and freedom of speech, has been remarkable, and the Burmese government is to be commended for what it has achieved. In order to ensure that progress is sustained, the UK should be prepared to advocate re-imposition of economic sanctions on Burma if undertakings by the Burmese government to improve human rights standards in the country are not followed through. (Paragraph 36)

Russia

9. The 2014 Winter Games in Sochi provide a platform for concerns about human rights in Russia to be voiced in a way which is difficult for the host country to brush aside, and we do not support a boycott. (Paragraph 42)
10. The proposed visa facilitation agreement for Russian nationals to enter the Schengen Area offers a rare opportunity for those EU Member States which are in Schengen to apply collective pressure on Russia. While we recognise that the UK has its own visa arrangements and, because it is not in Schengen, is not in a position to block a decision by Schengen Area countries, we encourage the FCO to put the case forcefully to fellow EU Member States to either delay assent to the proposed visa facilitation agreement or make it conditional upon evidence of an improvement in human rights conditions in Russia. (Paragraph 44)

Human rights and counter-terrorism

11. We agree with the principles outlined by the Foreign Secretary in his speech to the Royal United Services Institute in February 2013, on the approach to counter-terrorism and respect for human rights, although we acknowledge the scepticism in some quarters about whether they will lead to meaningful change. We believe that the significance of the accountability to Parliament and to the wider public which flows from ministerial oversight and approval for work of this nature should not be underestimated. (Paragraph 50)

The Detainee Inquiry

12. We encourage the Government to take whatever steps it can—including swift publication of as much as possible of Sir Peter Gibson's report on the Detainee Inquiry's preparatory work—to ensure that the process of inquiring into allegations of rendition or improper treatment of detainees by the UK Government and its security and intelligence agencies does not come to a complete halt while criminal investigations are under way. (Paragraph 52)
13. We are disappointed that no attempts appear to have been made to initiate discussions between the Government and human rights bodies as to how the successor inquiry to the Detainee Inquiry might proceed. We believe that it is incumbent on both sides—not just the Government—to take steps to work towards a resolution. (Paragraph 55)

Deportation with assurances

14. We commend the FCO for providing information to us on monitoring arrangements for people held in detention having been returned by the UK under DWA arrangements. We request that the FCO report every twelve months to this Committee on the effectiveness of monitoring arrangements and on whether any allegations of abuse have been reported. Given the uncertainty over the independence of the Ethiopian Human Rights Commission, we recommend that, in the absence of any acceptable alternative, the UK should negotiate with the Ethiopian Government to secure a right of access by British Embassy officials to people detained in Ethiopia following deportation from the UK with assurances, to complement the monitoring by the Ethiopian Human Rights Commission. We seek assurances that Embassy staff already monitoring treatment of detainees in Algeria receive suitable training, such as that offered by the International Committee of the Red Cross to its staff carrying out similar work. (Paragraph 60)

The return of Abu Qatada

15. We welcome the Government's decision to use a treaty base for assurances on the treatment of persons returned to Jordan, such as Abu Qatada. It may have been instrumental in securing Abu Qatada's return and, with hindsight, could perhaps have done so months or years ago had the Government chosen to follow this route sooner. We note with approval that the Government has not ruled out the use of treaties to underpin DWA arrangements with other countries. (Paragraph 65)

16. We ask the FCO to provide us with an update on the progress of the review of DWA policy by David Anderson QC, the Independent Reviewer of Terrorism Legislation. (Paragraph 66)

The Prevention of Sexual Violence against Women in Conflict Initiative

17. We join others in commending the Secretary of State for taking the lead in conceiving and promoting the Prevention of Sexual Violence in Conflict Initiative. (Paragraph 70)
18. We believe that addressing impunity is an essential part of prevention. There is a pressing need for concerted efforts at an international level to develop a recognition of degrading crimes of sexual violence for what they are and to bring to justice those responsible. We believe that to give this aspect of the Initiative particular prominence is a strength rather than a failing. (Paragraph 75)
19. We strongly welcome the formation of the Team of UK Experts and support its work in helping to build national capacity in investigating allegations of sexual violence, gathering evidence and supporting those who have suffered. Demands upon the Team's expertise may in time grow beyond its current capacity, and we recommend that the Government should encourage other countries to contribute skilled personnel and funding to support the Team's work. (Paragraph 78)

Legislation outlawing violence against women

20. The act of passing legislation outlawing violence against women is not a 'big step forward'—as has been claimed—if the legislation is not implemented. The FCO's pragmatic approach towards securing better implementation of the law in Afghanistan and elsewhere is understandable, but we are not as optimistic as is the Minister that progress will be made in Afghanistan once ISAF troops have withdrawn: if anything, we believe that a reversal is more likely. Many assurances have been given by the FCO over the years about its support for women's and girls' rights in Afghanistan: the emphasis should now be on ensuring that gains made so far are not reversed. The FCO, in its response to this Report, should explain how it plans to achieve this. (Paragraph 83)

Children's human rights

21. We continue to believe that the FCO should do more to gain the confidence of children's rights groups in its human rights work. As a relatively simple step, we recommend that the Foreign Secretary appoint a child rights expert to his Advisory Group on Human Rights: this would provide reassurance to children's rights groups that the FCO is alert to the particular demands of supporting children's human rights worldwide. (Paragraph 86)

Freedom of expression in broadcast media

22. It is clear to us that the existing structure for international telecommunications regulation is poorly suited to dealing with more political disputes concerning media freedom. (Paragraph 96)
23. Effective solutions to the problem of jamming of radio and television broadcasts lie principally with satellite providers, which have a commercial interest in ensuring that the services which their satellites carry reach their audience unimpeded. We encourage all providers, not just those suffering jamming, to recognise the value of investing in technology which protects broadcast signals from interference. Given that national interests are involved, we see a role for the Government in encouraging a concerted approach by satellite providers. (Paragraph 98)
24. At a time when delivery of broadcast services is moving inexorably from old platforms to new ones, from short-wave radio services to television and to new media, the BBC needs to think sooner rather than later about what scale of investment will be needed in order to preserve open access to its internet-based services for international audiences. In the short term, while the technologies are relatively experimental and unproven, a collaborative approach with other broadcasters would seem to be the most economically viable option. (Paragraph 101)
25. The right of access to information, across borders, is fundamental. As we have pointed out on numerous occasions, the BBC World Service makes a huge contribution to the projection of the UK, its values and strengths, across the world. It would be astonishing if that work were to be diminished purely because the BBC lacked the resources to protect its broadcasts from interference by states where tolerance and freedom of expression are not entrenched. We urge the BBC, as the future funder of the BBC World Service, to recognise in future funding plans the need to provide the resources necessary to afford that protection. (Paragraph 102)

Business and human rights

26. We welcome the publication by the Government of an action plan on business and human rights and commend it for enabling the UK to be the first country to set out guidance to companies on integrating human rights into their operations. (Paragraph 106)

Export controls

27. The FCO should not simply sit back and allow UK commercial interests to proceed without restraint in developing and exporting equipment and software which, although not subject to export controls under the EU Dual Use Regulation, could nonetheless limit or punish freedom of expression on the internet. Drawing up guidance on the issue for businesses is a welcome step; but the FCO, together with the Department for Business, Innovation and Skills, should also be following closely the development of such equipment and should be ready to intervene by controlling exports if there is obvious potential for abuse by end-users. We recommend that the FCO, in its response to this Report, should indicate what mechanism the

Government has in place to maintain its awareness of product development in this field and exports of such products. (Paragraph 111)

1 Introduction

1. Safeguarding democracy and human rights is a thread which runs through every aspect of this country's external relations, whether political, humanitarian, commercial or security-based. The Foreign and Commonwealth Office (FCO) rightly treats it as one of the most important aspects of its work. We, in turn, devote part of our scrutiny each year to an assessment of the FCO's human rights work, as summarised in its annual Human Rights and Democracy Report. This committee is also one of the four which meet concurrently as the Committees on Arms Export Controls, which consider the Government's arms exports and arms control policies and their implications for external trade and human rights overseas.

2. The FCO published its 2012 Human Rights and Democracy Report¹ on 15 April 2013, and we announced our inquiry and terms of reference on 17 April. We invited submissions on any aspect of the UK's human rights work for which the FCO held responsibility, although we sought comment on three areas of particular interest:

- The FCO's efforts to strengthen the ability of states to counter terrorism whilst working to protect human rights in those states, as described by the Secretary of State in his speech on 14 February 2013 on Countering Terrorism Overseas;
- The 11 April declaration by G8 Foreign Ministers on the prevention of sexual violence in conflict, and the impact of the FCO's Preventing Sexual Violence Initiative, launched in May 2012; and
- Threats to freedom of expression through the media, including the jamming of broadcasts and the growing trend of imposing controls on access to the internet.

3. We held oral evidence sessions with Amnesty International and Human Rights Watch, as two non-governmental organisations whose activities range throughout the world and across every aspect of human rights; with BBC Global Services, in order to explore some of the more technical issues relating to freedom in broadcasting; and with the Rt Hon Baroness Warsi, Senior Minister of State at the Foreign and Commonwealth Office. We also received a number of written submissions. Given the enormous scope of the field and the limited time available to us, we have not been able to take up all of the issues raised, but that should not be taken to mean that we do not think them worthy of attention. We are grateful to all those who have contributed.

4. Our Report deals principally with the three areas of particular interest identified above, although we start with a chapter on 'countries of concern', singling out three countries—Sri Lanka, Burma and Russia—for closer examination. We expect to comment on the UK's human rights work in Saudi Arabia and Bahrain in a separate report, on the UK's relations with Saudi Arabia and Bahrain, likely to be published later this year. The final chapter of this Report deals briefly with business and human rights, and the export of equipment which could limit or punish freedom of expression on the internet.

2 Countries of concern

5. The FCO's 2012 Human Rights and Democracy Report follows a similar pattern to that of recent years: commentary on thematic issues, followed by portraits of human rights conditions in certain countries where standards of human rights are of particular concern to the FCO ('countries of concern'), together with an account of the FCO's human rights work in those countries. In this latest Report, the number of 'countries of concern' has decreased by one, from 28 to 27 (listed below in Table 1): Chad has been omitted.

Table 1: 'Countries of concern'

Afghanistan
Belarus
Burma
China
Colombia
Cuba
Democratic People's Republic of Korea (DPRK)
Democratic Republic of the Congo (DRC)
Eritrea
Fiji
Iran
Iraq
Israel and the Occupied Palestinian Territories
Libya
Pakistan
Russia
Saudi Arabia
Somalia
South Sudan
Sri Lanka
Sudan
Syria
Turkmenistan
Uzbekistan
Vietnam
Yemen
Zimbabwe

Source: FCO Human Rights and Democracy Report 2012

Criteria for countries of concern

6. In the past, the FCO has given an indication in only the most general terms of the criteria used to decide which countries were to be designated as 'countries of concern'. In its response to our Eighth Report of Session 2011-12, on the FCO's human rights work in 2011, it said that the selection was based on "a range of internal and external human rights reporting, and after consultation with the FCO's ambassadors and high commissioners"; and it argued that it was "difficult to set out the criteria for selection in much greater detail ... because of the sensitive nature of much of the material used in the assessment process".²

7. Whereas the denial of rights in certain countries is manifest and so severe that there is widespread agreement that the FCO is right to designate them as 'countries of concern', there are a number of countries where the FCO has shown a reluctance to take this step despite calls for it to do so. Human Rights Watch identified Ethiopia, Rwanda, Bahrain and Egypt as four countries which were not on the list but which it believed should be, and it explained why in its written memorandum to us.³ These four countries have each been included by the FCO in the 2012 Report as "case studies": countries which the FCO judges to be "on a trajectory of change with regard to human rights". Most such case studies relate to countries where the FCO views the trajectory as being "negative".⁴ For instance, the text of the case study on The Gambia, which announced on 3 October that it would leave the Commonwealth, is pessimistic: it refers to the resumption of executions in the country, the President's zero tolerance of homosexuality, harassment of the media and unlawful detentions, and it concludes that the country consistently disregards its international human rights obligations and that there is little sign of improvement.⁵

8. We expressed concern last year that the process of identifying "countries of concern" becomes devalued if political and strategic factors are allowed to colour decisions, as we believed had happened in relation to Bahrain (which had, as in this year's report, been treated as a 'case study' rather than a 'country of concern'). We recommended that the criteria for designating countries of concern "should be based purely upon assessments of human rights standards and should stand up to objective comparison", adding that "external factors, such as strategic considerations or the UK's ability to influence developments, should not be allowed to colour those decisions".⁶

9. Despite its warnings in previous years about the difficulty of setting out criteria in detail, the FCO has in fact done just that in the 2012 Human Rights and Democracy Report, on page 120. It says that it drew on feedback from the Committee and from the Secretary of State's Advisory Group⁷ in doing so. The new criteria are:

- The gravity of the human rights situation in the country, including both the severity of particular abuses and the range of human rights affected
- Whether a deterioration or improvement in the human rights situation in the country would have a wider impact in the region
- Whether the human rights situation in the country has an impact on wider UK interests; and
- How active the UK is in the country and our level of engagement there.

Assessments are carried out based on the first criterion and refined further using the other three.

3 Ev 45-6

4 Cm 8593, page 120

5 Cm 8593, page 45

6 Third Report from the Committee, Session 2012-13, HC116, paragraphs 43 and 46

7 The Foreign Secretary's Advisory Group on Human Rights was established in 2010 to give the Foreign Secretary "the best possible information about human rights challenges" and to enable the Foreign Office "to benefit from outside advice on the conduct of its policy". See FCO press release 11 November 2010.

10. We asked the Rt Hon. Baroness Warsi, as Senior Minister of State at the FCO and the minister with responsibility for FCO policy on human rights, why the level of UK engagement in a country should play a part in any assessment of human rights standards there. She replied that

Our human rights work is not just about the things that we are concerned about; it is also about the things about which we can do something. Human rights in individual countries is also about that individual country's journey in how they view human rights and what they intend to do about it and how they even recognise whether certain things are classified as human rights.⁸

11. We agree that the FCO's human rights effort and expenditure should be at least partly linked to its capacity to bring about change; but we do not accept the logic of a situation in which abuses might be equally severe in two countries, yet one is designated as a country of concern because the UK is active there, whereas the other is not, because the level of engagement by the UK and its ability to bring about change are low. Nor do we accept that the impact on wider UK interests is material to such decisions. *We welcome the FCO's decision to define more clearly the criteria for designating 'countries of concern', although we question why the extent of the UK's engagement in a particular country or the impact of the human rights situation there on wider UK interests should be regarded as factors in evaluating human rights standards. We recommend that these criteria no longer apply.*

12. There was not time within our inquiry to assess the FCO's human rights policy in all 27 'countries of concern', although the Department is to be commended for its authoritative analysis of conditions in each one. The remainder of this chapter is devoted to the UK's approach to improving human rights in just three countries of concern—Sri Lanka, Burma and Russia—where concerns about human rights standards have been central to recent major UK policy decisions.

Sri Lanka

13. The Government is clear that it has serious reservations about the state of human rights in Sri Lanka. In the 2012 Human Rights and Democracy Report, the FCO lists as its concerns:

- Restrictions on freedom of expression and opinion
- Attacks on, and intimidation of, journalists, legal professionals, human rights defenders and others
- Lack of progress on post-conflict reconciliation and the absence of an independent, thorough and credible investigation into allegations of violations of international humanitarian and human rights law by both sides during the military conflict
- Sri Lanka's decision to reject a large number of recommendations at the UN Human Rights Council during its Universal Periodic Review in November 2012.⁹

8 Q 95

9 See Cm 8593, page 221; also HL Deb 3 June 2013, cols WA 145-6

A number of these concerns were echoed in written submissions to our inquiry from Redress¹⁰ and Amnesty International.¹¹

The 2013 CHOGM in Colombo

14. The Government has come under pressure to show its disapproval of the more repressive actions of the Sri Lankan government by declining to attend the Commonwealth Heads of Government Meeting to be held in Colombo in November 2013. The Canadian Prime Minister, Stephen Harper, announced in September 2011 that he would not attend the Colombo CHOGM unless he saw evidence of progress in human rights conditions in Sri Lanka.¹² We recommended in our report on the Role and Future of the Commonwealth, published in November 2012, that the Prime Minister “should publicly state his unwillingness to attend [CHOGM] unless he receives convincing and independently-verified evidence of substantial and sustainable improvements in human and political rights in Sri Lanka”.¹³

15. There is scant evidence of progress in political and human rights in Sri Lanka. Amnesty International told us in May that “we continue to witness a deterioration of human rights in Sri Lanka, including attacks on the judiciary and broader civil society”.¹⁴ On 31 August, the UN High Commissioner for Human Rights, Navi Pillay, issued a statement following a seven-day mission to Sri Lanka, listing serious concerns about the treatment of human rights defenders and the curtailment or denial of personal freedoms, all of which suggested that the country was “heading in an increasingly authoritarian direction”. She also reported that Sri Lankans who had spoken to her during the visit had been harassed and intimidated by security forces.¹⁵ The FCO’s 2012 Human Rights and Democracy Report (published in April 2013) spoke of “a number of negative developments” in the country, where the human rights situation was already “of serious concern”.¹⁶ Nonetheless, the Foreign Secretary wrote to the Committee Chair on 3 May to say that he and the Prime Minister would attend the Commonwealth Heads of Government Meeting in Colombo in November. He said that “we will do so because of the importance of the Commonwealth to the United Kingdom and to other members” and he stressed that the UK would use the occasion “to highlight the need for effective commitment to the shared values and human rights for which the Commonwealth stands”.¹⁷

16. We asked witnesses from Amnesty International and Human Rights Watch for their views on the Government’s decision to attend. Kate Allen, Director of Amnesty International (UK), said that “we very much regret that decision”,¹⁸ and David Mepham,

10 Ev w8

11 Ev 41-2

12 http://www.bbc.co.uk/sinhala/news/story/2011/09/110912_canada_commonwealth.shtml

13 Fourth Report from the Foreign Affairs Committee, Session 2012-13, HC 114, paragraph 32

14 Ev 42

15 <http://un.lk/news/opening-remarks-by-un-high-commissioner-for-human-rights-navi-pillay/#.UiGducYM6Q.twitter>

16 Cm 8593, page 221

17 <http://www.parliament.uk/documents/commons-committees/foreign-affairs/130503%20SoS%20on%20CHOGM.pdf>

18 Q 37

UK Director of Human Rights Watch, regretted that the Government had decided to attend at prime ministerial level.¹⁹ However, neither argued specifically in favour of a boycott: given that the decision had been taken to hold the CHOGM in Colombo, Ms Allen argued that “we need to be using all mechanisms between now and that meeting to put pressure on the Sri Lankan Government in terms of its human rights record”, and she recommended that the Foreign Secretary and the Prime Minister should meet representatives of NGOs and civil society in Sri Lanka and travel to the north of the country.²⁰ Mr Mepham expressed similar views.²¹ We note that the Prime Minister remains committed to attending the CHOGM. However, *we recommend that the Prime Minister should obtain assurances from the Sri Lankan Government that people who approach him to talk about human rights while he is in Sri Lanka to attend the CHOGM do not face reprisals or harassment by security forces.*

17. Whatever the rights and wrongs of the Government's decision, we do not believe that continuing discussion on whether or not the Prime Minister and Foreign Secretary should attend the 2013 CHOGM in Colombo would necessarily be productive. Nor do we believe that the question of the venue should be reopened at this late stage: as the Foreign Secretary said in his letter of 3 May to the Committee Chair, “there has been no widespread support for a change in location of CHOGM, and there is concern that the Commonwealth itself ... should not be damaged, weakened or undermined by divisions over the location of the Heads of Government meeting”.²²

18. What concerns us now is how the Government has come to find itself in this position, and whether the FCO played its hand poorly, both in the discussions which led to the decision that Sri Lanka would be the hosts in 2013 and subsequently. We therefore wrote to the Foreign Secretary in May 2013, asking specific questions about those discussions and the FCO's policy at the time. He replied on 30 May, observing that:

- The Commonwealth Secretariat was responsible for identifying the venue for each CHOGM, and it was for Commonwealth Heads of Government to agree to either support or oppose the proposals;
- The UK had made it clear to the Commonwealth Secretary-General both prior to and during the 2009 CHOGM in Port of Spain that the UK would be unable to support Sri Lanka's bid to host the 2011 CHOGM; and
- The decision to hold CHOGM in Sri Lanka in 2013 had been taken at the Port of Spain CHOGM in 2009, as part of a package which allocated the 2011 CHOGM to Australia and the 2015 CHOGM to Mauritius. It was not conditional on specified improvements in the standards of human rights in Sri Lanka.²³

19 Q 40

20 Q 38

21 Q 40

22 <http://www.parliament.uk/documents/commons-committees/foreign-affairs/130503%20SoS%20on%20CHOGM.pdf>

23 See Ev 61

From this letter, it became evident that the FCO had objected to Sri Lanka's offer to host the 2011 CHOGM, which was subsequently offered to Australia, but not its offer to host the 2013 CHOGM.

19. The Foreign Secretary also stated, in his letter of 30 May, that "the Commonwealth is a consensus-based organisation". We therefore asked Baroness Warsi, as Senior Minister of State at the FCO, why the UK had not objected in 2009 to the decision that Sri Lanka would host the 2013 CHOGM. She replied that "my understanding is that we did raise those concerns, but the appetite at the Commonwealth meeting was not such that it would prevent Sri Lanka from holding the Heads of Government meeting". When we pointed out that decisions in Commonwealth meetings were taken by consensus, she replied that "yes they are, but not unanimously". Pressed further, she explained that "you can have consensus without everyone around the table having completely agreed to the situation".²⁴

20. On the information available to us, the policy followed by the FCO during discussions at the 2009 Commonwealth Heads of Government meeting in Port of Spain on venues for future Commonwealth Heads of Government Meetings seems to have been inconsistent. The FCO objected to a proposal that Sri Lanka might host the 2011 CHOGM on human rights grounds but did not obstruct a proposal that it might do so in 2013; nor did it insist that Sri Lanka's right to host in 2013 should be conditional on improvements in human rights. That approach now appears timid. The UK could and should have taken a more principled stand in 2009, and should have taken a more robust stand after the 2011 CHOGM in the light of the continuing serious human rights abuses in Sri Lanka.

Allegations of torture of Sri Lankans removed from the UK

21. Our report last year on the FCO's human rights work considered allegations of torture within Sri Lanka, specifically of Sri Lankan Tamils who had been returned from the UK following an unsuccessful application for asylum. Under Article 3 of the UN Convention Against Torture, signed by the UK in 1985, no state party "shall expel, return ("refouler") or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture". If this had indeed been the case in relation to people returned by the UK to Sri Lanka, there would be grounds for arguing that the UK had acted in breach of its obligations under the UN Convention Against Torture.²⁵

22. Last year the Government acknowledged to us that maltreatment and torture happen in Sri Lanka,²⁶ and this year's Human Rights and Democracy Report notes that reports of torture in the country continue.²⁷ The Government has until recently maintained that it had no substantiated evidence that people returned by the UK immigration authorities to

24 Q 132-4

25 See Ev w55

26 Third Report from the Committee, Session 2012-13, HC 116, Q123 of oral evidence; see also Sri Lanka Country Policy Bulletin published by the UK Border Agency October 2012, para 13.1

27 Cm 8593, page 225

Sri Lanka had been maltreated.²⁸ In a recent Country Policy Bulletin on Sri Lanka, the UK Border Agency analysed allegations by a number of non-government organisations of specific instances of torture, and it dismissed them for a variety of reasons, concluding that no change in policy was warranted. It reiterated that each case was considered on its merits and that it did not believe that Tamils in general were at risk on return to Sri Lanka.²⁹ This view has been supported in a recent determination by the Upper Tribunal (Immigration and Asylum Chamber).³⁰ We note from a response by the UK Border Agency in February 2013 to a Freedom of Information request by Freedom from Torture³¹ that 15 Sri Lankan nationals were granted refugee status in the UK between May 2009 and September 2012 having been removed from the UK on a previous occasion.³² While this indicates clearly that the Sri Lankans concerned were deemed to be at risk if returned a second time to Sri Lanka, it does not prove conclusively that they would have been at risk when first returned (possibly several years previously), or that they had suffered torture in the intervening period.

23. Unlike the 2011 Human Rights and Democracy report, the 2012 Report does not mention allegations of torture of migrants returned to Sri Lanka from the UK, and it does not re-iterate the Government's view that there is no substantiated evidence of torture of such people. David Mepham, UK Director of Human Rights Watch, told us that he believed that this was significant and that it showed that the Government "cannot stand by" its view and had now recognised that the evidence put forward by Human Rights watch and others was "credible".³³ When we asked Baroness Warsi whether it was still the Government's position that there were no substantiated allegations, she declined to give a direct answer.³⁴ We find it unsatisfactory that the Government should now be silent on a matter of such significance. ***We recommend that the FCO, in its response to this report, state whether it still holds the view that there is no substantiated evidence of torture or maltreatment of people who have been returned by UK immigration authorities to Sri Lanka.***

Assessment of risk

24. Scrutiny of individual asylum decisions by the UK Border Agency, and of asylum policy, is not a matter for this Committee. Our locus is the role of the FCO which, alongside non-governmental organisations, the UN High Commission for Refugees and news media, provides the Country of Origin Information Service (part of the UK Border Agency until the UKBA's absorption into the Home Office earlier this year) with information on potential risk to people returned from the UK. That information is collated

28 For instance FCO 2011 Human Rights and Democracy Report, Cm 8339, page 329. Freedom from Torture chronicled recent statements to this effect by the Government: see Ev w61

29 Sri Lanka Country Policy Bulletin published by the UK Border Agency October 2012, para 13.1

30 Ev 61

31 A UK-based human rights organisation dedicated to the care and treatment of survivors of torture and organised violence

32 See <http://www.freedomfromtorture.org/sites/default/files/documents/FOI%20Response.pdf>: figure rounded to the nearest 5

33 Q 30

34 Q 123-8

and used to guide case officers considering asylum claims. The FCO told us last year that it was “rigorous in its evaluation of sources when offering advice on the human rights risks to the UK Border Agency”.³⁵

25. During the course of our inquiry, the Upper Tribunal (Asylum and Immigration Chamber) issued a long-awaited determination on three appeals by Sri Lankans, one against refusal of leave to enter the UK and two against decisions to remove to Sri Lanka.³⁶ The Tribunal found in favour of two out of the three appeals, and it also concluded that there had been a significant change in the Sri Lankan Government’s approach, which now possessed “sophisticated, extensive intelligence as to those who are seeking to destabilise the unitary state, within the diaspora and in Sri Lanka itself”. The Tribunal found that this had implications for risk to those returned from the UK, and it drew up new guidance on “at risk” categories for return to Sri Lanka. The determination itself replaces all previous Sri Lanka country case law in the UK, and the Home Office has now published a revised Operational Guidance Note, in line with the Tribunal’s determination.³⁷

26. It is a matter of concern to us that the UK Border Agency’s assessment of risk to Sri Lankans on being returned from the UK to Sri Lanka, which will have been partly based upon information provided by FCO staff in Sri Lanka, was found by the courts to be flawed and in need of revision. The FCO should examine whether it could have enabled the UK Border Agency itself, rather than the courts, to have reached the conclusion that a change to the guidance on risk was required. We also observe that the FCO’s Strategy on the Prevention of Torture makes no mention of the UK’s obligations under Article 3 of the UN Convention Against Torture and how the FCO should play its part in ensuring that these are met. We recommend that the FCO amend its Torture Prevention Strategy accordingly.

Burma

27. Since we last reported on the FCO’s human rights work, EU Foreign Ministers have agreed to lift the economic sanctions which had been imposed on Burma for many years, while retaining in place the arms embargo. The EU Foreign Affairs Council cited in support of its decision “the remarkable process of reform in Burma”, and it welcomed “the developments towards democracy, a strong parliament, freedom of expression, and the government’s efforts against corruption, as well as the efforts towards the release of remaining political prisoners”.³⁸ EU Foreign Ministers have since drawn up a Comprehensive Framework document setting out the EU’s policy on encouraging and supporting reform in Burma over the next three years.³⁹

28. The lifting of economic sanctions has not commanded universal support. David Mepham, writing in *The Guardian* on 23 April, argued that the UK and others had been

35 Cm 8506, response to recommendation 17

36 *GJ and Others* (post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC): see <http://www.refworld.org/pdfid/51da951c4.pdf>

37 Ev 61

38 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/136921.pdf

39 <http://register.consilium.europa.eu/pdf/en/13/st12/st12629.en13.pdf>

“too eager to laud the reforming achievements of the Burmese president and too quick to surrender their leverage”;⁴⁰ and in evidence to us, he suggested that the move had been “premature” and that it would have been better to wait for more progress in certain areas, such as the release of political prisoners.⁴¹ We consider whether or not the decision to lift economic sanctions was correct in paragraphs 35 and 36; but there is little dispute that progress towards free elections and freedom of speech in Burma has been truly remarkable.

Political prisoners

29. Many political prisoners have already been released. One estimate, by the Assistance Association for Political Prisoners Burma,⁴² suggests that 859 political prisoners have been released over the last two years under nine separate amnesties and that around 160 remain in detention.⁴³ President Thein Sein announced on 7 February 2013 that a committee would be set up to review the cases of those political prisoners still in detention.⁴⁴ Baroness Warsi told us that the committee had held its first meeting on 23 February, and she was encouraged to see that there was “a strong range of independent voices” represented on it.⁴⁵ During his visit to the UK in mid-July this year, President Thein Sein announced that all detainees found to be political prisoners would be released by the end of this year.⁴⁶ This is a welcome statement, although much will depend on the Burmese government’s interpretation of the term “political prisoner” and whether the releases will be unconditional. The mandate of the review committee is not entirely clear, and we note the statement by Tomas Quintana, the UN Special Rapporteur on the human rights situation in Myanmar, that the committee “is not working quite properly”.⁴⁷ ***We recommend that the FCO should press the Burmese Government for a clear statement on what influence the committee set up to review the cases of political prisoners in detention will have on decisions on who qualifies as a ‘political prisoner’; what procedure, if any, there will be for challenging any decision not to release a particular detainee on the grounds that he or she is not a political prisoner; and whether releases will be unconditional.***

The Rohingya minority

30. Inter-communal violence between members of the Buddhist and Rohingya Muslim communities in Rakhine State flared in June and October last year, leading to over 100 deaths and large-scale internal displacement.⁴⁸ Human Rights Watch described what had happened as ‘ethnic cleansing’ of Muslim Rohingya and accused Burmese officials, community leaders, and Buddhist monks of organising and encouraging ethnic Arakanese

40 <http://www.theguardian.com/commentisfree/2013/apr/23/burma-eu-too-quick-lift-sanctions>

41 Q 46

42 A human rights organisation based in Thailand working for the release of political prisoners in Burma and the improvement of prison conditions in the country

43 Ev 60

44 Lords Hansard 25 February 2013 col WA 199

45 Ev 60

46 Ev 60

47 <http://www.dvb.no/dvb-video/quintana-talks-to-dvb/31812>

48 Cm 8593, page 133

to conduct co-ordinated attacks on Muslim neighbourhoods and villages, terrorising the population and forcing tens of thousands of people to relocate. The evidence for the report was based upon visits to attacked settlements as well as official and unofficial camps for displaced persons; and Human Rights Watch interviewed Rohingya and non-Rohingya Muslims and Arakanese who had suffered or witnessed abuses, and organisers and perpetrators of the violence.⁴⁹ The Government agreed that Human Rights Watch's report contained "a number of disturbing and specific allegations, which we believe are backed up by comprehensive evidence". It described the report as "extremely credible",⁵⁰ and the Minister told us that the UK Government had raised concerns with the Burmese President, senior ministers and the opposition leader, Aung San Suu Kyi, about what had taken place.⁵¹

31. The Burmese authorities established a Rakhine Investigation Commission to examine the origins of the conflict and to suggest measures to prevent further violence. The Commission's report was published on 29 April and was endorsed by President Thein Sein.⁵² While referring to the Rohingya as "Bengalis" throughout, it accepted that "sectarian conflicts" had led to "192 deaths, 265 injured, and the destruction of 8,614 houses, turning an estimated 100,000 into internally displaced people". It recommended:

- Strengthening border security, both on land and at sea
- Steps to ensure that communities on both sides understood the laws of the land, and swift trial and punishment for those who broke the law
- Implementation of non-mandatory family planning programmes among the 'Bengali' population
- Better accommodation, sanitation and food supplies for internally displaced persons
- An FM radio station and possibly a TV channel broadcasting in the local language
- Initiation by the Burmese government of a process for examining the citizenship status of 'Bengalis'; applicants for citizenship to be screened for their ability to integrate into society; provision of information to applicants about Myanmar national culture and practices
- Establishment of a Task Force of moderate leaders from both communities, to engage in dialogue and build mutual trust
- Regular and timely release of factual information on events in Rakhine State, to address the spread of inaccurate rumours.⁵³

32. The United Nations Special Rapporteur on the human rights situation in Myanmar, Tomás Ojea Quintana, welcomed many of the Commission's findings, although he

49 <http://www.hrw.org/news/2013/04/22/burma-end-ethnic-cleansing-rohingya-muslims>

50 Adjournment debate, HC Deb 8 May 2013, col 123

51 Q 145

52 See Lords Hansard 17 June 2013 col WA4

53 <http://www.burmapartnership.org/wp-content/uploads/2013/04/RecommendationEnglish-Version.pdf>

regretted the absence of recommendations “to address impunity” or to ensure that investigations were held into allegations of violations targeting the Muslim community.⁵⁴ Witnesses to our inquiry also had reservations: Kate Allen, Director of Amnesty International (UK) said that the report had “not been an effective one” and that it had not addressed the actions of the “security presences” during the disturbances; nor, she said, had it addressed the 1982 Citizenship Act,⁵⁵ which introduced three classes of citizenship in Burma. Those not holding full citizenship⁵⁶ are denied certain rights, such as the right to own land or immovable property, the right to contest any elected post, and the right to work for a foreign employer. Rohingya Muslims are not one of the 135 recognised ethnic groups in Burma and do not in general qualify for full citizenship. Many do not own identity cards, rendering them effectively stateless.⁵⁷

33. The Government, however, was not so critical of the Commission’s report. Baroness Warsi told us that the Government had broadly welcomed the fact that the report had happened and that the Burmese President had accepted its recommendations, although it was “not content with how far the report went”.⁵⁸ In a supplementary memorandum, she added that the Commission had “emphasised the importance of ensuring accountability”;⁵⁹ but it remains to be seen how much political will exists in Burma to give effect to that accountability. We note that the EU Comprehensive Framework for support for reform in Burma, agreed by EU Foreign Ministers in July, states that the EU will press the Burmese government to ensure the accountability of all those taking part in inter-communal violence in the country.⁶⁰ Some observers have pressed for an international process or mechanism to investigate the disturbances in Rakhine State, but the FCO told us that it believed that “a national process would be more effective in furthering accountability than a UN-mandated Commission of Inquiry into the situation in Rakhine State”. It added that the primary mechanism for UN engagement should be through the UN Special Rapporteur, in monitoring and reporting on human rights abuses in Burma.⁶¹

34. Shocking acts of violence against the Rohingya minority have taken place in Rakhine State. The report of the Rakhine Investigation Commission is only a preliminary step towards bringing to justice those responsible for serious human rights abuses. The FCO is right to encourage a national process for investigation and prosecution of crimes in Rakhine State, but it should signal that it does not rule out support for an internationally-led process if the Burmese Government fails to show a serious intention to act. We recommend that the FCO should urge opposition leaders in Burma, as well as Government figures, to be more forthright in condemning those responsible for the violence in Rakhine State in 2012.

54 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13280&LangID=E>

55 Q 50

56 I.e. those not able to prove that their ancestors were settled in some part of the national territory before 1824

57 See <http://www.article19.org/data/files/pdfs/publications/burma-beyond-law.pdf>

58 Q 147

59 Ev 60

60 <http://register.consilium.europa.eu/pdf/en/13/st12/st12629.en13.pdf>

61 Ev 60

Conclusion on FCO policy on Burma

35. The question remains as to whether the UK and its EU partner states were over-hasty in agreeing to lift economic sanctions in April this year. Ministers maintained that the lifting of sanctions had been done “with the advice of Aung San Suu Kyi” and that engagement with the Burmese Government was “the way forward”.⁶² Mr Burt, Parliamentary Under-Secretary of State at the FCO, has cited Aung San Suu Kyi as saying “It is time we let these sanctions go ... we can’t go on relying on sanctions forever to aid the democracy movement”.⁶³ We note Kate Allen’s observation that Amnesty International researchers had been told during recent visits to Burma that “sanctions did not cause Burma’s economic decline, but relieving them could help to build its economy”.⁶⁴

36. Baroness Warsi indicated to us that any attempt to renew sanctions against Burma, rather than lift them (with the exception of the arms embargo), could have been undone by an objection from a single EU Member State, and such an objection would have brought an end not just to the economic sanctions but also to the arms embargo. The Minister told us that “we felt that it was important for the arms embargo to remain, and therefore reach consensus on the other sanctions still to have that level of protection”.⁶⁵ Whatever the dynamics were at the April 2013 Foreign Affairs Council, *we are satisfied, on balance, that the decision to lift economic sanctions against Burma in April 2013 was the right one. Serious reservations remain about the continued incarceration of political prisoners and the failure, so far, to bring to justice those responsible for intercommunal violence; but the rate of progress in many areas, such as elections and freedom of speech, has been remarkable, and the Burmese government is to be commended for what it has achieved. In order to ensure that progress is sustained, the UK should be prepared to advocate re-imposition of economic sanctions on Burma if undertakings by the Burmese government to improve human rights standards in the country are not followed through.*

Russia

37. The climate for civil society groups and activists in Russia has undergone a marked deterioration over the last year or so, with the passage of a series of laws apparently designed to restrict their freedom of operation. These include:

- A law increasing the maximum fine for individuals taking part in unauthorised assemblies from 2,000 roubles to 300,000 roubles (about £6,000), and from 5,000 to 1,000,000 roubles for organisers.
- A law banning “propaganda of non-traditional sexual relations”: this federal law was passed by the Russian parliament in June 2013 and mirrors similar laws passed by local legislatures in a number of Russian regions.

62 HC Deb 23 April 2013, col 760

63 HC Deb 8 May 2013 col 121

64 Q 45

65 Q 142

- A law imposing an obligation on NGOs receiving overseas funding and involved in “political activities” to register as “foreign agents” and to display the label “foreign agent” on their websites and publications. Foreign-funded NGOs are also required to submit quarterly information about the purpose of their expenditure and the use of assets. Failure to comply with the law is punishable by fines of up to 300,000 roubles (about £6,000), suspension of activities of the NGO in question and a prison sentence of up to two years for its leadership. Some NGOs have decided to comply; some have decided no longer to accept foreign funding. At least one (Golos – an election rights NGO) refused to register as a “foreign agent” and its activities were duly suspended on 25 June for six months.
- A law increasing regulation of the internet, ostensibly to protect children from harmful content, but with the potential to impose wider censorship.
- A law expanding the definition of treason, to make it applicable to Russian citizens representing international organisations
- A blasphemy law criminalising “public actions expressing obvious disrespect toward society and committed to abuse the religious feelings of believers”.⁶⁶

A law has also been passed banning the adoption of children by same-sex couples in Russia and preventing residents of foreign countries where same-sex marriages are permitted from adopting Russian children.⁶⁷

38. There has been widespread condemnation of what is seen as a drive by those at the highest political levels in Russia to use legislation to weaken civil society in the country. David Mepham, UK Director of Human Rights Watch, described the human rights climate in Russia as being “as bad as it has been at any point in the post-Soviet period”.⁶⁸ A written submission from Pavel Khodorkovsky, son of the imprisoned Russian businessman Mikhail Khodorkovsky, reported his father (currently held in a penal colony) as saying that

politically motivated pressure on public organisations is unacceptable. It prevents the flourishing of a civil society which is so essential for Russia's political, economic and also social modernisation.⁶⁹

Witnesses from both Amnesty International and Human Rights Watch told us that their offices in Russia had been “inspected” and that although there had been no violence, there was an atmosphere of fear and intimidation, which led to a tendency towards self-censorship.⁷⁰ We note that although the offices of the Alliance Francaise have been raided and inspected, those of the British Council have not: Lord Wallace told the House of Lords

66 See Cm 8593 pages 203-8; also <http://www.amnesty.org/en/library/asset/EUR46/011/2013/en> and <http://www.themoscowtimes.com/news/article/putin-signs-blasphemy-and-gay-propaganda-bills/482516.html>

67 <http://www.nytimes.com/2013/07/22/opinion/russias-anti-gay-crackdown.html>

68 Q 54

69 Ev w22

70 Q 54

in June that the British Council was doing its best “to operate in rather difficult circumstances”.⁷¹

39. The Government raises its human rights concerns with the Russian government at various levels. Some concerns have been raised by the Prime Minister directly with President Putin, and a wide range of human rights issues were discussed at an official level at the UK-Russia human rights dialogue in May this year. Human rights, specifically the constraints upon NGOs, were also raised by EU President Van Rompuy, Commission President Barroso and the EU's High Representative, Baroness Ashton, during the EU-Russia Summit held in Ekaterinburg in June.⁷² The Russian government's response at the Ekaterinburg Summit was that checks on NGOs were in the interests of transparency, that only two NGOs had been charged with violations of the new law, and that none had been closed. When we met members of the International Affairs Committee of the Russian Duma in December 2012, we were told that the “foreign agents” law did not affect NGOs which were involved in social and charitable work: rather, it was directed at about 100 groups which were involved in political work, such as encouraging regime change. That view has been contradicted by Human Rights Watch, which has claimed that charities in apolitical fields such as animal protection have been targeted.⁷³

How should the UK apply pressure?

40. Amnesty International described the impact of the annual UK-Russia Human Rights Dialogue as “unclear”,⁷⁴ and we asked the Minister what it had achieved. She replied that she believed that it had a purpose, and that it was important “to maintain a forum within which these discussions can be had”. She accepted that “we might not always be successful in moving Russia”, but she defended the Dialogue as an opportunity “to push them and try and get some progress”.⁷⁵ A list of issues discussed during the Dialogue was provided by the Minister in a letter to the Chair, following the evidence session.⁷⁶

41. While it may not be possible to identify clear achievements from the UK-Russia Human Rights Dialogue, that does not mean that it is worthless: it offers a regular channel of communication and a chance for the UK to represent its concerns formally in an atmosphere that is not overly politically charged. It does however beg the question as to how much impact any bilateral effort by the UK—diplomatic or otherwise—is likely to have. David Mepham suggested to us that Russia was one area where EU Member States could achieve more collectively than individually. He referred to “a danger that Russia plays off different members of the European Union, according to who is more sympathetic or more critical”.⁷⁷

71 HL Deb 12 June 2013, col 1601

72 See letter of 2 August from Rt Hon. David Lidington MP, Minister of State, FCO, to the Chairman: <http://www.parliament.uk/documents/commons-committees/foreign-affairs/130802%20Lidington%20on%20EU%20Russia%20Summit%20June%202013.pdf>

73 Ev w22

74 Ev 42

75 Q 156

76 Ev 60

77 Q 57

2014 Sochi Games

42. Some have suggested that collective pressure might be applied by boycotting the 2014 Winter Olympic and Paralympic Games in Sochi in Russia, in protest against the law banning 'propaganda' relating to 'non-traditional sexual relations'. The Russian Deputy Prime Minister, Mr Dmitry Kozak, has assured the International Olympic Committee that Russia is committed to the provisions of the Olympic Charter, under which any form of discrimination is deemed to be incompatible with the Olympic movement.⁷⁸ We note that the UK, Russia, Brazil and South Korea, as hosts of the 2012, 2014, 2016 and 2018 Games respectively, issued a Joint Communiqué in August 2012 recognising the Games as a means to combat all forms of discrimination.⁷⁹ The UK Prime Minister has rejected calls for a boycott of the Sochi Games, saying that "I believe we can better challenge prejudice as we attend, rather than boycotting the Winter Olympics".⁸⁰ We agree. **The 2014 Winter Games in Sochi provide a platform for concerns about human rights in Russia to be voiced in a way which is difficult for the host country to brush aside, and we do not support a boycott.**

Visa facilitation agreement

43. An opportunity for the EU to apply leverage flows from Russia's desire for the relaxation of restrictions for visas to visit Europe. Negotiations are well advanced for a new visa facilitation agreement between Russia and Schengen Area countries: this could allow up to 15,000 Russian officials who hold biometric "service passports" to enter Schengen Area countries without a visa. Under the terms of the UK's Schengen opt-out, the UK is present at and able to contribute to discussion of Schengen measures but cannot vote on them.⁸¹

44. We asked Baroness Warsi whether the UK had expressed a view within the EU about the proposed visa facilitation agreement with Russia. She replied that the UK had participated in discussions, both in working groups and at the European Council, and she subsequently wrote to the Committee Chair saying:

The UK is not part of Schengen, but we view this in terms of the wider EU-Russia relationship. We do not play an active part in formal negotiations, but we do discuss the importance of the visa relationship with Russia with other EU member states, and consider its implications for the UK. During these discussions we frequently highlight with member states where the EU should focus its efforts, including a firm approach on human rights. When the EU's relations with Russia were discussed at the European Council in March, the Prime Minister and other leaders agreed the importance of the EU maintaining a unified approach with one of its key strategic partners.⁸²

78 <http://www.bbc.co.uk/sport/0/olympics/23815190>

79 FCO *Human Rights and Democracy Report 2012*, page 20

80 <http://news.sky.com/story/1126956/sochi-olympics-boycott-call-rejected-by-pm>

81 FCO written evidence to the Committee's inquiry into *The future of the European Union: UK Government policy*, HC87-II, Session 2013-14, Ev 87

82 Ev 60

This tells us remarkably little about the UK's stance on the visa issue, but it does not suggest that the UK has lobbied fellow EU Member States with any particular vigour about the proposal. *The proposed visa facilitation agreement for Russian nationals to enter the Schengen Area offers a rare opportunity for those EU Member States which are in Schengen to apply collective pressure on Russia. While we recognise that the UK has its own visa arrangements and, because it is not in Schengen, is not in a position to block a decision by Schengen Area countries, we encourage the FCO to put the case forcefully to fellow EU Member States to either delay assent to the proposed visa facilitation agreement or make it conditional upon evidence of an improvement in human rights conditions in Russia.*

3 Human rights and counter-terrorism

The Foreign Secretary's RUSI speech on countering terrorism overseas

45. Our terms of reference for this inquiry invited comment on a major speech given by the Foreign Secretary at the Royal United Services Institute on 14 February 2013, on countering terrorism overseas.⁸³ The Foreign Secretary's initial premise was that

We need to combine creative work from our Intelligence Agencies and police with intelligent diplomacy. We have to help build stability and the rule of law in other countries, living up to our values at all times. And we need to make common cause with peoples and governments that reject this violence. This combination of intelligence, diplomacy, development and partnership with other nations is the only way to defeat terrorism over the long term.

Having set out the nature of current threats, the Foreign Secretary went on to discuss the implications for the FCO's policies on human rights overseas. He said:

When we detect a terrorist plot originating in a third country, we want to be in a position to share information to stop that planning, and do it in a way that leads to the arrest, investigation and prosecution of the individuals concerned in accordance with our own legal obligations, and with their human rights respected at every stage. This gives rise to extremely difficult ethical and political decisions, such as whether to pass on information which might save lives and disrupt an imminent attack, but which could also create a risk of someone being mistreated if detained.

In many cases, we are able to obtain credible assurances from our foreign partners on issues such as detainee treatment and legal processes that give us the safeguards we need, and the confidence that we can share information in this way. Where this is not the case, we face a stark choice. We could disengage, or we can choose to cooperate with them in a carefully controlled way while developing a more comprehensive approach to human rights adherence. This approach brings risk, but I am clear that the risks of the first option, of stepping back are greater still, placing our citizens at greater risk of terrorist attack.

46. Mr Hague went on to explain what he meant by "developing a more comprehensive approach to human rights adherence":

We will seek justice and human rights partnerships with countries where there is both a threat to the United Kingdom's security, and weaknesses in the law enforcement, human rights and criminal justice architecture of these countries. [This would be] a systematic process of working with the authorities in question to identify shortcomings in capability, and to address these through the provision of British assistance and expertise, over many months or years.

83 <https://www.gov.uk/government/speeches/countering-terrorism-overseas>

He gave examples of areas in which the UK might offer assistance and expertise:

- Building up the counter-terrorism capacity of overseas security services to improve compliance with the law and human rights and to make them more effective;
- Working with local investigators to improve the ability to build cases based on evidence rather than on confessions;
- Supporting prosecutors and judges to ensure that they are capable of processing terrorism cases through the court systems, effectively, fairly and in line with the rule of law;
- Working to improve and where appropriate monitor conditions in detention facilities so that convicted terrorists can be held securely and their treatment meets with international standards.

He also listed five safeguards:

- Such assistance would be offered only where there is a “serious and potentially long-running threat to the UK or our interests abroad”
- Human rights risks would be assessed and mitigated in line with the FCO’s Overseas Security and Justice Assistance Guidance
- Such assistance would not be carried out in isolation but would be part of UK and international diplomatic and development efforts in that country
- The intelligence dimension would be subject to “the same robust scrutiny and oversight that exists in other areas of Intelligence activity” and would always be in accordance with the law
- Ministerial oversight and approval would always be required

Reaction to the speech

47. In general, the tone of responses to the Foreign Secretary’s speech was sceptical, and NGOs cited the format of the recent Detainee Inquiry,⁸⁴ the perceived failure to make progress in closing the camp at Guantanamo Bay, and arrangements for deportation with assurances, as evidence of their disillusionment with the Government’s record in ensuring respect for human rights while countering terrorism. Redress said that it was concerned that the policy “will not translate into any meaningful change”,⁸⁵ and Amnesty International said that the approach outlined by the Foreign Secretary was “not a rights-based approach to security but a continuation of an approach that not only inconsistently promotes human rights in other countries but also undermines human rights through the

84 Announced by the Prime Minister in 2010, and established to “look at whether Britain was implicated in the improper treatment of detainees, held by other countries, that may have occurred in the aftermath of 9/11.”

85 Ev w3

UK's own counter-terror measures". It added that the Foreign Secretary's five safeguards were "unacceptably weak".⁸⁶

48. Witnesses were a little more generous in oral evidence. Mr Mepham noted "a number of things...that it would be hard to disagree with"—such as co-operation and engagement—and he acknowledged that the Foreign Secretary had stated right at the outset "the importance of situating what we do in terms of the counter-terrorism agenda very much within the framework of the rule of law, human rights, good governance, and so on". Mr Mepham's concern was how that overall principle was translated into practice.⁸⁷ Kate Allen said that the speech had identified "some of the key dilemmas" but felt that there were "some missing elements", such as the role of the UN and use of existing mechanisms to monitor detention facilities.⁸⁸

49. Whatever the arguments about the merits of the approach set out in the speech, it is debatable whether much in it is actually new. Professor Michael Clarke, Director-General of the Royal United Services Institute, thought that the Foreign Secretary's emphasis on partnership with countries where democratic and civil rights were less strong than in the UK made "perfect sense"; but he noted that "a number of people ... were left wondering what was different or new about the approach, other than to lay it all out in a very clear way".⁸⁹ Much of the reasoning and language of the speech echoes the Overseas Security and Justice Assistance Human Rights Guidance, published by the FCO in December 2011 to assist Government staff "who are called upon to advise on security and justice matters overseas" and to help them identify and mitigate human rights risks.⁹⁰ The Consolidated Guidance to Intelligence Officers on the Detention and Interviewing of Detainees Overseas, published by the FCO in 2010, also explicitly recognises the UK's international and domestic obligations when co-operating with countries whose practice raises questions about their compliance with international legal obligations.⁹¹

50. Baroness Warsi did not claim that the speech was ground-breaking: she characterised it as "an articulation of where we were, what the problem was and the framework within which we intend to operate".⁹² That seems to us to be a fair representation. **We agree with the principles outlined by the Foreign Secretary in his speech to the Royal United Services Institute in February 2013, on the approach to counter-terrorism and respect for human rights, although we acknowledge the scepticism in some quarters about whether they will lead to meaningful change. We believe that the significance of the accountability to Parliament and to the wider public which flows from ministerial oversight and approval for work of this nature should not be underestimated.**

86 Ev 37 and 38

87 Q6

88 Q6

89 Evidence given on 25 June 2013 on Extremism and political instability in North and West Africa, HC 56-ii of Session 2013-14, Q 78

90 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35447/osja-guidance-151211.pdf

91 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62632/Consolidated_GuidanceNovember_2011.pdf

92 Q 96

The Detainee Inquiry

51. The Detainee Inquiry, led by Sir Peter Gibson, was set up to “look at whether Britain was implicated in the improper treatment of detainees, held by other countries, that may have occurred in the aftermath of 9/11”.⁹³ In the event, the Inquiry never progressed beyond preparatory work, as it could not proceed in parallel with police investigations into allegations of rendition to Libya and ill-treatment of Abdel Hakim Belhadj and Sami al-Saadi, and these were expected to take many months if not years. The Government nonetheless announced that it intended to hold an independent, judge-led inquiry, once all police investigations had concluded, “to establish the full facts and draw a line under these issues”.⁹⁴ In the meantime, Sir Peter Gibson agreed to produce a report on the Inquiry’s preparatory work, and the Government made a commitment to place as much of it as possible in the public domain. That report was presented to the Prime Minister on 27 June 2012.⁹⁵

52. When we asked Baroness Warsi for an indication of when Sir Peter Gibson’s report on the preparatory work of the Detainee Inquiry might be published, she replied that she could offer no timescale. She reiterated that there was a commitment by the Government to publish as much of Sir Peter’s report as possible but pointed out that the Metropolitan Police inquiry and operation were “ongoing”. She also confirmed that publication would need to take into account not just the ongoing police investigations but also any prosecutions which might arise.⁹⁶ However, in supplementary written evidence, she hinted that the police investigations might not be an absolute bar to publication of much of Sir Peter’s report:

We are undertaking checks to ensure that the report will not prejudice the ongoing police investigation and, although no date has been set, we hope to be in a position to publish as full a version as possible of the report as soon as possible.⁹⁷

We encourage the Government to take whatever steps it can—including swift publication of as much as possible of Sir Peter Gibson’s report on the Detainee Inquiry’s preparatory work—to ensure that the process of inquiring into allegations of rendition or improper treatment of detainees by the UK Government and its security and intelligence agencies does not come to a complete halt while criminal investigations are under way.

53. A number of human rights groups had already criticised the Detainee Inquiry, saying that they could not “co-operate in a process where evidence will be heard largely in secret, where the Government will decide what will be published, and the victims will not be able to question, or even identify, witnesses from MI5, MI6, or other agencies”.⁹⁸ Amnesty International said in its memorandum to this inquiry that the Detainee Inquiry “fell short

93 Statement by the Prime Minister, HC Deb 6 July 2010, col 176

94 HC Deb 18 January 2012, col 752

95 Report of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: see ev w2 (Redress).

96 Q99 and 101

97 Ev 59

98 <http://www.guardian.co.uk/law/2011/aug/04/torture-inquiry-boycotted-human-rights>

of international human rights standards for effective, independent and through investigations” and that

Consultation with victims, civil society organizations and others is key to ensuring that the terms of reference and protocol of such an inquiry meet international standards which require it to be prompt, independent, thorough and subject to public scrutiny with the participation of victims.⁹⁹

Redress drew our attention to the statement by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson QC, who said that

The Inquiry lacked the power to compel the attendance of witnesses or the production of documents. Nor did the Inquiry have any power to request the production of evidence from other States, or their personnel

and that

Under the protocol established for the Inquiry, the final decision as to whether any document or finding could be released to the public was vested in the Cabinet Secretary (a senior civil servant).¹⁰⁰

54. We recommended last year that the Government and human rights organisations “should start to explore ways of finding a mutually acceptable basis on which the successor inquiry to the Detainee Inquiry can proceed”.¹⁰¹ Nothing, however, appears to have happened. Redress told us that the Government had not used the intervening period “to develop any mechanisms for a new inquiry, and/or to deal with the shortcomings of the Gibson Inquiry”,¹⁰² and witnesses from Amnesty International and Human Rights Watch confirmed that there had been no discussions with them.¹⁰³ Redress pointed out that the UN Special Rapporteur had encouraged the UK to “make a public statement setting out a timetable for the start of the proposed judge-led inquiry, indicating what its powers and terms of reference will be” and had recommended that “the shortcomings in the terms of reference for, and the powers of, the Gibson Inquiry should be remedied in the resumed inquiry”.¹⁰⁴

55. We have not considered in detail the merits and drawbacks of the process adopted by the Detainee Inquiry, nor have we taken a view on what the mode of working of its successor should be; but **we are disappointed that no attempts appear to have been made to initiate discussions between the Government and human rights bodies as to how the successor inquiry to the Detainee Inquiry might proceed. We believe that it is incumbent on both sides—not just the Government—to take steps to work towards a resolution.**

99 Ev 38-9

100 Ev w2

101 Third Report from the Committee, Session 2012-13, HC 116, paragraph 74

102 Ev w2

103 Q 7

104 Ev w2

Deportation with assurances

56. The UK Government has established “deportation with assurances” (DWA) arrangements for foreign nationals who are suspected of illegal activity which might place at risk the security of the UK, but for whom there is not enough evidence to mount a prosecution. The UK has DWA arrangements with Ethiopia, Algeria, Lebanon, Jordan and Morocco; DWA arrangements were concluded with Libya while Colonel Qadhafi was in power, but these are no longer considered by the FCO to be operational.¹⁰⁵ 11 people have so far been returned under DWA arrangements, specifically to Algeria and Jordan, and 13 other applications are in progress.¹⁰⁶ We set out in our report last year on the FCO’s human rights work the reasons why human rights groups oppose the use of DWA arrangements.¹⁰⁷ Those objections persist. Redress said this year that there were “fundamental problems” with the system;¹⁰⁸ Amnesty International described assurances from governments of countries where torture and ill-treatment were systematic or widespread as “inherently unreliable” and “simply not worth the paper they are written on”;¹⁰⁹ and David Mepham described the system as “lacking in credibility”.¹¹⁰

Monitoring arrangements

57. In our most recent report on the FCO’s human rights work, published in October 2012, we asked the Government to inform Parliament of the names of the individuals or bodies responsible for monitoring the conditions under which those deported are being held, and the arrangements made for follow-up monitoring.¹¹¹ The Government eventually supplied that information in a letter from Baroness Warsi on 3 June this year, which included a copy of specimen terms of reference for monitoring bodies.¹¹² The Minister apologised for the delay, which was attributed to a misunderstanding over whether the Committee would make a further specific request.¹¹³

58. In essence, third party organisations are responsible for monitoring in Ethiopia, Jordan and Lebanon: these organisations are the Ethiopian Human Rights Commission, the Adaleh Centre, and the Institute of Human Rights respectively.¹¹⁴ However, Amnesty International, in a follow-up written memorandum submitted after it had given oral evidence, pointed out that there are doubts about the efficacy of the named monitoring body in Ethiopia. It cited the finding by the UK Court of Appeal that the Commission “could not be trusted to report deliberate breaches by the Ethiopian Government” and that there was “work to be done before the EHRC will have developed proper capacity for

105 Ev 62

106 Q 104

107 Third Report from the Committee, Session 2012-13, HC 116, paragraph 60

108 Ev w3

109 Ev 38

110 Q 17

111 Third Report from the Committee, Session 2012-13, HC 116, paragraph 64

112 Ev 62

113 Ev 59

114 Ev 62

monitoring”.¹¹⁵ As regards other countries, the agreement with Algeria makes no provision for formal post-return monitoring, and British Embassy staff in Algeria carry out the work. Details of monitoring arrangements for the agreement with Morocco “are being finalised”, although the agreement itself was signed in September 2011.¹¹⁶

59. We asked Baroness Warsi what would happen if it was discovered that someone who had been returned by the UK under a DWA arrangement was being maltreated. Baroness Warsi replied that “the strength and robustness of [the] relationships and agreements mean that there would be serious consequences to the relationship between the countries” if the basis of the DWA arrangement were to be breached. She believed that the terms of the agreements would allow the UK to gain access to the individual and to make its concerns known.¹¹⁷ That would seem to us to be an optimistic view: while there might indeed be consequences for the bilateral relationship, there is no certainty that the UK could do anything for the person who had been maltreated while in detention.

60. We commend the FCO for providing information to us on monitoring arrangements for people held in detention having been returned by the UK under DWA arrangements. We request that the FCO report every twelve months to this Committee on the effectiveness of monitoring arrangements and on whether any allegations of abuse have been reported. Given the uncertainty over the independence of the Ethiopian Human Rights Commission, we recommend that, in the absence of any acceptable alternative, the UK should negotiate with the Ethiopian Government to secure a right of access by British Embassy officials to people detained in Ethiopia following deportation from the UK with assurances, to complement the monitoring by the Ethiopian Human Rights Commission. We seek assurances that Embassy staff already monitoring treatment of detainees in Algeria receive suitable training, such as that offered by the International Committee of the Red Cross to its staff carrying out similar work.

The return of Abu Qatada

61. By far the most high-profile case under the DWA regime has been that of Abu Qatada, whom successive Home Secretaries have tried to deport since 2001. In January 2012, the European Court of Human Rights found that deportation to Jordan would violate Abu Qatada’s rights under the European Convention on Human Rights. That decision was reached not on the basis of Article 3 (the ECHR was satisfied that assurances given by Jordan that Abu Qatada would not be subject to torture could be relied upon) but under Article 6, as the Court believed that there was a real risk that evidence obtained by torture of Abu Qatada’s original co-defendants in an *in absentia* trial would be used against him in a retrial on his return to Jordan. Abu Qatada’s appeal against deportation on Article 6 grounds was upheld by the Special Immigration Appeals Commission in November 2012, and the Court of Appeal subsequently confirmed that ruling and denied the Home Secretary leave to appeal against it at the Supreme Court.

115 Ev 43

116 Ev 62

117 Q 106-7

62. On 24 April this year, the Home Secretary announced that the Government had signed a mutual legal assistance agreement with Jordan, covering assistance in obtaining evidence for the prosecution of crimes, and a framework for assistance in the restraint and confiscation of the proceeds of crime. Significantly, it also included fair trial guarantees; and the Home Secretary told the House that she believed that the guarantees would provide the courts with the assurance that Abu Qatada would not face evidence that might have been obtained through torture.¹¹⁸ The relevant paragraph of the Treaty reads as follows:

Where there are serious and credible allegations that a statement from a person has been obtained by torture or ill-treatment by the authorities of the receiving State and it might be used in a criminal trial in the receiving State referred to in paragraph 1 of this Article, then the statement shall not be submitted by the prosecution nor admitted by the Court in the receiving State, unless the prosecution submits evidence on the conditions in which the statement was obtained, and the Court is satisfied to a high standard that such statement has been provided out of free-will and choice and was not obtained by torture or ill-treatment by the authorities of the receiving State.¹¹⁹

We note that the treaty provides a legal basis for the guarantees on fair trial in Jordan, whereas Memoranda of Understanding (under which previous deportations with assurances have taken place) are not legally binding.

63. On 10 May this year, Edward Fitzgerald QC, a barrister acting for Abu Qatada, told the Special Immigration Appeals Commission that Abu Qatada would return voluntarily to Jordan if and when the Jordanian parliament had ratified the treaty.¹²⁰ The UK ratified the treaty in late June, and the Home Secretary duly issued a fresh deportation decision. The final steps necessary to give effect to the treaty in Jordan, following earlier ratification by the Jordanian parliament, were taken in early July; and on 9 July Abu Qatada was deported to Jordan, having opted not to challenge the deportation order.

64. Baroness Warsi suggested to us that the signing of the Treaty had been enough to satisfy Abu Qatada that “he was now in a position where he would go back”. She also told us that the Government had felt that a specific treaty on fair trials and process was needed between the UK and Jordan in order “to satisfy the Court”.¹²¹ Whether it would have done so is not known, as the Treaty’s provisions for safeguarding the rights of returned persons were not tested before the courts; but one distinct advantage of using a treaty mechanism was that it gave Parliament an opportunity to express a view. Under the Constitutional Reform and Governance Act 2010, 21 Parliamentary sitting days had to pass before the Government could proceed with ratification of the treaty. During that period, Members had a chance to signify their objection and force the Government to justify the treaty’s provisions. In the event, no objection was registered, and the treaty was duly ratified.

118 HC Deb 24 April 2013 col 887

119 Cm 8612, Article 27

120 <http://www.bbc.co.uk/news/uk-22480089>

121 Q 108

65. We asked the Minister whether the Government would seek to use treaties rather than memoranda of understanding for DWA arrangements in future. She replied that “each case is different, and it is important that we do not allow our future discussions with countries to be focused around an individual case ... In this case, we felt that it was important to go down this route”. She added that she did not believe that it set a precedent, but nor was the treaty option “something that we would never use again”.¹²² We note that the Government has shifted its thinking on this matter: as recently as December 2012, it rejected our suggestion that DWA arrangements should be subject to some form of Parliamentary process and argued that existing processes—the use of Memoranda of Understanding—were “appropriate”.¹²³ **We welcome the Government’s decision to use a treaty base for assurances on the treatment of persons returned to Jordan, such as Abu Qatada. It may have been instrumental in securing Abu Qatada’s return and, with hindsight, could perhaps have done so months or years ago had the Government chosen to follow this route sooner. We note with approval that the Government has not ruled out the use of treaties to underpin DWA arrangements with other countries.**

Review of DWA policy

66. The Government, in its response to our report last year on the FCO’s human rights work, told us that David Anderson QC (the Independent Reviewer of Terrorism Legislation) would conduct a one-off review of the Government’s DWA policy in 2013, when he had the capacity to do so, and that the conclusions of the review would be made public.¹²⁴ That is a welcome development; but we were surprised to see that no mention was made in the latest Human Rights and Democracy Report of Mr Anderson’s review. ***We ask the FCO to provide us with an update on the progress of the review of DWA policy by David Anderson QC, the Independent Reviewer of Terrorism Legislation.***

122 Q 109

123 Cm 8506, response to recommendation 19

124 Cm 8506, response to recommendation 20

4 Women's and children's rights

The Prevention of Sexual Violence against Women in Conflict Initiative

67. One of the areas of particular focus identified in the terms of reference for our inquiry was the Preventing Sexual Violence in Conflict Initiative (PSVI), which was launched in May 2012 by the Foreign Secretary. The objectives of the Initiative are:

- To address the culture of impunity by increasing the number of perpetrators brought to justice;
- To strengthen international efforts and co-ordination to prevent and respond to sexual violence; and
- To support states to build their national capacity to prosecute acts of sexual violence committed during conflict

A consultation was held with NGOs in July 2012, during the design stage, to ensure that the Initiative focused on areas where the UK could add distinct expertise and support. Pages 90 to 92 of the FCO's 2012 Human Rights and Democracy Report give more detail about the development and progress of the Initiative.

68. Although the impetus has come from the UK and indeed from the Foreign Secretary, who has made clear his personal commitment to the Initiative, the role for the UK is more one of motivating others and encouraging the development of good practice than of direct intervention. The Foreign Secretary has said that the Government would use the UK's Presidency of the G8 to run a year-long diplomatic campaign on the need for stronger international action in this field.¹²⁵ In April 2013, G8 Foreign Ministers agreed a Declaration on Preventing Sexual Violence which contained commitments to overcome the barriers which impede the implementation of the existing international legal framework and which prevent successful investigations and prosecutions. The G8 also endorsed a non-legally binding protocol on the investigation and documentation of sexual violence in conflict: the aim of the protocol is to improve the evidence base from which prosecutions can be drawn.¹²⁶

69. At the launch of the Declaration, the Foreign Secretary announced new FCO funding worth £5 million over three years, to support grassroots and human rights projects addressing sexual violence against women and girls. DfID matched the FCO contribution with a further £5 million for research in five countries, to look at the causes of violence against women and girls in emergency and conflict settings.¹²⁷ The UK has also sought to boost existing international agencies and support networks working in the field, contributing £1 million of funding to the Office of the UN Secretary-General's Special

¹²⁵ Speech by the Foreign Secretary in the Hague, 9 July 2012, on International law and justice in a networked world, <https://www.gov.uk/government/speeches/international-law-and-justice-in-a-networked-world>

¹²⁶ <https://www.gov.uk/government/news/g8-declaration-on-preventing-sexual-violence-in-conflict>

¹²⁷ <https://www.gov.uk/government/news/uk-announces-additional-funding-to-address-conflict-sexual-violence>

Representative on Sexual Violence in Conflict (Zainab Bangura),¹²⁸ and a further £1.5 million to the International Criminal Court's Trust Fund for Victims, which includes victims of sexual violence.¹²⁹

70. It was evident from written submissions to our inquiry (for instance from Redress, the BOND Child Rights Group, and ABColombia) that the Initiative had been widely welcomed.¹³⁰ The BOND Child Rights Group recognised the FCO's leadership role in championing the cause among G8 leaders, and Save the Children noted early signs that the Initiative had had a positive impact. It also suggested that the Initiative could have increased the likelihood that leaders in conflict-affected countries would speak out about the problems of sexual violence in their countries. The recent report by the International Development Committee, on Violence against Women and Girls, noted that the Initiative had been well received and that it was "representative of the UK Government's increased leadership internationally on addressing violence against women".¹³¹ **We join others in commending the Secretary of State for taking the lead in conceiving and promoting the Prevention of Sexual Violence in Conflict Initiative.**

71. Despite the general welcome for the Initiative, there were some criticisms and suggestions for improvement. Save the Children pointed out that the UK spent little in comparison to other major donors on protection from violence when allocating humanitarian aid, and it suggested that the G8 Declaration might usefully have called specifically for more funding and support for child protection as a core component of every humanitarian response.¹³² The BOND Child Rights Group called for more to be done as part of the Initiative to enable child victims and witnesses of sexual violence to testify against perpetrators without fear of reprisals, for instance by promoting the provision of safe houses for victims and the admission of pre-recorded testimony.¹³³

Balance between prevention and addressing impunity

72. Save the Children believed that the focus of the Initiative so far had been on addressing impunity and that more emphasis could be placed on work that prevented sexual violence in conflict.¹³⁴ The International Development Committee reached similar conclusions in its recent report on Violence Against Women and Girls, and it recommended broadening the scope of the Initiative to give it a greater emphasis on prevention.¹³⁵ We note that the action points relating to this policy area in the current version of the FCO's Business Plan

128 <https://www.gov.uk/government/news/uk-will-contribute-1-million-to-support-the-office-of-the-un-secretary-general-s-special-representative-on-sexual-violence-in-conflict>

129 HC Deb, 12 February 2013, col 41WS

130 Ev w3, w18, w25

131 Second Report from the International Development Committee, Session 2013-14, HC 107, Summary

132 Ev w32-3

133 Ev w18

134 Ev w33

135 Second Report from the International Development Committee, Session 2013-14, HC 107, paragraph 75

relate specifically to impunity and to support for the provision of justice for the survivors of conflict-related sexual violence.¹³⁶

73. We therefore asked Baroness Warsi whether there should perhaps be more emphasis in the Initiative on work to prevent sexual violence in conflict. She replied that the Government had been doing prevention work for many years and that (to take one example) support for women's rights in Afghanistan, which entailed prevention of violence and ensuring the implementation of legislation in relation to domestic violence, was a major priority for the Department for International Development.¹³⁷ We make observations on women's rights in Afghanistan in paragraph 79 below.

74. Effective prevention of sexual violence is most likely to be achieved over a long term, through education and cultural change. We note that the International Development Committee, in its recent report on Violence against Women and Girls, stressed the importance of addressing the attitudes and behaviours that sustain violence against women and girls. The Department for International Development has announced "targeted work to ensure that there is a significant increase in prevention strategies to deliver sustainable reductions in violence against women and girls".¹³⁸

75. It may well be that prevention work as part of the Preventing Sexual Violence in Conflict Initiative is at present being overshadowed by work to address the culture of impunity. However, **we believe that addressing impunity is an essential part of prevention. There is a pressing need for concerted efforts at an international level to develop a recognition of degrading crimes of sexual violence for what they are and to bring to justice those responsible. We believe that to give this aspect of the Initiative particular prominence is a strength rather than a failing.**

The UK Team of Experts

76. A Team of UK Experts from a wide range of backgrounds—police, lawyers, psychologists, doctors, forensic experts, gender-based violence experts and specialists in the care and protection of survivors and witnesses—has been formed and is ready to be deployed to conflict areas to support local efforts to investigate allegations of sexual violence and gather evidence. Members of the Team have already been deployed to:

- the Syrian border in December 2012, to train Syrian healthcare professionals in responding to reports of sexual violence;¹³⁹
- Bosnia-Herzegovina in March 2013, to strengthen the capacity of Bosnian judges and prosecutors in dealing with wartime sexual violence crimes in accordance with international standards;¹⁴⁰ and

¹³⁶ 2.8.i: Finalise a new international protocol on the investigation and documentation of sexual violence in conflict and secure new international commitments to address the impunity of perpetrators"; 2.8 ii "Deploy staff from the UK team of experts into at least 5 conflict and post-conflict areas to support the provision of justice for the survivors of conflict-related sexual violence". See <http://transparency.number10.gov.uk/business-plan/9/69>

¹³⁷ Q 110

¹³⁸ Third Special Report from the International Development Committee, Session 2013-14, HC 624, response to recommendation 2

¹³⁹ HC Deb 24 April 2013, col 939W

- Libya in March 2013, to assess how the UK could help to build capacity across police, justice and health services in supporting survivors of sexual violence.¹⁴¹

Other countries which have so far been identified as a priority for deployment are the Democratic Republic of Congo, Mali and South Sudan.¹⁴²

77. The criteria for selecting countries for deployment include the extent and impact of sexual violence, the national and international response to date, and the particular role which the UK could play in reinforcing or complementing existing efforts.¹⁴³ Baroness Warsi told us that there were plans for deployment to other countries but that “it has to be on the basis of what is needed there” and that “we have to make sure that countries that we work with are ready for this and have bought into this agenda”.¹⁴⁴ In response to questions about whether the Team of Experts might be deployed to Burma, or to Colombia (where we were told that the “vast majority” of instances of conflict-related sexual violence are not reported)¹⁴⁵ the FCO has said that “a number of other countries are now engaging in PSVI at both a practical and political level, taking into account existing national and international efforts”.¹⁴⁶ It also says that officials are looking at ways of incorporating the Initiative’s objectives into existing human rights work in Colombia,¹⁴⁷ and that FCO officials are looking at options to expand the Initiative to Burma.¹⁴⁸

78. We strongly welcome the formation of the Team of UK Experts and support its work in helping to build national capacity in investigating allegations of sexual violence, gathering evidence and supporting those who have suffered. Demands upon the Team’s expertise may in time grow beyond its current capacity, and we recommend that the Government should encourage other countries to contribute skilled personnel and funding to support the Team’s work.

Legislation outlawing violence against women

79. As we observed in paragraph 73 above, Baroness Warsi cited the Government’s support for women’s rights in Afghanistan and the implementation of legislation to eliminate violence against women as evidence of its work to prevent sexual violence against women and girls abroad. However, that example seems to us to be an unfortunate choice by the Minister, as implementation of the Law on Elimination of Violence Against Women (EVAW), which was passed in Afghanistan in 2009, appears to be stalling, and there is considerable anxiety about the future for women’s rights in the country. Human Rights Watch, in its 2013 World Report, described the Law on Elimination of Violence Against Women as “largely unenforced”,¹⁴⁹ and Kate Allen, giving evidence on behalf of Amnesty

140 HC Deb 17 April 2013 col 442W

141 HC Deb 24 April 2013 col 938-9W

142 HC Deb 23 April 2013 col 782W

143 HC Deb 23 April 2013 col 781W

144 Q 111

145 ABColombia Ev w23

146 HC Deb 5 June 2013 col 1120W

147 HC Deb 16 April 2013 col 327W

148 HC Deb 5 Jun 2013 col 1120W

149 https://www.hrw.org/sites/default/files/wr2013_web.pdf

International, spoke of a feeling amongst women in Afghanistan that they were being marginalised in the political process and that gains made over the last 11 years were “slipping away”. She pointed out that President Karzai had endorsed an announcement in March 2012 by the Afghan Ulema Council—the highest religious council—that “women were secondary” and that “their rights were completely secondary”, and she argued that “there is absolutely not enough pressure on [President Karzai] from the UK Government and others saying that that is not acceptable”.¹⁵⁰ We note that President Karzai’s appointment of five further commissioners to the Afghan Independent Human Rights Commission in June 2013 has been controversial and that activists within Afghanistan have raised questions about the political independence and commitment to women’s rights of the appointee who would have specific responsibility for overseeing cases involving women’s rights. The UN Commissioner for Human Rights, Navi Pillay, has urged the Afghan Government to reconsider the appointments and to reopen the selection process.¹⁵¹

80. A similar picture of sluggish implementation of legislation to protect women from violence is evident in the Kurdistan Region of Iraq. In its 2011 Human Rights and Democracy Report, the FCO noted that the new Family Violence Bill introduced by the Kurdistan Regional Government criminalised forced, marriages, child marriages, and the abuse of girls and women, and it banned female genital mutilation. The FCO described this at the time as “a big step forward in protecting women’s rights in the Kurdistan Region” and expressed the hope that it would eventually be adopted across Iraq.¹⁵² Yet we note that Human Rights Watch, in its 2013 World Report, described implementation of the Family Violence Bill as “poor”, saying that “dozens of girls and practitioners said that they had either undergone or performed female genital mutilation since the law was passed”.¹⁵³ Human Rights Watch reported to us that local advocacy groups speak of “a lack of political commitment and legal interest, and administrative malaise”. It said that family members still frequently harass women using shelters, and it cited recent honour killings which had not been investigated.¹⁵⁴

81. The FCO, in its 2012 Human Rights and Democracy Report, says that it “will work for improved implementation” of the EVAW law in Afghanistan and that more needs to be done by the Afghan Government in this field;¹⁵⁵ and Baroness Warsi acknowledged to us that there had been setbacks in implementation.¹⁵⁶ We note that the FCO is encouraging the Government to monitor the use of the EVAW law by police and prosecutors across the country to ensure that it is used in all applicable cases.¹⁵⁷ We asked Baroness Warsi whether the provision of aid in Afghanistan should be tied to a commitment by the Afghan government to better implementation of laws protecting women’s rights. She observed that the UK, along with international partners, would hold Afghanistan accountable for

150 Q 28

151 <http://www.nytimes.com/2013/07/03/world/asia/afghan-donors-want-human-rights-panel-reconsidered.html>; see also Written Ministerial Statement, HC Deb 16 July 2013, col 79WS

152 Cm 8339, page 267

153 https://www.hrw.org/sites/default/files/wr2013_web.pdf

154 Ev 49

155 Cm 8539, pages 121 and 124

156 Q 112

157 HC Deb 18 March 2013, col 464W

commitments which it made under the Tokyo Mutual Accountability Framework.¹⁵⁸ However she said that this had to be “practical conditionality” and that “there is no point setting conditionality which we feel cannot be met in the short term ... It is better to stay there and to keep pushing so that people keep going down the right path than it is to disengage because they are not doing things in the way we would like”. She said that such an approach nonetheless needed to be complemented by “robust discussions”.¹⁵⁹

82. Baroness Warsi reported optimism amongst Afghan women that despite continuing challenges, gains made so far in women's rights would not be lost and that too much progress had been made for things to “slip backwards”.¹⁶⁰ She wrote to us after having given oral evidence, listing examples of the UK Government projects in Afghanistan aiming to support leadership by women at a national level. These projects included work to strengthen women's political participation as candidates, leaders and voters in forthcoming presidential, parliamentary and provincial council elections;¹⁶¹ grants to organisations focussing wholly or partly on women's rights in the country; and business initiatives to improve women's “economic empowerment”.¹⁶²

83. The act of passing legislation outlawing violence against women is not a ‘big step forward’—as has been claimed—if the legislation is not implemented. The FCO's pragmatic approach towards securing better implementation of the law in Afghanistan and elsewhere is understandable, but we are not as optimistic as is the Minister that progress will be made in Afghanistan once ISAF troops have withdrawn: if anything, we believe that a reversal is more likely. Many assurances have been given by the FCO over the years about its support for women's and girls' rights in Afghanistan: the emphasis should now be on ensuring that gains made so far are not reversed. The FCO, in its response to this Report, should explain how it plans to achieve this.

Children's human rights

84. For the third year running, children's rights organisations have said in written submissions to our inquiries into the FCO's human rights work that the FCO should accord greater priority to child rights within its human rights work. We recommended last year that the FCO should “undertake urgent work to address negative perceptions among voluntary sector groups of its commitment to children's human rights abroad”.¹⁶³ In its response, the FCO drew attention to its work on children's rights through the UN and other international institutions, and it described the role of the Ministerial Champion for tackling violence against women and girls in engaging governments overseas, supporting

¹⁵⁸ The compact between the Afghan Government and the international community linking provision of aid to progress in strengthening governance and respect for human rights, the rule of law and the Afghan constitution.

¹⁵⁹ Q 113

¹⁶⁰ Q 120

¹⁶¹ DfID has committed £4.5 million to this programme, to run from June 2013 to December 2015: see Written Ministerial Statement, HC Deb 16 July 2013, col 79 WS

¹⁶² Ev 59

¹⁶³ Third Report from the Committee, Session 2012-13, HC 116, paragraph 23

local voluntary groups, and ensuring that UK Government Ministers conveyed consistent messages on the importance of the rights of women and girls when travelling overseas.¹⁶⁴

85. In evidence to this year's inquiry, children's rights groups made a number of criticisms of the FCO and its approach to children's human rights: some of these are familiar from previous years. The BOND Child Rights Group commended the FCO for the Report's focus on children affected by armed conflict, child marriage and harmful practices such as female genital mutilation, but it regretted what it saw as the lack of any reporting on children's human rights in 'countries of concern' other than those in which the FCO was directly supporting children's rights programmes.¹⁶⁵ BOND and UNICEF both argued that the FCO should renew or replace its child rights strategy which had expired in 2010; and BOND also urged the Foreign Secretary to extend the membership of his Advisory Group on Human Rights to include a child rights expert.¹⁶⁶ The FCO agreed to consider taking this step last year,¹⁶⁷ but no such appointment has been made.

86. There are persistent criticisms by children's rights groups that the FCO is failing to treat children's human rights as a priority. *We continue to believe that the FCO should do more to gain the confidence of children's rights groups in its human rights work. As a relatively simple step, we recommend that the Foreign Secretary appoint a child rights expert to his Advisory Group on Human Rights: this would provide reassurance to children's rights groups that the FCO is alert to the particular demands of supporting children's human rights worldwide.*

164 Cm 8506, response to recommendation 8

165 Ev w17

166 Ev w13 and w19

167 Cm 8506, response to recommendation 8

5 Freedom of expression in broadcast media

87. Article 19 of the UN Universal Declaration of Human Rights states that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. In its written submission to our inquiry into the FCO’s performance and finances in 2011-12, the BBC World Service described difficulties which it faced in overcoming interference with its broadcast services overseas, including jamming of radio and television broadcasts and denial of access to its services transmitted over the internet.¹⁶⁸ We announced in the terms of reference for this inquiry our intention to look in a little more detail at some of these issues, with a view to identifying what action might be taken to assist the BBC World Service, as one of the chief means by which the UK projects ‘soft power’ throughout the world, in reaching its intended audience.

88. The FCO’s 2011 Human Rights and Democracy Report, published in April 2012, cited studies by Freedom House¹⁶⁹ and the Economist Intelligence Unit, both of which had found evidence of a noticeable recent decline in media freedoms worldwide. Conditions appear to have deteriorated further: Reporters without Borders¹⁷⁰ described 2012 as “the deadliest year for journalists”, with more journalists being killed in connection with their work than in any previous year.¹⁷¹ Broadcast media has also suffered: leading international broadcasters issued a statement on 3 May 2013 (World Press Freedom Day) saying that media freedom had not faced such a concerted campaign of disruption since the end of the Cold War¹⁷². This was echoed by the BBC World Service, which told us of “a return to a level of jamming of shortwave radio which has not been seen for many years”.¹⁷³ The most recent international survey of internet freedom by Freedom House found that restrictions on internet freedom in many countries had continued to grow, and that methods of control were evolving and becoming less visible. Of the 47 countries examined and scored in the survey, 20 had experienced a “negative trajectory” since January 2011, with Bahrain, Pakistan, and Ethiopia showing the greatest declines.¹⁷⁴ Mark Bunting, Head of Strategy and Policy at BBC Global Services (of which the BBC World Service forms part), ascribed the deterioration in media freedom to growing instability throughout the world (which led nervous governments to impose constraints) and to the expansion of new media, and the greater ease with which people could disseminate information.¹⁷⁵

168 Fifth Report from the Committee, Session 2012-13, HC 690, Ev 52

169 A US-based NGO “dedicated to the expansion of freedom around the world”

170 A not-for-profit organisation monitoring media freedom across the world

171 <http://en.rsf.org/2012-journalists-netizens-decimated-19-12-2012,43806.html>

172 <http://www.bbc.co.uk/mediacentre/latestnews/2013/worldpressfreedomday.html>

173 Ev 49

174 <http://www.freedomhouse.org/report/freedom-net/freedom-net-2012>

175 Q 65

89. As far as the BBC World Service is concerned, the countries which make the most comprehensive efforts to frustrate the BBC's attempts to broadcast overseas are:

- Iran, where broadcasts via satellite of the BBC Persian TV service have been jammed since the year of its launch (2009), with peaks and troughs of interference. BBC Farsi shortwave radio services have been jammed intermittently; and access to BBC Persian.com—the BBC's web-based service in Farsi, providing news, analysis, discussion, documentaries and other programming—has routinely been blocked.
- China, where BBC shortwave radio broadcasts in Mandarin were blocked for many years.¹⁷⁶ BBC English shortwave radio broadcasts have been intensively jammed since February 2013; access to the BBC Chinese (Mandarin) website has been completely blocked since its launch in 1999; and access to the English-language BBC.com website has been selectively blocked.¹⁷⁷

Appendix 2 to the BBC World Service submission to this inquiry, published with this report, offers a snapshot of the level of internet blocking and broadcast jamming of BBC and other broadcast services throughout the world.¹⁷⁸

How can access to broadcast services be blocked?

90. There are various ways in which radio and TV broadcast signals can be jammed:

- Uplink or “orbital” jamming of satellite TV broadcasts. A rival signal is transmitted up to the satellite on the frequency used by the authorised user. That signal interferes with the authorised service and prevents it from being decoded by viewers' satellite receivers. The interference affects all services using the transponder,¹⁷⁹ not just the target service. Uplink jamming is a breach of international radio regulations.¹⁸⁰
- Downlink or “terrestrial” jamming of satellite TV broadcasts. Small, portable terrestrial jamming equipment, which can be mounted on buildings or vehicles, sends signals to consumers' satellite dishes, interfering with signals carrying paid-for broadcasts. Typically such equipment would have a range of 3 to 5 kilometres in urban areas, or up to 20 kilometres in rural areas, and could cost as little as \$6,500.¹⁸¹
- Shortwave radio jamming. A rival signal – either a different broadcast, or an interfering noise signal (“bubble jamming”) or white noise (“hash jamming”) - is broadcast on the same frequency as the victim broadcast.¹⁸²

176 The service was eventually withdrawn, partly because the jamming was so effective but also as a cost-saving measure: resources were instead diverted to internet-based services. See Q 69

177 Most of the site is accessible, but some China-related story pages are blocked. Ev 52

178 Ev 53

179 A transponder is an electronic device which can receive a signal and transmit it. A transponder located on a satellite can receive a signal on one frequency, convert it to a signal on a different frequency and relay it back to terrestrial receivers. A transponder can handle multiple signals from different broadcasters.

180 Article 15 of the Radio Regulations of the International Telecommunications Union

181 *Satellite Jamming in Iran: A War over Airwaves*, chapter 4.3, <http://smallmedia.org.uk/sites/default/files/Satellite%20Jamming.pdf>

182 Ev 52

91. Techniques for blocking access to the internet are constantly evolving. There are various stages of the process at which a request can be barred or deflected,¹⁸³ for instance:

- When a consumer requests a webpage, their router directs that request—or “packet” of information—to their internet service provider’s (ISP’s) router. The routing rules used by a router can be modified to send “packets” of information destined for one address to a non-existent one;
- An ISP can route web requests to a proxy server not visible to the consumer; that proxy server then rejects any request for access to specified web pages (this is the process used by ISPs to deny access to child pornography sites notified by the Internet Watch Foundation);
- A packet of information carrying a request for access to a webpage can be intercepted en route (for instance at a firewall or by inline Deep Packet Inspection equipment), and the request can be aborted if it matches certain pre-defined properties;
- A Domain Name System (DNS) server, used to translate domain names (such as www.parliament.uk) to numeric IP addresses, can be modified by an ISP or other party to redirect the consumer to a different web page or other service, or deny the existence of the domain.

In states which operate internet controls, typically the state instructs internet service providers (ISPs) to block access to certain sites or content (as is the case in Kuwait and Tajikistan), or the state intervenes at a central level, using technological filters and extensive human monitoring (China), or the state owns the sole ISP and operates as it pleases (Ethiopia).¹⁸⁴

How can blocking mechanisms be overcome?

Diplomatic pressure

92. The FCO regularly makes representations at a diplomatic level to states where freedom of expression in the media is restricted. The FCO’s 2012 Human Rights and Democracy Report cites examples of representations made to China, Ethiopia and central Asian states at ministerial or official level about freedom of media expression.¹⁸⁵ Peter Horrocks, the Director of BBC Global News, showed his appreciation of these efforts in oral evidence last December on the performance and finances of the FCO.¹⁸⁶

93. Gauging the impact of these efforts, or identifying any instance of clear benefit, is nonetheless difficult. We asked witnesses from BBC Global News whether they could give examples of occasions on which diplomacy had secured an improvement in media

183 See “Site Blocking” to reduce online copyright infringement, Ofcom, <http://stakeholders.ofcom.org.uk/binaries/internet/site-blocking.pdf>

184 Ev 54-6

185 Cm 8539, pages 35-6

186 Fifth Report from the Committee, Session 2012-13, HC 690, Q 159 and 165 of oral evidence

freedom in another country. Mr Bunting¹⁸⁷ said that he was not sure that he could point to an occasion when FCO intervention had led to “a transformation in media freedom”, but he did offer what he described as “small examples”. The FCO had, for instance, been “very helpful and supportive” when licences to broadcast had been revoked or visas for journalists had been denied; it had helped to broker conversations with Turkish authorities to help put an end to undue pressure which was being placed on BBC journalists; and it had helped to “manage the relationship” between the BBC and Vietnam in the face of an apparent threat to the availability of BBC World News in the country.¹⁸⁸ As we noted in our report last year on the FCO's performance and finances, any relaxation of pressure by the FCO on countries which deny media freedom and which block access to BBC World Service content would be noted by the host country and would be interpreted as a softening of the UK's approach.¹⁸⁹ so it is important to continue to register disapproval and to press for improvements in media freedom.

Strengthening international regulation?

94. There is a degree of international regulation of broadcasting, telecommunications and spectrum access through the International Telecommunications Union (ITU), a body which was established in 1865 as the International Telegraph Convention. The ITU became a UN “specialized agency” in 1947 and now has 193 member states and 700 members representing private sector, academic and commercial interests. Its current functions include allocation of global radio spectrum and satellite orbits and securing international compatibility of telecommunications technologies and services.¹⁹⁰

95. The BBC World Service told us that the ITU “successfully provides a forum for the resolution of matters relating to broadcasting and telecommunications” but that “it primarily achieves progress in developing international standards through seeking consensus” and that it “seeks to resolve matters of dispute through bi-lateral negotiation”. When we asked witnesses representing BBC Global News about the effectiveness of the ITU in resolving disputes about jamming, they described a recent case in which a formal complaint had been filed by France about jamming by Iran: Iran had disputed the evidence presented and had met the complaint with denial, and as a result it had not been possible take the arbitration forward. Mr Fry, Head of Distribution at BBC Global News, told us there was no enforcement mechanism and no viable arbitration mechanism through the ITU. He concluded by saying that jamming was “a political issue that challenges the scope of the ITU, and that some would say is beyond the scope of the ITU”.¹⁹¹

96. Mr Bunting told us that although the ITU had tried to take on regulatory responsibility in relation to communications or broadcasts via the internet, it had not yet been successful in finding a way to do so. An attempt to consider regulation and governance of the internet at a conference in Dubai facilitated by the ITU in December 2012 broke down and was

187 Head of Strategy and Policy at BBC Global News

188 Q 71

189 Fifth Report from the Committee, Session 2012-13, HC 690, paragraph 80

190 <http://www.itu.int/en/about/Pages/default.aspx>

191 Q 74-5

unable to reach agreement on even basic matters.¹⁹² Some have suggested that the UN itself would be a more appropriate body to address such issues, and Mr Fry believed that this was something which governments would need to consider.¹⁹³ These wider issues fall outside the scope of our inquiry, but **it is clear to us that the existing structure for international telecommunications regulation is poorly suited to dealing with more political disputes concerning media freedom.**

Technological solutions: jamming

97. In the past, satellite service providers have typically responded to jamming by temporarily halting services and then reinstating them once the jamming had ceased. The result has been a cycle of jamming, removal of service and reinstatement, with periods during which the broadcaster is off-air and the satellite provider incurs a financial loss, as it cannot honour its obligations to provide a continued and reliable service to either the broadcaster being jammed or other broadcasters using the same transponder. There is, therefore, a commercial incentive which is driving satellite providers to invest in new technology. Eutelsat, a satellite provider based in France and the host for various broadcast services to Iran, including BBC Persian, introduced technology which allowed it to isolate BBC Persian from other services using the same satellite, in an attempt to protect them from disruption aimed at BBC Persian. It has also arranged for carriage of BBC Persian on alternative satellites using technology that “was not easy to jam”.¹⁹⁴ Such technology may be introduced more widely by satellite operators in due course although, given the 10 to 15-year lifetime of satellites and the economics of replacing new equipment, it could take ten years or more before a cycle of new jamming-resistant satellites has been launched.¹⁹⁵

98. Effective solutions to the problem of jamming of radio and television broadcasts lie principally with satellite providers, which have a commercial interest in ensuring that the services which their satellites carry reach their audience unimpeded. We encourage all providers, not just those suffering jamming, to recognise the value of investing in technology which protects broadcast signals from interference. Given that national interests are involved, we see a role for the Government in encouraging a concerted approach by satellite providers.

Technological solutions: internet access

99. The BBC World Service identified two strategies sometimes used to defeat blocking of access to the internet: virtual private networks, and web proxies.

- Virtual private networking deploys encryption and other security measures to shield data from the view of third parties (i.e. anyone other than the requester and the supplier). We note that the Iranian authorities have recently stepped up efforts to block the use of virtual private networks.

192 Q 77-8

193 Ev 53 and Q 80

194 Ev 51

195 Q 81

- Web proxies are used by the BBC to deliver content into China, Iran, Kyrgyzstan and Uzbekistan: over 1 million pages are viewed weekly through these proxies, which are a commercial product developed by Psiphon, a Canadian corporation.¹⁹⁶

100. We asked witnesses from BBC Global Services about the scale of the BBC's investment in technological means of overcoming barriers to internet access, and about the scope for collaborating with EU or US partners in the development of such products. Mr Bunting confirmed that the US and other "global players with international broadcasting interests" shared expertise. However, he pointed out that many of the technologies in question were "not particularly well tested or developed", and that while the BBC was aware of their potentially beneficial impact on the BBC's ability to broadcast in China and elsewhere, it had to balance investment in "long-term, slightly speculative, technical products" against the need to sustain the quality of existing services. He said that the resources available for this sort of technology were "constrained", and he was not certain that the BBC had quite reached the point where it should be investing more heavily in it, although it was an area to be considered in future planning.¹⁹⁷

101. At a time when delivery of broadcast services is moving inexorably from old platforms to new ones, from short-wave radio services to television and to new media, the BBC needs to think sooner rather than later about what scale of investment will be needed in order to preserve open access to its internet-based services for international audiences. In the short term, while the technologies are relatively experimental and unproven, a collaborative approach with other broadcasters would seem to be the most economically viable option.

Conclusion

102. The right of access to information, across borders, is fundamental. As we have pointed out on numerous occasions, the BBC World Service makes a huge contribution to the projection of the UK, its values and strengths, across the world. It would be astonishing if that work were to be diminished purely because the BBC lacked the resources to protect its broadcasts from interference by states where tolerance and freedom of expression are not entrenched. We urge the BBC, as the future funder of the BBC World Service, to recognise in future funding plans the need to provide the resources necessary to afford that protection.

196 Ev 52

197 Q 89-90

6 Business and human rights

Business and Human Rights Strategy

103. In November 2011, the then FCO Minister with responsibility for human rights, Jeremy Browne MP, wrote to the Committee Chairman saying that work on developing a cross-Government strategy on business and human rights was “proceeding well”.¹⁹⁸ The FCO’s 2011 Human Rights Report (published in April 2012) stated that the strategy would be launched in mid-2012, adding that its purpose was “to provide clear guidelines to British businesses about the Government’s expectations of their behaviour overseas in respect of the human rights of people who contribute to or are affected by their operations”.¹⁹⁹ As part of the strategy, the FCO would reinforce training for government staff who come into contact with UK companies at home and abroad; and it would update the Business and Human Rights toolkit, used by staff at overseas posts.

104. The original target date for publication of the Strategy was September 2012 but this was not met.²⁰⁰ Baroness Warsi explained to us in evidence in July 2013 that she “might be part of the problem” behind the delay as she had seen an early draft soon after taking up her post and had asked officials to do further work on it.²⁰¹ On 4 September 2013, however, the Government finally published an action plan on business and human rights, titled *Good Business: Implementing the UN Guiding Principles on Business and Human Rights*.²⁰² The action plan is designed to meet the needs of companies which “need certainty about the Government’s expectations of them on human rights” and which “expect support in meeting those expectations”. It sets out the UK’s obligations under customary international law, UK law and agreements; identifies principles which underlie the approach which businesses should take in order to respect human rights wherever they operate; lists sources of guidance; and describes options for remedy arising from human rights abuses.

105. The action plan was published after we had taken evidence for this inquiry, and we have not yet been able to assess it in detail. In our report last year on the FCO’s human rights work in 2011, we observed that a strategy which was “couched exclusively in terms of guidance and voluntary initiatives”, while undoubtedly worthwhile, would not, on its own, meet the spirit of the UN Guiding Principles on Business and Human Rights (the “Ruggie Principles”), which envisage that states will take “appropriate steps to prevent, investigate, punish and redress abuse through effective policies, legislation, regulations and adjudication”.²⁰³ We also encouraged the Government:

- To remain open to the possibility of extending extra-territorial jurisdiction to cover actions by UK businesses, or by firms operating under contract to the UK Government, which have an impact on human rights; and

198 Not published

199 Cm 8339, page 113

200 <http://webarchive.nationalarchives.gov.uk/20121030084443/http://transparency.number10.gov.uk/business-plan/9/35>

201 Q 163

202 Cm 8695

203 Third Report from the Committee, Session 2012-13, HC 116, paragraph 109

- To consider linking provision of Government procurement opportunities, investment support and export credit guarantees to UK Businesses' human rights records overseas.

106. We welcome the publication by the Government of an action plan on business and human rights and commend it for enabling the UK to be the first country to set out guidance to companies on integrating human rights into their operations. We intend to assess the value of the action plan at a later date.

Export controls

107. Last year, Amnesty International drew our attention to “credible allegations” that businesses (not necessarily UK-based) were supplying telecommunications technology to certain countries despite “convincing” reports that it was being used to violate freedom of expression on the internet (Libya, Egypt, China and Iran were cited as examples).²⁰⁴ Kenneth Roth, the Executive Director of Human Rights Watch, has noted that governments in “the Arab world” had used powerful internet surveillance technologies sold by Western companies to target human rights defenders and suspected dissidents;²⁰⁵ and allegations of such activity have been made in written submissions to our inquiry into the UK's relations with Saudi Arabia and Bahrain.²⁰⁶

108. We recommended last year that the Government should set out the scope for controlling the supply by UK nationals, or by companies based in the UK, of telecommunications equipment for which there is a reasonable expectation that it might be used to restrict freedom of expression on the internet.²⁰⁷ The Government explicitly welcomed that recommendation and pointed out that some such equipment might already be subject to export control under the EU Dual-Use Regulation. However, it went on to say that where such equipment was not currently subject to controls, the Government was “committed to working with international partners through the Wassenaar Arrangement in order to agree a specific control list of goods, software and technology”, and that work in this area was expected to continue in 2013.²⁰⁸

109. Despite the Government's warm response to the Committee's recommendation, the section of this year's FCO Report on Human Rights and Democracy dealing with freedom of expression on the internet makes no mention of any past or planned work on drawing up a list of controlled goods; nor is it listed among the subjects discussed by the FCO's Freedom of Expression on the Internet Expert Group, chaired by Baroness Warsi.²⁰⁹ Amnesty International told us that it had no recollection of discussion on the subject at meetings of the Group, although it believed that it had been “mentioned in passing”.²¹⁰

204 Third Report from the Committee, Session 2012-13, HC 116, paragraph 116

205 Human Rights Watch *World Report 2013*, page 19: https://www.hrw.org/sites/default/files/wr2013_web.pdf

206 See submission from Bill Marczak, Bahrain Watch, to the Committee's inquiry into UK relations with Saudi Arabia and Bahrain, published on the Committee's webpages at www.parliament.uk

207 Third Report from the Committee, Session 2012-13, HC 116, paragraph 117

208 Cm 8506, response to recommendation 32

209 Cm 8593, pages 36 and 37

210 Ev 44

110. There appears to be a distinct change of tone in the FCO's pronouncements on controls over this type of material. The indication given to the Committee last year that work would take place in 2013 on drawing up a list of equipment which was not covered by the EU Dual-Use Regulation but which might nonetheless merit controls seems to have come to nothing, and the Minister told us that "I am not sure whether we will draw up a definitive list". The FCO now argues that this is "a fast-moving area" and that "we need to allow that space to remain as free as possible for businesses to thrive and for innovation to continue".²¹¹ The Government's new action plan on business and human rights, published on 4 September 2013, does however announce that guidance will be developed "to address the risks posed by exports of information and communications technology that are not subject to export control but which might have impacts on human rights, including freedom of expression online".²¹²

111. The FCO should not simply sit back and allow UK commercial interests to proceed without restraint in developing and exporting equipment and software which, although not subject to export controls under the EU Dual Use Regulation, could nonetheless limit or punish freedom of expression on the internet. Drawing up guidance on the issue for businesses is a welcome step; but the FCO, together with the Department for Business, Innovation and Skills, should also be following closely the development of such equipment and should be ready to intervene by controlling exports if there is obvious potential for abuse by end-users. We recommend that the FCO, in its response to this Report, should indicate what mechanism the Government has in place to maintain its awareness of product development in this field and exports of such products.

211 Q 165

212 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf, page 11

Formal Minutes

Tuesday 8 October 2013

Members present:

Richard Ottaway, in the Chair

Mr John Baron
Sir Menzies Campbell
Mike Gapes
Mark Hendrick

Sandra Osborne
Mr Frank Roy
Sir John Stanley
Rory Stewart

Draft Report (*The FCO's human rights work in 2012*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 6 read and agreed to.

Paragraph 7 read, amended and agreed to.

Paragraphs 8 to 15 read and agreed to.

Paragraph 16 read.

Amendment proposed, in line 11, after "views" insert "**We conclude that in the context of the negative human rights situation in Sri Lanka it is regrettable that the Prime Minister decided to attend the CHOGM meeting. We further conclude that this decision should have been reconsidered following the recent disturbing report of the UN High Commissioner for Human Rights.**"—(*Mike Gapes.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 3

Mike Gapes
Sandra Osborne
Mr Frank Roy

Noes, 4

Mr John Baron
Sir Menzies Campbell
Sir John Stanley
Rory Stewart

Amendment accordingly negatived.

An amendment made.

Paragraph, as amended, agreed to.

Paragraph 17 read and agreed to.

Paragraph 18 read, amended and agreed to.

Paragraph 19 read and agreed to.

Paragraph 20 read, amended and agreed to.

Paragraphs 21 to 28 read and agreed to.

Paragraph 29 read, amended and agreed to.

Paragraphs 30 to 43 read and agreed to.

Paragraph 44 read, amended and agreed to.

Paragraphs 45 to 70 read and agreed to.

Paragraph 71 read, amended and agreed to.

Paragraphs 72 to 90 read and agreed to.

Paragraph 91 read, amended and agreed to.

Paragraphs 92 to 97 read and agreed to.

Paragraph 98 read, amended and agreed to.

Paragraphs 99 to 101 read and agreed to.

Paragraph 102 read, amended and agreed to.

Paragraphs 103 to 111 read and agreed to.

Summary read, amended and agreed to.

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

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

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

Written evidence reported to the House on 11 June 2013 for publication on the internet was ordered to be printed with the Report.

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

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

[Adjourned till Tuesday 15 October at 1.45 pm.]

Witnesses

Tuesday 11 June 2013

Page

Kate Allen, Director, Amnesty International UK, and **David Mepham**, UK Director, Human Rights Watch

Ev 1

Tuesday 9 July 2013

Nigel Fry, Head of Distribution, BBC Global News, and **Mark Bunting**, Head of Strategy and Policy, BBC Global News

Ev 15

The Rt Hon. Baroness Warsi, Senior Minister of State, **Amy Clemitchaw**, Deputy Head, Human Rights and Democracy Department, and **Simon Shercliff**, Head of Counter Terrorism Department, Foreign and Commonwealth Office

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Oral evidence

Taken before the Foreign Affairs Committee

on Tuesday 11 June 2013

Members present:

Richard Ottaway (Chair)

Mr John Baron
Ann Clwyd
Mike Gapes

Sandra Osborne
Mr Frank Roy
Sir John Stanley

Examination of Witnesses

Witnesses: **Kate Allen**, Director, Amnesty International UK, and **David Mepham**, UK Director, Human Rights Watch, gave evidence.

Q1 Chair: Can I welcome members of the public to this evidence session of the Committee's inquiry into the Foreign Office's human rights work in 2012? It is important to bear in mind that this is our critique of the FCO's report on human rights, rather than a wide-ranging report on human rights.

To assist us in assessing the effectiveness of this report, I am delighted to welcome back Kate Allen, director of Amnesty International UK, and David Mepham, the UK director of Human Rights Watch. A warm welcome to you both. It's good to see you here again. Is there anything that you want to say by way of an opening statement?

Kate Allen: Just to thank you very much for inviting us to talk about the report, to say how important we find both the report and this scrutiny of it and to highlight, in case we do not talk about it during this sitting, our appreciation of the UK Government's support on the arms trade treaty, which was a major event during the year where we did something brilliant in the world and where the UK Government played a great role. We are often critical—I am sure that we will be critical during the session—but the treaty is very special.

David Mepham: I echo Kate's thanks to you and the Committee for having this sitting and for us to have the opportunity to speak before you. Perhaps I could add two brief points. The first is to draw the Committee's attention if you have not already seen it—it may well be very much on your radar screen—to the report of the UN Committee Against Torture that came out some 10 days or two weeks ago. A group of human rights experts associated with the UN Committee Against Torture assessed the UK's performance in respect of the treaty, of which the UK is of course a signatory. While some elements of the report are positive about the UK's record, there are also some quite telling criticisms of UK performance. If you have not had an opportunity to look at it, I would suggest and encourage you to do so, because it is quite an important document that will play into your inquiry.

I wanted to make this second point because I am not sure where it would come up otherwise, but it is relevant and may be the kind of thing that you could put to the Human Rights Minister when she appears before you. You should ask her about the impact on

her international human rights diplomacy of the fact that we have Cabinet Ministers and other prominent people in the Government who are regularly attacking the European Convention on Human Rights and the Human Rights Act and disparaging to some extent the concept of human rights. What impact does that have on our capacity through foreign policy to persuade other Governments around the world, not least in Europe, to uphold human rights principles? We see that as having a negative impact, but it might be a question that you could put to the Minister when she appears before you.

Q2 Chair: Good point. It is straying dangerously close to a political argument, but it is a point well made.

Can I start with a fairly general question? As you are aware, the criteria for establishing countries of concern have changed. Do the new criteria have your support?

Kate Allen: We have had consultations on that, which have been good and important. David will come on to mention a few countries that we would have probably jointly have expected to have seen in the report given the new criteria.

Thinking again about the criteria and about where they might go in future, one thing that we might like to add is something about aspiring powers and the fact that the UK Government have strong relationships and new developing relationships and trade relationships with countries such as Mexico, Malaysia, Indonesia and Nigeria. Perhaps there is something about aspiring powers that could come into the criteria in future, but I will leave David to talk about the particular countries that we would both have expected to have seen within the countries of concern.

Q3 Chair: So, by and large, you go along with the new criteria.

Kate Allen: I think they are an effective set of criteria, but we should always keep them under some scrutiny or review and that is why we make our suggestions.

David Mepham: As you say, Chairman, there has been this review of the criteria and new criteria were issued some months ago. At one level, if you read the criteria, it is hard to disagree with the principles set out about the gravity of human rights abuse, the

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regional impact of abuse in a particular country, the UK's influence and so on. Our concern at Human Rights Watch is that, despite the new criteria, you have some very important countries, which in our judgment should fall inside the criteria and that are consistent with the criteria, that are not included in the countries of concern section in the most recent human rights and democracy report. Those four would be Ethiopia, Rwanda, Bahrain and Egypt.

Q4 Chair: Sorry, Ethiopia, Rwanda—

David Mepham: Bahrain and Egypt. I believe that your Committee last year said that Bahrain should be included as a country of concern. We would make the case strongly for Ethiopia and Rwanda to be included, given the gravity of the human rights abuses that are taking place in both countries. I think they would fall within the grave human rights abuses criterion. I am just slightly puzzled and bemused that the UK has a lot of influence with both of those countries in terms of diplomatic, security and development relationships. In the case of Rwanda, for example, just in November of last year, the UK Government—both DFID and the Foreign Office—took the decision that Rwanda's support for human rights abuses in eastern Congo, particularly its support for the M23, was such that they would change quite fundamentally their policy in terms of ending general budget support for the Government of Rwanda, to send a clear signal to Rwanda that what it was doing was unacceptable, but that did not read across to Rwanda being included in the countries of concern section of the report. That is just puzzling, and I think it is an issue to put to the Minister. On objective grounds, in terms of the graveness of the abuses, but also in terms of UK influence, those four countries that I have mentioned should be included.

Chair: That is very helpful. I want to come back to you about some terrorism points, but on something that Kate Allen just said, Sir John Stanley wants to ask a question.

Q5 Sir John Stanley: I am very glad to hear what you said about the signing of the international arms trade treaty. You will be fully aware that there is all the difference in the world between getting treaties signed and getting them into force, which requires the signatures of the requisite number of countries by way of accession. The arms trade treaty requires accession by 50 countries in order to be brought into force. Can you tell us what you think the British Government should do to achieve the accession to the treaty of 50 countries in the minimum length of time?

Kate Allen: On 3 June in New York, 67 countries signed the treaty, so I think that was a very good start. Among that 67 were the UK—it was good to see the UK there on the day—France and Germany, some of the major arms exporting countries. The US has said that it will be signing shortly, so I think that we have a good head of wind with the signatures. You are right: the ratifications need to take place. It would be good for the UK Government to provide support to many of the smaller countries of the world that supported the arms trade treaty in what they will legislatively have to do within their own countries to

get things into place to be able to enforce the arms trade treaty. I know, from discussions with Minister Burt, that there is some work there, but it would be good to be very clear about how much is being invested in that by the Foreign Office, because there is a great promise with the arms trade treaty. But you are absolutely right: we need to have those ratifications and the implementation globally.

Q6 Chair: Moving on, the Foreign Secretary made a big speech at RUSI about combating terrorism. There were proposals to form networks and closer relationships and to share intelligence with a number of countries. It is an area that we are taking a close interest in, anyway. There is, however, a concern that there could be a conflict of human rights in these countries. It is described as “co-operating by sharing information while developing local capacity in adherence to human rights.” Do you think that that is the right approach?

David Mepham: Obviously, I have the speech in front of me and I read it in anticipation that it would be raised by the Committee today. There are a number of things that were said in the speech that it would be hard to disagree with. Right at the outset, the Foreign Secretary talks about the importance of situating what we do in terms of the counter-terrorism agenda very much within the framework of the rule of law, human rights, good governance and so on. The concern is when that then translates into some of these practical initiatives and practical measures. As you know, both Human Rights Watch and Amnesty have been very concerned about the deportation with assurances policy that we could perhaps come on to.

Chair: We are coming to that in a second.

David Mepham: In terms of the practical issues, of course the United Kingdom will be engaging with lots of countries around the world and discussing these kinds of issues. What is essential is that it should do so with human rights at the forefront. We should not be doing anything that might involve us in complicity in torture or abuse, and we need to ensure that those principles surround any kind of new initiative or any co-operation we have with particular countries. The ban on torture is an absolute prohibition. It is an absolutely clear and categorical imperative that this Government has as a signatory to the UN Convention Against Torture.

No one disagrees with co-operation and engagement and so on. The test will be whether the UK and its relationship with a particular country is ensuring that human rights and the rule of law are protected and upheld and that we are not doing anything that in any way involves us in torture and abuse. One may need to look at an individual case to make that judgment, but that is the test that should be applied when we come to broad discussions about anti-terrorism.

Kate Allen: Absolutely; that's the test. The Foreign Secretary's speech identified absolutely some of the key dilemmas, but there were some missing elements. Things that we would highlight as additional areas that could be looked at include the role of the UN and the existing mechanisms and rapporteurs. For example, if Jordan was allowing regular access to those special mechanisms and rapporteurs were

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looking at detention facilities and records of torture, and seeing that improve, and if the UK Government were supporting that vocally, you could start to see those UN mechanisms playing their role as they should do and somewhere like Jordan and its human rights record improve, with transparency and accountability about that.

The other missing thing in the speech is not looking at some of the lessons over the years, but of course the independent inquiry into where things have gone wrong has not taken place, so that sort of external view—

Chair: We have questions on the detainee inquiry as well.

Kate Allen: Sure, but there is no real sense of an external look at what has gone wrong, and therefore what needs to be put right. As David said, the position of Amnesty and Human Rights Watch in terms of returning people to places where they might be tortured or sending evidence to places that could lead to people being tortured is a red line for us. Amnesty would see those two contributions as something that could help to strengthen the ability to ensure human rights compliance by countries.

Chair: Flagging up a caution, basically.

Q7 Mr Baron: If you don't mind, may I stick with the detainee inquiry or, better still, its successor? It has had a tortuous path, perhaps understandably, and it is now held in abeyance. We have had a promise of a report on the preparatory work, and we have also been assured that there will be a successor to the inquiry. This Committee recommended last year that "the Government and human rights organisations should start to explore ways of finding a mutually acceptable basis on which the successor inquiry to the Detainee Inquiry can proceed." Have Amnesty International and Human Rights Watch held any discussions with the Government on the form and process of the successor inquiry?

Kate Allen: No, we haven't had those discussions, and we would welcome them because it would be very timely to do that, so that when criminal proceedings have taken place and an inquiry can take place, it is ready and able to move quickly. We could learn and talk about why Amnesty, Human Rights Watch and others could not endorse the Gibson inquiry and its inadequacies in terms of its openness and ability to demand that people come before it with documentation, and the fact that the Government would decide what could be revealed and what could not. There is a lot that can be learned there.

David mentioned the UN Committee Against Torture and its report a few days ago. It, too, asked these questions and why, when the report from the Gibson inquiry was delivered in July last year, it has not yet been made public because I would expect there to be quite a bit in it that we could be getting our teeth into in terms of its successor inquiry. Those are all points we would make, and we would very much welcome conversations with the Government about what that successor inquiry might look like.

David Mepham: Briefly, I would agree with everything that Kate has said. I think the recommendation your Committee made a year ago

was a very good one, and it is disappointing that there has been no attempt on the Government's part to reach out to organisations like ours that are interested in these issues and have some expertise in them to say what happened, what went wrong with the last inquiry and how can we make sure that, when inquiry No. 2 is instituted, we make a success of it.

In so far as the Government have expressed a view about it, it is not clear to me that they have learned the lessons from the failure of the first inquiry. If you look at how it is described in the report, there is no acknowledgement that organisations like ours were very concerned about the lack of adequate powers being invested in the inquiry or the lack of appropriate independence. They were our two principal concerns: the inquiry's powers and its independence from the Government. I do not think they have learned those lessons, but it is an issue that you should certainly push with the Minister.

Q8 Mr Baron: Can I be clear? We as a Committee have made a recommendation. The initial preparatory report has been with the Prime Minister since June of last year. What overtures have you made to the Government, and what has been the Government's response? You have talked about the independence, which is important. Can you tell us a bit more about that? Could you also address how you feel classified evidence should be handled to get that balance right between openness and transparency and obviously the security and safety of the individuals and perhaps at times the wider public?

David Mepham: Over the last year, it has been raised on a number of occasions with the human rights advisory group that we were concerned about this issue. There was a meeting just last week in which it was raised again. The UN Committee Against Torture has raised the issue in its very recent publication that it is a concern to them that the Gibson inquiry report that was handed over to Ministers a year ago has not yet been published, or the majority of it has not yet been published, and that there has not been any prompt move by the Government to put in place a new inquiry.

Q9 Mr Baron: I am sorry; can I pin you down, David? All these reports are fine, but has anybody knocked on the door and got a response from the Government as to why there is the delay?

David Mepham: We have not had a letter or any kind of communication from the Government that explains—it is not explained in the most recent report that we are discussing today—why there is this delay.

Q10 Mr Baron: Might it be worth asking the question?

David Mepham: It is a good point to make, but it is also a point for your Committee to make to the Minister.

Q11 Chair: We asked it last year, and I am pretty sure that we will ask it this year.

Mr Baron: I think that the charities themselves should ask the question.

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David Mepham: I think it is a fair point that we should press them harder on why there is this delay and what the explanation for it is and to what extent they have learned the lessons from the failure of the previous Gibson inquiry.

Q12 Mr Baron: Okay, can you address the issue, very briefly, on how you handle classified evidence? How do we get the right balance?

David Mepham: This to some extent strays into the discussion which we may or may not have about the Justice and Security Act. I do not know whether you are proposing to touch on that. We at Human Rights Watch are concerned about—

Chair: No, if you have a point to make, make it now.

David Mepham: We are concerned about this increasing trend to have secret court sessions—closed material procedures, as they are described. If there are allegations of abuse involving people working for the British Government, as indeed there are in this case that are of relevance to the Gibson inquiry, then they ought to be properly looked at and the people responsible for those abuses need to be held to account. This Committee needs to be very clear about what is involved here. On the basis of the available evidence, we have instances in which people working for the UK Government were involved in rendering people back to Gaddafi's Libya, where they were tortured.

This is very serious stuff, which is why we are disappointed with the failure thus far for anyone to be held accountable for that. Again, it is a question to be put to them. We would be very concerned if these allegations of Britain's involvement in torture and rendition are held behind closed doors. We actually think that that material needs to be in the public domain. Judges representing their clients can make their argument, but we would be very concerned if the totality of that trial is held in secret and there is not an opportunity for people who may have been abused to have their case heard in public.

Q13 Chair: Mr Mepham, this is quite a serious point you are making here. You famously produced the document—was it one or two years ago?

David Mepham: 2011.

Q14 Chair: It is two years ago. You just said that Mr Belhaj went back to Libya and was tortured. Do you mean tortured or allegedly tortured?

David Mepham: He claims he was tortured, and I think the evidence we have is pretty powerful that he was so tortured, but that obviously is for a process to determine. As you know, in the two individual cases, compensation has been given to one individual—not Mr Belhaj but Mr Sami al-Saadi. Mr Belhaj has asked for an apology from the British Government and there is a criminal process under way in relation to his case. We will see where that criminal process takes us, but he makes very serious allegations against people working for the British Government.

Q15 Chair: One of your team famously just stumbled over this evidence. Have they stumbled over any more evidence?

David Mepham: I think we discussed that at last year's session. No, not specifically in relation to this. There is no additional information that we have managed to glean in the last 12 months that we did not discuss 12 months ago in terms of Britain's involvement in this process. I think the allegations and the material that we have are sufficiently serious to warrant the kind of inquiry that we are talking about.

Q16 Mr Baron: Sorry, can I press you one more time? I think I got half an answer. On classified evidence, is it your view that it should be all out in the open? Where do you stand on this? Where is the right balance?

David Mepham: Obviously, there are bits of information that one cannot put into the public domain, but even before the Justice and Security Act became law very recently, there were processes in this country for dealing properly with such matters—for example, public interest immunity. We do not see any justification for the additional step that has been taken to have a greater frequency of cases in which closed material proceedings are used. We had existing mechanisms that could have been exploited for dealing with the kind of classified material that you describe within the legal process without that additional step.

Chair: Thank you.

Q17 Ann Clwyd: I wonder whether you feel that the treaty recently concluded with Jordan gives sufficient assurances for people deported to Jordan under UK immigration laws.

Kate Allen: No, we don't. I think that it takes diplomatic assurances a further small step, in that there would be some parliamentary scrutiny, but I think that the whole approach—whether it is diplomatic assurances or the recent agreement with Jordan—which singles out a particular individual and builds something around them is basically flawed. Jordan fails to uphold human rights standards in the way that it detains and in terms of its record on torturing. What is needed is a systematic approach to dealing with those failures within that country and by that Government, not picking out one individual and setting up a whole special scheme.

We also have severe doubts that those schemes for named individuals can be robust enough and can work. There are all sorts of ways in which people can be influenced. We have our worries about that. Fundamentally, it is a way of working around international law and UN conventions, rather than making sure that they are implemented for everybody.

David Mepham: I echo that, essentially. Like Amnesty, we are very sceptical about deportation with assurances. Essentially, this is a policy which is about sending people back to a place known to torture people on the basis of a bit of paper from that Government saying that they will not torture them. It lacks credibility. That Government is known to torture. In the case of Jordan, torture is very widespread in their detention facilities. We have documented that, and I know that Amnesty has, too. Why would you take their assurance in this particular case that that person will not be tortured? We are very

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sceptical, and we think the obligation to ensure that no one deported from our shores is then tortured at the other end is very strong, and that we should not do it in that case.

Q18 Ann Clwyd: Do you think it makes much difference whether it is a treaty of understanding or an MOU?

David Mepham: No.

Kate Allen: No. I think the issues are basically the same.

David Mepham: I agree with that.

Q19 Ann Clwyd: I wonder if you can comment on what follow-up monitoring is being done to ensure that the terms of the MOUs with Algeria, Lebanon, Ethiopia and Morocco are being adhered to. Have you any evidence on the follow-up to those?

David Mepham: It is a good question. I am not sure what follow-up monitoring has been done. One of the countries that you mentioned in terms of MOUs is Ethiopia. Earlier in the session, I flagged our concerns about the human rights situation there and what happens to some people in Ethiopian detention centres and facilities. I don't know. It is a good question, what kind of monitoring is done, but given the nature of Ethiopia's human rights record, I would be very concerned about people who might have been sent back from this country to Ethiopia. Again, I think it is a question to put to the Minister.

Kate Allen: Perhaps we could also take that away and see if we could get back to you with anything that our colleagues may have.

Q20 Ann Clwyd: You sit on an advisory committee, but you don't sound very happy with the way it is working. Would there come a point when you left it because nobody was taking your advice?

Kate Allen: Each of us can talk about our experience. It is not a question of being unhappy about it at all. It is an advisory committee that the Foreign Secretary consults; he asks for views, and he listens. We may disagree or agree at the end of that process about how things get taken forward. I certainly value it as an opportunity to make our views known and engage in a conversation, so I have no intention of resigning and will continue to put our views as Amnesty into that process.

David Mepham: I also would not want the Committee to be given the impression that we are unhappy with that advisory group. Like Kate, we very much value the opportunity to sit down with the Foreign Secretary a couple of times a year and discuss our issues. I think it is quite a useful mechanism and we have enjoyed that opportunity to express our views and concerns. Of course, he is the Foreign Secretary and they are the Government; they make their decisions and we are just offering our views and perspectives. That is entirely as it should be, but it is valuable to have the opportunity to feed in our perspectives and our areas of concern.

Q21 Ann Clwyd: Can we turn to Uzbekistan? David, you describe the EU's position on human rights in Uzbekistan as disappointingly weak. What scope does

the EU have, given its links with NATO, to actually influence anything?

David Mepham: Thank you for raising Uzbekistan, because that country is probably not on many people's radar screen. I know that you have taken an interest in it. Some of the countries in Central Asia rarely get debate and discussion in the British Parliament, but their human rights record is really bad, and Uzbekistan's is absolutely abysmal. As an organisation, we rarely rank countries, but I do not think it is unreasonable to say that Uzbekistan has one of the worst human rights records in the world, with systematic torture, terrible abuses and terrible crackdown on civil society.

The EU's policy has been weak, but actually I think the UK's policy has been weak. Again, that is an issue that British Ministers should be pressed on. One example that we have cited in recent months is that, despite the fact that Uzbekistan has this terribly repressive policy and is cracking down and practising torture on a wide scale, the decision was taken in February by the Defence Secretary to gift some British military equipment to the authorities in Uzbekistan, as part of a deal, one assumes, to facilitate the draw-down of British military forces from Afghanistan. We are not naive about geopolitics, but I think the British and the EU could have driven a harder bargain with Mr Karimov about that.

The Government in Uzbekistan, despite its dreadful human rights record, does crave better access to the EU, stronger trading relationships and recognition from the wider international community. It appears we have made this decision to gift them quite a lot of military equipment, but we have not been pushing them hard enough on the very serious human rights abuses that continue in that country.

Q22 Ann Clwyd: Do you think that there is a danger it might misuse military equipment gifted to it?

David Mepham: I had not particularly focused on that. That may be the case, yes. I have not looked particularly into the kinds of equipment that we are selling or gifting, but just given the nature of the abuse and the repression in Uzbekistan, it is odd that we did not look into the question you have raised—not only what we are gifting him, but whether it is appropriate to be gifting him any kind of military equipment, given the nature of the human rights situation there. They are both good points that we ought to give more priority to.

Q23 Ann Clwyd: We would hope that the use of such equipment would be monitored.

David Mepham: Yes. Again, because we do less work on the conventional arms trade, I do not know whether the gifting of military equipment has to comply with any criteria. I suspect it does, still.

Kate Allen: Yes, absolutely.

David Mepham: You mentioned the EU right at the beginning. Obviously, the UK in the EU could be pushing more to get Uzbekistan as an issue for discussion, and an EU common position through the Foreign Affairs Council. That has not happened for a number of years. Back in 2005, some Committee members may recall there was this massacre in

Andijan in Uzbekistan, where literally hundreds of people were shot dead. At the time, the EU imposed sanctions; more recently, it has decided to lift the sanctions, even though no progress has been made in improving the human rights situation there. I think both the UK and the EU are falling below the kind of statements that they make on human rights.

Q24 Sandra Osborne: Can I ask you about the preventing sexual violence in conflict initiative, which seems to have gone done well? The Foreign Secretary has been vocal about it, which is to be welcomed. Can you suggest any pointers on how this initiative might develop? Do you agree with some others, for example, that there has been more emphasis put on combating impunity at the moment, rather than preventing sexual violence?

Kate Allen: I think that the preventing sexual violence initiative is a good one. It has obviously had huge personal support of the Foreign Secretary and there was a Wilton Park conference at an early stage that brought in experts from all over to be part of developing some of the thinking here. So it feels like a strong initiative that has been well grounded.

What we have from the G8 so far is that political commitment that sexual violence in conflict is a war crime and a contravention of the Geneva Conventions. So often, though, it simply does not get dealt with. Look back at what happened in Bosnia, with tens of thousands of rapes; since that time there have been only 40 prosecutions. That is the thing that the G8 declaration was about changing. Obviously it needs to go further than the G8, so it would be interesting to hear about the plans to take the initiative into the UN and get systematic backing for it at UN level. The holding to account is hugely important because that is part of how you change behaviour.

Some of the other good things in the initiative are that it is grounded in working with local NGOs, so the support for Women Human Rights Defenders and civil society and NGOs is within the initiative. I think that that, done well and supported at UN level and getting that kind of backing, could be part of prevention as well as holding to account. It is a good initiative. It is very early days. It has had real political support, which is what has got it as far as it has gone so far.

What we need to see now is that next stage. We need to see the way in which experts are deployed. Experts are being deployed at the moment in Syria, and there is a list of other countries. It is vital that those experts work alongside the UN mechanisms, that they work alongside local NGOs and that we can see this initiative placed within the broader way in which Resolution 1325—the support for women being part of peace processes—can be delivered, so that it is part of that whole approach to conflict and to women's role in determining peace and the way in which peace is implemented. So it is a good initiative. We were very pleased to be part of framing it.

Q25 Sandra Osborne: I was going to ask you about the team of experts. Do you feel their criteria are right? Are there countries that you feel are currently missing out?

Kate Allen: It is early days. I think I am right that experts have only been deployed to Syria so far, but that there are plans for Southern Sudan, Eastern DRC, Bosnia, Mali and Libya. If you look across the world at the moment where particular issues are, either they are very immediate—in Mali, for example—or as in Bosnia, where it is absolutely important that that legacy is addressed. It has not gone away. It still affects the way in which communities live and the way in which women can continue their lives, the way in which families behave. The whole thing absolutely infects all of that. There is work that needs to be done there. It is an interesting range of countries and initiatives. When there is a bit more experience of the way the experts work, it will be a good opportunity in a year or so to have a look back and see in retrospect whether those were the right places. But it looks good to me for now.

David Mepham: I agree with everything that Kate has said. I agree that the Foreign Secretary's sexual violence initiative is important and welcome. One country that has not been mentioned that we certainly pushed for inclusion is Somalia. The Foreign Secretary has rightly put a lot of attention on Somalia. It has been a big priority for the UK Government. There have been two conferences now in London to try to assist the new Government of Somalia to move forward, but Somalia has a big, big problem of sexual violence. From memory—I haven't got the thing in front of me—Somalia is down there as a third tier. We will have some investigation at some point, perhaps next year.

I think there is an argument for Somalia to be given more priority, in view of the emphasis that has been given to Somalia generally. I know it featured in the recent London conference. There was discussion of sexual violence but there was a particular case which Committee members may recall from the press back in January this year where a woman claimed that she had been raped by some members of the Somali security forces. She was imprisoned for bringing forward the claim that she had been raped, and a journalist who tried to report the case was then imprisoned. We and others weighed in and said "This is a bit of a test case for your initiative. You have a country like Somalia with a new president and a woman is imprisoned for claiming she was raped by the security forces, and the journalist who tries to report on it is imprisoned." That woman and the journalist have now been released, thankfully, but I think Somalia would be a good test case for a Government who are receptive to Britain's influence and Britain's support trying to be more focused on taking practical measures to address this kind of problem.

Q26 Sandra Osborne: David, could I ask you about the implementation of the Family Violence Bill in the Kurdistan regional government in Iraq? I believe that Human Rights Watch has described implementation of that as poor. Why have you come to that assessment?

David Mepham: We have come to that assessment because very little has been done to take forward that legislation. It is dangerous to make generalisations, but in the Kurdish region of Iraq I think there is a big

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problem of FGM; female genital mutilation is widely practised. In Kurdistan, there is a sense that it is acceptable and traditional. We have been pushing, along with other human rights organisations, including local ones, to try to address that problem.

While the legislation sounds fine in principle, our assessment is that not enough has been done to drive that forward and implement the kind of measures that are necessary to protect women and girls from that abuse. I can provide more information to the Committee on that, because I am not an expert on that particular issue.

Q27 Sandra Osborne: So the regional government do not see it as a priority?

David Mepham: No, it's not seen as a sufficient priority. The influence that Britain has both over Iraqi Kurdistan and over Iraq may be questionable, but I think we do have some influence and that is the kind of issue that we should prioritise and press, because sexual violence is a very important issue for this Government and Foreign Secretary. I hope that he and his officials are pressing the issue very strongly.

Q28 Sandra Osborne: Similarly with the Law on Elimination of Violence Against Women in Afghanistan, I am aware that there is huge concern among women in Afghanistan about that. I am co-chair of the all-party group. What do you think the FCO could do to ensure that the law is more strictly enforced?

Kate Allen: I think there is a range of ways in which the UK could support women and women's organisations in Afghanistan, in terms of that law and more generally. It is an important law but it is not being implemented. We are in a climate at the moment where the international forces withdraw by the end of 2014. As Amnesty, we have worked closely with women's organisations over the past couple of years in Afghanistan. I was there about a year ago and met many women's organisations. We have met and worked with the Afghan Women's Network, which has surveyed 300 women leaders over eight provinces. The result of that survey was women saying that there is no meaningful involvement in the planning for transition, and that there is a complete failure in what is happening for women. I was told exactly the same thing a year ago by everybody—women politicians, Ministers, NGOs and civil society.

There needs to be a greater focus by the UK Government, not just on how that law gets implemented, important as it is, but how women get supported and how those gains that have been made over the past 11 years are held on to. Everybody at the moment feels that they are slipping away. When you have a situation where only nine out of the 70 members of the Jirga council are women, and that is the forum in which discussions with the Taliban are taking place. It is very difficult. When I was there, the Ulema council announced a range of prescriptions about women, including an announcement that women were secondary and that their rights were completely secondary. President Karzai signed up to that. There is absolutely not enough pressure on him from the UK Government and others saying that that is not

acceptable and that women's roles and rights are important.

Women I spoke to felt marginalised in the political processes. They felt that their voices were not heard. They felt that when politicians were visiting from other countries, they were involved on the sidelines not at the centre. There are ways in which the UK Government could have an impact. There is a budget of £70 million from the UK over 2015–17 on supporting the security services of army and police—1% of the police are women. We would like to see that £70 million used and directed towards increasing the level at which women are in the security services. Without that, women simply have nowhere to go to—they cannot talk to men about some of the issues that we would be concerned about. So there is a range of ways in which the UK Government could start to think, in a very practical sense, about how they could support women before the withdrawal of forces at the end of next year.

David Mepham: I do not want to repeat all of that, because I agree with it, but a brief addition is that it is very important to think longer term as well. At the Chicago meeting on Afghanistan last year, there was a lot of discussion about a 10-year commitment by western countries to help with security reform, security sector reform and so on. That's fair enough, I would not want to disagree with that—but no comparable 10-year commitment was made to strengthening and supporting women's rights. That is the kind of thing that the UK Government should be championing—not just what we are going to do in the next 12 months, in the context of the international forces being withdrawn, but what our commitment is in terms of development and diplomatic assistance to cement the advances that have been made in recent years and to ensure that they are not whittled away in the context of changes that are likely to happen.

One practical thing is that back in 2001, there were apparently almost no shelters in Afghanistan for women fleeing domestic violence. There are now shelters. I am not aware if the UK is funding any of those, but that might be a practical thing you could raise with the Minister—whether there ought to be more practical, financial support for women fleeing violence of that kind.

Kate Allen: There are only 20 shelters, and they are very difficult to access. The levels of violence are quite extraordinary. I have never really seen anything like it, in terms of the stories that I was hearing when we spent a day in one of the shelters. I totally agree with David that a 10-year plan would be a wonderful thing to have.

Q29 Ann Clwyd: I have a particular interest in Iraq and in Iraqi Kurdistan. I have seen women's shelters there, I have asked the same questions as you have asked and the promises have been made, but again it seems that there is then no proper monitoring of the promises made or money given to enable some of those promises actually to be undertaken. I have great concern for Afghanistan, because the same promises have been made to women there as were made in Iraq and Kurdistan, and the reality is very far away from those promises. There is a complete lack of proper

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evaluation of what is being done on the ground. On FGM, we do not do very well in this country—I put a Bill through Parliament on tightening the law on FGM in this country, but there have been no prosecutions—so we cannot show the way on that, because we have not achieved very much, except warm words.

David Mepham: I agree. I am not sure that I have that much to add. You are absolutely right that it is hugely important, and the UK Government need to be giving it much more priority in their relationship with Iraqi Kurdistan and with Iraq. You are right to say that the challenge is implementation; people can pass laws that all sound fine in theory, but prosecutions are very important, and they are not happening in the way that they should be. It is a bit like the conversation we were just having about the sexual violence issue: once you start getting some successful prosecutions and people know that they can be criminalised and held accountable for abuse, that can change a dynamic. Of course, changing deeply entrenched, traditional cultural practices is hard, and no one pretends that you can wave a magic wand and suddenly things are transformed, but the legal process and prosecutions are part of that. I would say that that is true in Iraqi Kurdistan as it is elsewhere.

Q30 Mike Gapes: May I take you to Sri Lanka? I have been pursuing, including in the debate in March, the question of the returns of people from the UK to Sri Lanka and of the activities of the UK Border Agency.

In October last year, the UK Border Agency said that acts of torture were being used to extract confessions in Sri Lanka, but that they were usually “random”. It also did not accept that there should be any change in the policy of returning people to Sri Lanka. The Minister, Hugo Swire, wrote a letter to me recently about the case of those people who had been returned from 2002 onwards—there were subsequent strong allegations of them being tortured, and some of them came back to the UK—and he said: “Given the significant gaps in time between the return to Sri Lanka and ill-treatment in the cases referred to in the freedom of information request, it does not follow that simply being returned from the UK puts individuals at risk.”

You in Human Rights Watch actually produced some of the original evidence about these particular individuals, but the Government, in their response, and the UK Border Agency, have said that you did not provide them with sufficient necessary detail. Why was that?

David Mepham: I will answer that question, but to put this in a wider context, I am really pleased that you have raised the issue of Sri Lanka, because we think that the Foreign Office and the Government generally are failing on Sri Lanka. We and others have documented clear evidence that some Tamils previously returned from the United Kingdom to Sri Lanka have been tortured on their return. That is a very serious allegation, but it is documented on the basis of the research that we and other organisations have done.

For some time, when we have made that allegation—we have been making it for a number of years—Foreign Office Ministers said in public, “We have seen no credible evidence that this is the case.” They did not, interestingly, say that in the Sri Lanka chapter in this year’s human rights and democracy report. They did not do so because they cannot stand by it, because they have now recognised that our evidence is credible.

Mr Gapes, you referred to the freedom of information request that was put to the Home Office, and to its response. I will do this very briefly, but I think it is important. Basically, the Home Office, which has responsibility for the UK Border Agency, which is of course now being replaced, was asked in how many cases a Sri Lankan national who had previously been given asylum¹ in the UK and had gone back to Sri Lanka, but made their way back to the UK, was given refugee status second time round. The answer was 15. It was asked in how many cases it was alleged that that person had suffered torture, and the answer was 15. It was asked in how many of those 15 cases the allegation of torture was found to be credible. It did not answer that question. It was then asked in how many of those 15 cases the individual was given refugee status, to which the answer was 15.

It is very interesting that, having denied for a number of years that these allegations are credible, we have a response to a freedom of information request to the Home Office of November last year that acknowledges that 15 people previously returned from the United Kingdom who had made their way back to Britain claimed that they were tortured at the **hands of Sri Lankan forces and were given asylum status by the United Kingdom. Presumably, if their claims were completely bogus, they would not have been given such an asylum status.**

Q31 Mike Gapes: Can I just question you on the figures? It is interesting. In the letter to me, Hugo Swire said that “the freedom of information case only concerned 13 people, of whom only 11 were returned to Sri Lanka from the UK, and nine of those were forcibly returned.”

David Mepham: You are right that they have changed their mind. I was just quoting from the document. They have now changed the figures. I am very happy to share this document with the Committee if it is useful, because it is an FOI response.

Mike Gapes: This letter to me is dated 27 March.

Q32 Chair: Could you give it to us at the end?

David Mepham: Absolutely.

Q33 Mike Gapes: Clearly, there is some concern about the actual figures, but the essence of the point is that people have been returned to Sri Lanka by the UK Government, some of them forcibly, and they have then been tortured in Sri Lanka and they sought asylum again in the UK, which has been granted.

David Mepham: Yes.

¹ Note by witness: I meant to say “denied” not “given”

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Q34 Mike Gapes: Why then do the Government say that you have not provided them with sufficient information?

David Mepham: A very good question. I think the evidence is sufficient for them to want to change the policy. On the specific point about why, obviously a human rights organisation is not going to provide confidential information about clients. We are not going to put people who come to us with allegations of abuse in jeopardy or risk their identities. That is common practice across human rights organisations. In some ways, it is slightly odd, if that is the point that the Minister is making—that he expects Human Rights Watch to reveal the identities of individuals who have come to us with claims of abuse.

We, in our reports, and other organisations have documented sufficient evidence of abuse in our judgment for the UK to think again about its risk assessment guidelines for Tamils being deported to Sri Lanka. As it happens, an upper tribunal case is under way as we speak. It has been going on now for some months. It is due to conclude very soon. It relates to this issue about the risks facing Tamils returned to Sri Lanka. I suspect that the British Government are waiting for the conclusions of that tribunal before they make a decision. We believe that they should move more swiftly than that, and recognise the risks that face some Tamils who are returned to Sri Lanka.

Q35 Mike Gapes: Is that the same case as the one in which 30 Tamils are covered by an injunction to prevent their being returned or is that a different matter?

David Mepham: There are a number of cases, but the big one is in the immigration court. The upper tribunal is looking at a case in relation to the risks facing Tamils returned to Sri Lanka. It is due to report very soon, and if it reports in a way that is critical of Government policy, as we expect that it might, the British Government will be forced to change the risk assessment guidelines that relate to Tamils who might be deported back to Sri Lanka.

We think that the risk assessment guidelines should be broad. We are not saying that no Tamil could ever be deported back to Sri Lanka. That is not our position. We think that the risks facing Tamils, particularly those who have been involved in political activity on the streets of London, is greater than the Government acknowledge.

Q36 Mike Gapes: But your 2013 report says that 30 injunctions were granted to stop removals. I am just trying to clarify whether that is the same case.

David Mepham: It is a separate case, in addition to the case that is going before the Upper Tribunal and is being adjudicated on over the next few weeks. The fact was that, on the basis of the evidence of Human Rights Watch and other organisations some months ago—I forget the precise month, but you have it there in your figures—the court ruled that some of the people who had been put on a charter flight to go back to Sri Lanka had to be taken off the flight because the lawyers acting on their behalf were saying, “We think the risks facing you are so great that we will take you off the flight.” The ruling of the courts was that those

individuals should be removed from that particular flight.

Q37 Mike Gapes: Why then do you think the Government have decided that the Prime Minister and the Foreign Secretary are going to attend the Commonwealth Heads of Government meeting in Sri Lanka in November?

David Mepham: Do you want to add anything? I can come in on that as well, but perhaps you will come in on that particular point.

Kate Allen: We very much regret that decision. Having the Heads of Government meeting in Sri Lanka sends all the wrong signals to a Government who have a shocking human rights record, but it is going to take place, so the issues now are about how things are handled in the lead-up to, during and after that meeting. In the lead-up to the meeting, I think it is important that at the Human Rights Council in September there is an effort to get a conversation/resolution on Sri Lanka and its human rights.

Q38 Mike Gapes: That is the United Nations, not the Commonwealth?

Kate Allen: Yes. We need to be using all mechanisms between now and that meeting to put pressure on the Sri Lankan Government in terms of its human rights record. When they are there, I think it is important for the Foreign Secretary and the Prime Minister to be meeting people from NGOs and civil society and hopefully to be travelling to parts of the country in the north and other places where they can be talking to people. And I think it is really important that that approach to Sri Lanka is maintained post-CHOGM, because the Sri Lankan Government are well known for being vindictive against those who stand up for human rights and who talk to others about them. One of the things we would say is that the FCO does not sufficiently acknowledge how bad the Sri Lankan Government is, so I think that, having decided to go, there really needs to be a plan.

Q39 Mike Gapes: Do you think they shouldn't go? Should they boycott it?

Kate Allen: I think the meeting shouldn't take place there. I think pressure should have been exerted to move the meeting elsewhere.

Q40 Mike Gapes: Why was it chosen? What is the process? Could it have been stopped earlier?

Kate Allen: I am not sure of the answer to that question. It is probably one for the Minister. Given the record, given the current timing and given the inquiry that has taken place within Sri Lanka and has not been progressed, I think it is deeply unfortunate that the Commonwealth has chosen that as its location.

David Mepham: To add briefly to that, I agree with Kate that probably the best outcome for which the UK Government should have pressed was to have the CHOGM somewhere else. Of course, as people will recall, back in 2011 it was supposed to be in Sri Lanka and the decision was made not to hold it because of what happened in 2009. So there are precedents for CHOGMs being moved, and I think that would have

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been the best option. But given that it is going to be in Sri Lanka, we also regret that the British Government have decided to go at that level. We think some leverage could have been exerted, and of course that leverage has now gone because they have made this decision to go at prime ministerial level.

Given that they are going, it is very important that they should be pressing the Sri Lankans as strongly as possible on a whole range of human rights issues, not least—I do not believe the UK Government have done this publicly for some time—pressing for some kind of international mechanism to investigate the estimated 40,000 deaths in the early part of 2009 at the end of the Sri Lankan civil war. That has never been properly investigated. Sri Lanka's own domestic processes for looking at that are hopelessly inadequate, and the UK Government should put a lot of emphasis on that.

Q41 Mike Gapes: Let me take you to the issue that arises from that. We just did an inquiry on the Commonwealth and there was a lot of evidence suggesting that the Commonwealth was not a significantly important player on human rights and democracy. Despite the Harare declaration and all those things that the Commonwealth is supposedly about, in practice it is not. Is there any way that we could make the Commonwealth a more positive force for human rights, apart from moving the CHOGM to somewhere else, which is not going to happen?

Kate Allen: When 54 Governments get together it is always an opportunity to raise human rights issues. When you think about some of the opportunities in the Commonwealth, there are some very basic issues. For example, 41 out of the 54 Commonwealth countries still criminalise LGBT issues. That is terrible. Somewhere near 20 Governments still have the death penalty. There are some fundamentals that could be worked on over a prolonged period to try to change some of that and what that stands for, so you could start to see some incremental changes on both those issues. At the basic level of how Governments themselves behave, let alone their approach to the rest of the world, if a concerted effort was made over time, maybe we could start to see some change in those worrying figures.

David Mepham: I agree with that. A brief point to add is that the Commonwealth is unusual in being an international organisation that has in the past suspended the memberships of countries that have fallen foul, usually on democratic grounds. It expelled Nigeria and Pakistan.

Q42 Mike Gapes: And Fiji.

David Mepham: And Fiji. Such a mechanism does not exist in the UN. The Commonwealth is an organisation that has certain declared principles, and can say, "You are now falling foul of these principles. You are not allowed to be part of the club." I think that is something it should continue to use, because it is a form of leverage—obviously, the countries that are excluded do not like it—and it may be a way in which improvements in human rights and democratic governance can be affected.

Q43 Chair: Can I clarify one point, following on from Mr Gapes' questions? We all regret that the conference is happening in Sri Lanka. But given that it is, you are prepared to live with the fact that the British Government are going, is that right? Or are you saying that they should be boycotting it?

David Mepham: No, I think they have now made the decision to go. In fact, it came up at the foreign affairs advisory group meeting last week. I don't want to betray too many confidences, but the Foreign Secretary said that it was a difficult issue, and we are weighing our relationship with the Commonwealth against what is going on in Sri Lanka. Our concern now—I am sure the same is true for Amnesty—is to say that, given that they are now going at this level of seniority, with all those Governments present it is incredibly important that they press human rights very strongly and publicly. On thing they should do, for example, is make public statements on human rights while they are there. There would be nothing worse than for the Foreign Secretary and the Prime Minister to have a guided tour by the Sri Lankans, be taken to all the nice parts of the country and make nice remarks about Sri Lanka without identifying some of the real human rights issues that we are concerned about.

Kate Allen: It does not feel like there was any sense that other members of the Commonwealth were part of the conversation.

Q44 Chair: The Foreign Secretary said at the Dispatch Box that no one else wanted to move it, so they were faced with the choice of whether they should or should not go.

Kate Allen: And now it is about what to do.

Q45 Mr Roy: Can I move the focus to Burma? Last year, the European Union suspended economic sanctions for 12 months, and in April it decided to keep it going. Do you accept that the lifting of the sanctions is in Burma's best interests?

Kate Allen: We have never traditionally taken a position in terms of either imposing or lifting sanctions. Our researchers on recent visits to Burma were told that sanctions did not cause Burma's economic decline, but relieving them could help to build its economy. However, that is not normally something that we would take a view on. I do not know whether you are moving on to other issues in Burma, because we do have some views on the situation with the Rohingya Muslims and other questions.

David Mepham: We actually did come out publicly and said that we thought the decision of the EU to lift all the sanctions apart from the arms embargo was premature. Clearly, there have been some important reforms in Burma, and we acknowledge and recognise that, but they were lifted on the same day that we produced a report documenting ethnic cleansing and crimes against humanity in Arakan state in Burma. It was the same week that the BBC had this dreadful video coverage of a Muslim man being burned alive in the middle of the country. It seemed like a very strange piece of timing that, at that point, the EU had decided that things had improved sufficiently in

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Burma to lift the sanctions, when, actually, the human rights situation in significant parts remains of concern.

Q46 Mr Roy: Aung San Suu Kyi, at the exact same time, was saying that this was the time to lift them, so that is why I wonder—

David Mepham: Yes. We took the view that it was premature. We said that publicly: it would have been better to have waited for more progress on some of the issues that Thein Sein, the Burmese President, had previously talked about. There are still political prisoners behind bars. There has been some movement in terms of Aung San Suu Kyi and others being elected to the Parliament. But, in places like Arakan state, which we will perhaps come on to, there are very serious human rights abuses. They are a deep concern to us, and it seemed an unfortunate time to lift the sanctions when those terrible abuses were happening and continuing.

Q47 Mr Roy: Are there any levers that remain for the UK in Burma?

David Mepham: The UK Government still has leverage and influence with the Government of Burma, perhaps more than many other countries because of historic ties and so on, so that leverage should be used to best effect. We can come on and talk about that and the issues that the UK should push, but, again, to come back to the sanctions question. On leverage, the UK and the EU as a whole gave up quite an important source of leverage over the Government of Burma by lifting all the sanctions. It could have said, “We will lift some of them,” or it could have phased them out or it could have calibrated it, but it said, “We will lift them all, apart from the arms embargo,” at the very time when terrible ethnic violence was taking place in Arakan state.

Q48 Mr Roy: Do the international NGOs have a freedom of movement now in Burma? Is there any change at all?

Kate Allen: We visited three times last year, and those have been the first visits since 2003. So, yes, a big change, and from my colleagues there is a real sense that they have been able to talk to people and have the meetings that they want to have without people being endangered by those. The feeling between 2003 and now is very different. Obviously, there is still a long way to go—

Q49 Mr Roy: But there is movement in the right direction.

Kate Allen: Yes, exactly.

David Mepham: Can I add one other point? Kate is absolutely right that it may be easier for organisations like ours to go into Burma than was the case before—previously, we would never ever get a visa into the country—but where there is a real access problem is in terms of humanitarian organisations. If you think about Arakan state and these 140,000 people who are living in camps, having been displaced as a result of this violence, the international humanitarian agencies are saying that it is really difficult to get to them to provide the kind of clean water, food, nutrition and so on that they need. There is an access problem there

that is slightly different from the access problem that organisations like ours or journalists might have, but it is a very real one and something that is worth flagging.

Q50 Mr Roy: Earlier, you touched on ethnic cleansing in different areas in 2012. How useful is the Burmese Government’s Rakhine investigation commission’s report and its suggestions for a way forward in that state?

Kate Allen: The report has not been an effective one. It has talked about doubling security presences, without actually addressing what those security presences have already done. It is not addressing the Citizenship Act—the 1982 law—and the report itself talks about people as Bengalis; these are people who have lived there for many generations. So some of those fundamental issues are not being addressed by that commission at all. And, indeed, it has not addressed the fact of the huge number of arrests and the use of torture against young men, and people generally, within that state. It does not feel like it is addressing any of the issues. It is not getting to the fundamental issues of citizenship and discrimination at all.

Q51 Mr Roy: Does that disappoint you, or did you expect that?

Kate Allen: Obviously, there has been some real progress in Burma—seeing that progress and the release of political prisoners, Aung San Suu Kyi and the political activity that is taking place. What we are seeing with the Rohingya is hugely disappointing, and it is hugely disappointing that it does not have a greater focus from all political parties within Burma on that. So it is a disappointment.

Q52 Mr Roy: Do you think that the British Government should be putting more of an emphasis on disappointment?

Kate Allen: I think that that would be good—on all political actors as well.

David Mepham: Can I add to that? Human Rights Watch produced a report specifically on the situation in Arakan state, which is sometimes described as Rakhine state; those terms are used interchangeably. We documented both in June and October of last year what we described as ethnic cleansing and crimes against humanity. We are an organisation that—probably a bit like Amnesty—is full of lawyers, so we do not say things like that lightly. We documented these crimes, not just in terms of the scale of the abuse and the severity of the rights violations, but in terms of the fact that at the state level in particular there was involvement and complicity. This was premeditated; particularly in October, less so in June. In June, there was a degree of a spontaneous outbreak of violence, but certainly by October a lot of these attacks on individual villages in different parts of Arakan state were happening at the same time, which implied a degree of planning and preparation.

We produced that report; we have shared it widely. As I say, we launched it on the day that the EU lifted all its sanctions. Like Kate, we are disappointed with the conclusions of the internal commission of inquiry and

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the fact that—as you said—the nationality issues are not addressed, and so on, is deeply disappointing. Perhaps we are not surprised.

Perhaps our recommendation to your committee is to say that we think it is worth impressing on the Foreign Office and the British Government to be more cautious about Burma. Of course, everybody wants to see change and everybody recognises the change that has happened, but there are still lots of very serious human rights issues in Burma. I think there is a slight danger that we get swept away with the sort of romantic narrative that Burma is on an inexorable progress to democracy, freedom and pluralism, and Aung San Suu Kyi is going to be the president, and we are all slightly caught up with that. Yes, some of these changes are important, of course, and we should acknowledge them, but there are some very deep human rights issues in that country, not least the treatment of the Rohingya Muslims, which deserves much more serious British attention.

Funnily enough, as we are meeting now and having this conversation, the Human Rights Council is taking place in Geneva and what was going to be the Burma resolution will now be called a presidential statement on Burma. It is being negotiated and discussed. At the moment, it is actually being promoted by the Organisation of the Islamic Conference. Britain is sort of participating and supporting. At the moment, there is no specific recommendation for there to be an international investigation. The statement says a lot of the right things about how the Rohingya Muslims are being treated, but we have been arguing—just in terms of e-mails in the past few days—that it would be very important for the UK Government to say that this resolution or this statement, which is likely to be agreed on Thursday or Friday this week, should make some concrete commitment to investigate the kind of abuses that we have documented.

We are very clear about the veracity of the claims that we make. However, given that the Burmese Government are dismissing them, it would be important for there to be some kind of international mechanism. Interestingly, Hugo Swire was asked about this issue—I think it was either in a written question or an oral question—and he agreed that we had put forward some important evidence and that there needed to be an international process to check it and, if it was found to be accurate, to press the Burmese Government very hard on those issues.

Q53 Mr Roy: On this world tour, can I take you to Zimbabwe from Burma? However, I still want to speak about sanctions and preconditions that would be needed to suspend those sanctions. I know, David, that your group had mentioned in the newsletter that it has a certain opinion. Could you share your opinion on preconditions for the lifting of the sanctions?

David Mepham: I am happy to kick off because I was in Zimbabwe a couple of weeks ago. I talked to a whole range of people in the Government, but also to civil society actors and so on. As you know, basically the EU had these sanctions. They were kind of targeted sanctions—so, asset freezes and travel bans—on quite a lot of people in the ZANU-PF Government, in and around the Government, including Mugabe, of

course, and other Cabinet members. The decision has been taken basically to lift almost all of them, apart from—I think—about six or seven that are still in place, including on Mugabe himself. However, almost all of them have been lifted on the basis that the constitutional referendum has been held, and been held successfully, in the sense that 95% of the Zimbabwean people voted in favour of it.

Again, we would have thought that it would have made more sense to wait until the Zimbabwean election has been held and to use the leverage to insist on a free and fair election—the election is likely to happen in the next couple of months—rather than to have lifted the sanctions in advance of it. From the meetings that I had in Zimbabwe, I certainly know that there is a lot of concern as to whether that election will be free and fair. There is lots of fiddling going on with the electoral roll, and there is still lots of intimidation of civil society and the political opposition. So we are deeply concerned.

Of course, Zimbabwe has a history of having cyclical violence; it tends to have violence around elections—2008, 2005, 2002 and 2000. Elections are when the serious violence happens. The election is due very soon, in the next couple of months, and we want the UK, the EU and the Southern African Development Community to use their influence. And I think the decision to lift the EU sanctions in advance of an election was again premature. It would have made more sense to use that leverage to press for a free and fair election.

Kate Allen: I will just add that that fear of violence in the build-up to the election is a very tangible one. We have an Amnesty presence in Zimbabwe. We have close relationships with NGOs and human rights defenders. We are seeing that crackdown happening now on those who are standing up for human rights. The worry about violence is that quite often, in the lead-up to that, you see human rights defenders and civil society organisations being intimidated and harassed, and we are seeing that at the moment. It is a very live worry.

Q54 Ann Clwyd: What kind of freedoms do your organisations have to operate in Russia?

Kate Allen: It is getting very difficult. In the last couple of months, we saw sweeping inspections of more than 200 civil society organisations and NGOs across Russia. We have also seen, at the same time, that many of those inspections have been televised by a TV channel, NTV, which is absolutely renowned for its smear tactics and smear reporting of civil society. We are seeing the climate in which NGOs can operate becoming very difficult. The key election watchdog, Golos, which has had UK funding, has already been taken to court for failing to register as a foreign agent simply because of that small amount of funding. They have been fined \$10,000, and we are expecting more NGOs to be brought in front of the courts and fined. Amnesty has had those inspections; we are waiting to hear the results.

One thing that we have absolutely seen among other NGOs is the fear that all of that implies, and therefore the natural tendency to self-censorship about what they are doing, how they are doing it and what they

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are saying. It is a climate for NGOs where the crackdown is quite massive. For an organisation like Amnesty with international solidarity, we are more able to resist that, but we are seeing those pressures.

David Mepham: From a Human Rights Watch perspective, we agree. We have said publicly, and our researchers in Russia have said, that the human rights climate in Russia is as bad as it has been at any point in the post-Soviet period. This is the lowest point since the downfall of the Soviet Union in terms of the human rights situation and the clampdown in civil society. Like Amnesty, we have had an inspection at our office. People have been to the office. There was no violence involved, but it was intimidatory. We had people going through the records and so on.

That is obviously happening to an awful lot of organisations across Russia, and there is this dangerous foreign agents law that people have to sign up as foreign agents, which is a very loaded term. It implies that they are involved in treasonous activity, whatever it is. We are very concerned about the impact on civil society, both internationally and locally in Russia.

Q55 Ann Clwyd: So the new legislation restricting civil liberties is actually being used for prosecutions.

Kate Allen: Yes.

David Mepham: Yes. I don't know how many people have been prosecuted yet, but that is the danger and the risk: increasingly, organisations that fall foul of these highly restrictive rules will be fined, certainly, and then potentially put out of business. That is of great concern.

Kate Allen: Or simply bankrupted by the fines.

Q56 Ann Clwyd: So is there a great atmosphere of fear among those people who work as human rights defenders?

Kate Allen: Yes, definitely.

David Mepham: Yes. To make it very real, about four or five months ago, our senior researcher in Russia, who is Russian—she was actually pregnant at the time, but has now, thankfully, had her baby successfully in the States, and all is well—started receiving threatening e-mails and texts, which could only have come from somebody pretty senior in the Russian system, saying, “You need to look out for yourself. You need to be careful.”

We made a decision as an organisation whether to be quiet about that or whether to be public about it. With her agreement, we did a press conference in Moscow. We said, “It is utterly unacceptable to intimidate in this fashion someone who is a human rights defender who is documenting what is going on in the country.” Those kinds of threat are being made against people who work for us, let alone local organisations that have less protection and security than we do. It is very concerning.

Q57 Ann Clwyd: Does the so-called UK-Russia dialogue actually have any value at all?

Kate Allen: Dialogues are always important, but I think there is something about raising the issue of human rights further there. This comes into that conversation that we have regularly with the UK

Government on different countries, such as China, Russia and Saudi Arabia, about issues around trade and security, and where human rights figure in relation to those other two key priorities. We would like to see human rights there at the same level with the same degree of concern. We know that there is a real emphasis on prosperity and on trade; it would be good to have the same ability to brief our Prime Minister as business does before some of the conversations or trips that take place between this Government and the Russian Government. It would be good to have human rights people on delegations that are full of business people talking about trade. It would be useful to lift the level at which human rights concerns are being brought into these sorts of discussions.

There are some real opportunities over the coming year. There is the UPR this year. In terms of Russia, there is the Winter Olympics next year. There is the UK-Russia cultural year of 2014. So, absolutely, there are lots of opportunities there to be talking about human rights and working with NGOs and civil society within Russia to raise some of those issues. Of course, in terms of Russia's role within the world, the need to continue in whatever way we can to build international pressure on Russia, because of their blocking at the Security Council with regard to what is happening in Syria, is hugely important. It is a very important Government. It is having a really devastating impact in terms of the block for progress for Syria. In its own countries, there are a whole load of areas and a whole lot of opportunities over the next 12 months that the UK Government could take to raise issues of human rights alongside those of trade.

David Mepham: A brief addendum to that: this is also an issue where the UK could do more through the EU. If there was ever a country where the EU having a common position would be useful, it would be Russia. In the past, there has been a danger that Russia plays off different members of the European Union, according to who is more sympathetic or more critical. Our sense is that the UK is a bit in the middle of the pack: it is certainly not the worst offender in that it is concerned about human rights, but it could be more assertive in pressing for the EU as a whole to have a stronger position on Russia and then for the EU to speak with one voice on some of these issues. Clearly, the issues around trade and so on are important to Russia as well as to us. Like Kate, I think we need to see human rights being given more prominence in that relationship.

Q58 Chair: Do you have a view about the continuing detention of Mr Khodorkovsky in Russia? We know he was imprisoned once, then, while he was in prison, he was convicted a second time. He is due for release some time in the next few months. I read that he may face yet another trial to keep him in prison. Does this come across your desk at all?

Kate Allen: It has not come across mine, but we could get back to you on that.

David Mepham: I don't want to come up with something off the cuff; I can check with my colleagues in Moscow as to what we have said about it.

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Q59 Chair: If you pick up anything I would be interested.

Can I wrap up with a couple of miscellaneous items? One is about funding of particular projects. There are a number of ways in which these projects are funded, but we read of complaints that sometimes individual ambassadors in posts recommend funding for particular projects involving religion, sex or whatever in various countries. Is that the right way of going about it? Where do you think the initiative for funding of projects should come from? Should it be with the NGOs, the posts or back in Whitehall?

Kate Allen: It is a very important fund. It is small; it is only £6.5 million; it funds 71 projects. Over the past two years, Amnesty have advised on some of the human rights components of some of the projects: we are not involved in making decisions about who gets funding, but we give advice at that level. It is an FCO internal board that makes the decisions, and we feel it is quite a rigorous one. The issues that we have raised from time to time are about wanting to make sure that there is access to this fund for individual ambassadors across all missions—that there is an ability to make those recommendations. But it does feel that there needs to be a central way in which decisions are made. We have met many of the organisations that have received the funding: they are small, brilliant organisations doing really good work in tough parts of the world. I remember meeting the Russian-Chechen Friendship Society, which was one that got funding a little while back. It is a small budget, well used, I think.

Q60 Chair: Have you picked up anything about Colombia, where the post in Bogota has been recommending that the women's groups that they are funding work with the Government? As a result, the groups have come under pressure not to take the money as a protest against being asked to work with the Colombian Government.

David Mepham: That has not come across my desk.

Kate Allen: I don't know about that, but we will ask and if we have anything, I will get back to you.

Q61 Chair: Very topical: surveillance of the internet. Last year, Amnesty drew attention to credible allegations that surveillance equipment was being exported and used by certain regimes. Do you have anything else on that?

Kate Allen: No, I don't, but again, I will check with colleagues and get back to you if there is anything.

Q62 Chair: Has the export control regime been discussed in the freedom of expression on the internet group?

Kate Allen: Let me get back to you on that.

Q63 Chair: What should the UK's policy be if a British organisation is complicit with human rights abuses? Should we be extending our territorial jurisdiction to take those crimes into account?

Kate Allen: Are you talking about corporations?

Chair: Yes.

Kate Allen: Then yes, absolutely. At Amnesty, we have argued that if a UK corporation is acting overseas and is complicit in human rights abuses, the UK Government should absolutely take action. The situation that you get is corporations working with countries that are desperate for the trade, investment and jobs and do not have the ability—they are too weak—to confront those companies. If it is a UK company, if the UK Government is not doing that, nobody is taking action about human rights abuses. For Amnesty, it is absolutely essential that the UK Government accepts that it has the responsibility and the ability to do that.

David Mepham: I have nothing specific to add to that, but for the Committee's benefit, if you do not already know this, the Government are about to publish—before the summer, as I understand it—a new report on business and human rights. I believe that it is with Ministers now and is being looked at. It would be worth questioning the Minister about that, but perhaps that is something that your Committee will want to come back to. For the first time, the coalition Government will be putting in the public domain a document that sets out how they view the relationship between business and human rights and how the so-called Ruggie principles on human rights and business will be implemented. That is an important topic for you to question Ministers on.

Q64 Chair: Although we are talking about human rights, it is not specifically a human rights issue; this is a jurisprudence point.

David Mepham: Okay—oh, you mean your question. There are big human rights dimensions to it, of course.

Chair: Yes.

Thank you both very much indeed; it has been really helpful. You have been very open, frank and honest, and if you could get back to us on any outstanding loose ends, that would be much appreciated. Thank you very much.

Tuesday 9 July 2013

Members present:

Richard Ottaway (Chair)

Mr John Baron
Sir Menzies Campbell
Ann Clwyd
Mike Gapes

Sandra Osborne
Andrew Rosindell
Rory Stewart

Examination of Witnesses

Witnesses: **Nigel Fry**, Head of Distribution, BBC Global News, and **Mark Bunting**, Head of Strategy and Policy, BBC Global News, gave evidence.

Chair: I welcome members of the public to this sitting of the Foreign Affairs Committee. This is the second of two evidence sessions we are holding as an inquiry into the Foreign and Commonwealth Office's human rights work in 2012. The first was held on 11 June with Amnesty International and Human Rights Watch.

We've decided that one of the subjects we will focus on is internet jamming as it affects human rights and freedom of speech. I am delighted to welcome Nigel Fry, Head of Distribution at BBC Global News, and Mark Bunting, Head of Strategy and Policy at BBC Global News. Gentlemen, thank you for coming. Is there anything you would like to say by way of an opening remark? I have a very general question to get the ball rolling.

Mark Bunting: We are in your hands.

Q65 Chair: Thank you. Looking at the scale of the problem of jamming and internet blocking, we have picked up evidence of a noticeable decline in media freedoms worldwide. Do you think that is a fair comment, and do you have an explanation as to why that might be the case?

Mark Bunting: Yes, that is fair comment. Freedom House have done the most consistent and authoritative research in this area. I think there are two main drivers for it. The first is that the world is a more unstable place, and instability tends to bring with it attempts to constrain media freedom. The BBC has seen that very personally and directly in Turkey, where one of our correspondents has come under very direct attack from the authorities in recent weeks in response to her reporting on the crisis there. But in many other countries—the Middle East, North Africa, even Greece—we have seen restrictions on journalists' ability to work freely.

The second thing is that, as new media have become more prevalent and it has been easier for people to spread information, so that has triggered something of a backlash from regimes which want to constrain the ability of populations to share news and information. That can take a range of different forms: it can be regulatory restrictions, or more insidious attempts to intimidate or repress freedom of speech. But I think regimes have tried to get better at doing that as a result of the greater access to the media that people around the world now have.

Q66 Chair: The justification put forward by some countries—countries that don't feel inhibited by the highlighting of which countries may be involved—seems to be upheld by the constitution of the International Telecommunications Union. Do you think that constitution is a justification for some of the jamming we're seeing?

Mark Bunting: I will kick off, and Nigel might want to pick up on some of the technical details. I think there is that inconsistency in the international framework, and you have to consider the point in the constitution of the ITU that you mentioned, which does give states the right to cut off communications that appear dangerous to the security of the state, or contrary to its laws, public order or decency. That is quite an open power. You have to set that against article 19 of the UN declaration of human rights, which gives a countervailing right to receive and impart information and ideas through media. Our view is that there is a distinction to be made. We see the provision of accurate and impartial news and information as a universal right, and that is one of the motivating drivers for the BBC to operate around the world. But we also completely accept the right of countries to define their own regulatory rules, reflecting the cultural norms of the country or the expectations of local audiences.

I think one specific difference is that of course, when states take part in jamming or blocking communications, that often has an effect not only on their own populations but on audiences outside their borders and organisations. These include the BBC and a range of other broadcasters, which are trying to go about their business and to provide media and information in ways that are protected by the human rights framework. So I don't think the ITU constitution in itself can be used as a justification for the kinds of jamming that we have seen on occasion from countries such as Iran.

Q67 Chair: Even though it says in article 34.2 that they reserve the right to cut off, in accordance with their law, when it appears dangerous to the security of the state, or contrary to its laws, to public order or to decency? Do you think they are going too far in that interpretation?

Nigel Fry: There is an editorial point in there that Mark may wish to reflect on as well, which is around the BBC's editorial values and the way the BBC portrays content. I don't think the BBC would

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necessarily broadcast any content if it felt it was inciting violence or anything of that nature. The other issue with jamming is that the coverage of these satellites is immense, typically going from the UK in north-western Europe, through Europe across to Afghanistan and touching North Africa as well, and covering a population of 120 million people. So when one of these services is jammed, the effect is quite widespread and affects many countries. It affects a number of channels, typically 10 or 12, because of the way television channels are combined on and broadcast from a satellite. So the collateral damage, as we call it, is quite considerable.

Q68 Chair: Have you ever thought of modifying your content to remove the justification for jamming?

Mark Bunting: No. That would be the short answer. The BBC has always been very clear—and it is the reddest of red lines for the BBC—that we would not adapt content in that way to avoid restrictions. Where there are regulatory limits on what we can do—there are a number of countries, for example, where the BBC is not allowed to acquire licences to broadcast news—we have made attempts to offer other kinds of service which would enable us still to have a presence in that country. In Nigeria and India, for example, where there are rules against international broadcasters holding news licences, we try to provide other kinds of information and creep as close to the boundaries of news as we can without incurring regulatory prohibition. But that is a slightly different thing from the kind of technical jamming you were asking about.

Q69 Mr Baron: Whether it likes it or not, BBC Global News is a key part of Britain's soft power armoury. In fact, it is a very important part. BBC World Service has a deserved reputation for impartial and unbiased reporting. But we are making cuts, not just to news services but to the British Council and to the Foreign and Commonwealth Office, at a time when many other countries are increasing their spend on soft power. To what extent do these cuts actually bite at the front end when it comes to things like jamming? Is there no relationship at all? Is it just that if a Government decide to jam, no matter what funding you give services they are not going to get round that? Or is there a relationship between funding and your ability to reach audiences?

Mark Bunting: Shall I kick off on that, and then Nigel might pick up on the technical side of it? Many of the services that have been jammed in the recent past have been among our most important, most obviously our Persian language service, in which we have invested a lot of resources over a number of years. We have worked very hard to work around the jamming and to ensure that the service gets in. In that case, I can say that there has been no impact from reduced funding on our commitment to the service or, indeed, on our determination to find a way of getting the service to audiences.

Services such as our Chinese service are in a slightly different situation. We made a decision, in the light of the cuts in the comprehensive spending review, to move to an online only method of distribution for

Chinese. That was driven by the recognition that the audience in China was no longer listening on short wave, partly because short wave has itself been very effectively jammed by the Chinese, but also because short wave radio is just not a prevalent way of accessing information. We took a strategic view at that point that in the long run, the internet was going to be the platform on which Chinese people were most likely to be able to access our service, although that is also quite effectively jammed by the Chinese as things stand.

There are other parts of the world where there may be a strong case for the BBC having some sort of presence, but in our view, it has historically been so difficult for the BBC to reach the audience that we haven't felt it would be justified to launch a service in those countries. North Korea has historically been difficult to reach.

Q70 Mr Baron: Are you saying that it is difficult because of lack of money, or because of technology or whatever? Please confine your answers to the relationship between funding and efficacy in reaching these audiences.

Mark Bunting: It is certainly something we take into account, but I would say that I cannot think of any service that we have closed because jamming has made it impossible for us to reach the audience. With Chinese, we needed to make cuts and it was appropriate, in our view, to close the radio service in Chinese because it was having no impact. We re-diverted resources into the online service instead, so that we could continue to provide a service in that language. I think it's true to say that we haven't closed—and I can't see a scenario in which we would close—a service entirely because it was being blocked by the authorities. We would always try to find a way of getting the service in, but the way in which we do that will evolve over time.

Nigel Fry: The point I was going to make is that, with something like the Persian service, our objective in identifying the satellites that we want the service to be carried on is: those satellites that deliver the greatest audience. There are some satellites available that are resistant to jamming, but they aren't very popular and they deliver only around 5% of the audience. Most of the audience is delivered through a very popular satellite, and so we are balancing the available budget, if you like, with the most efficient return on audience through the satellite.

Q71 Ann Clwyd: A stock answer to parliamentary questions, when you ask what efforts the Foreign Office is making to influence human rights decisions or related decisions, is to talk about quiet diplomacy. Can you point to any way in which quiet diplomacy has improved media freedom in another country?

Nigel Fry: Can I talk about the jamming?

Mark Bunting: Yes; you talk about that and I'll reflect on the FCO part of the question.

Nigel Fry: One of the things worth pointing out about the approach we have taken to tackle jamming is that it is on a number of levels: a technical level, an operational level, a regulatory level, and then there is the political and diplomatic level behind it. We

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certainly keep colleagues in the Foreign Office well briefed on what we are doing to enable them to have the conversations they need to have. I think maintaining that three-pronged approach has proven very successful and has helped to build some strong alliances with other European countries and also with the US.

Mark Bunting: There are a number of examples; they are small examples but they might be what you are thinking about. We very often have situations where EC licences or visas have been revoked, or there are pressures on our freedom to operate. The FCO has been very, very helpful and supportive in helping us with those issues, such as the Turkish example that I mentioned earlier. The Foreign Office people here and in Turkey were very helpful in brokering conversations with the authorities in Turkey and helping to put an end to the pressure that our journalists were facing.

In Vietnam recently, there were moves that could have resulted in BBC World News no longer being available in Vietnam, along with a number of other international broadcasters and again, the Foreign Office desk was very helpful in managing that relationship for us. There are a lot of small, isolated examples like that. I am not sure that I can point to one where there has been a transformation in media freedom through that route, but obviously we work very closely with the Foreign Office and they are very helpful on those matters.

Q72 Sir Menzies Campbell: Picking up on that, there is a paradox in that the countries that would not be affected by diplomatic efforts are precisely the kind of countries that jam and, vice versa, the countries that you would not need to use diplomatic efforts in relation to are the countries that would not, as a matter of course, jam. I am just wondering how strong diplomatic pressure can be in those circumstances, not least because the ITU criteria are pretty widely drawn, to put it mildly. It would be very peculiar if a totalitarian state could not find a way of bringing itself within those criteria.

Nigel Fry: The work that has gone on with the allies is about putting pressure on the industry and creating a strong coalition across the industry. That, in turn, can influence the other regimes that you are talking about.

Q73 Sir Menzies Campbell: We are talking alliances. I think I am correct that there is a European broadcasting organisation. Am I right? Is it more effective if the diplomatic pressure comes through that or is it more effective it comes country to country? Have you any experience of that?

Mark Bunting: The coalition is rather less—
[*Interruption.*]

Sir Menzies Campbell: Hold on a moment. We will try to create circumstances in which you can hear yourself speak.

Mark Bunting: The approach that we have taken in the Iranian case in particular, in which Nigel has been very heavily involved, is to bring together quite a broad-based coalition of actors, so it includes the other international broadcasters. It includes the satellite

industry, and it includes the EU and UN bodies in a slightly less formal way. We have tried to create a climate in which it has become harder for a number of reasons, both diplomatic and in terms of the satellite industry's willingness to co-operate, for the Iranian regime to successfully drive through its strategy of jamming. Diplomacy is part of that, but perhaps it is not quite the same as a traditional style of diplomatic pressure on the Iranian Government. It is more about creating a climate in which it is tricky for them to see their strategy through.

Q74 Mike Gapes: Can I take you to the way in which the International Telecommunication Union can work at the international level? I understand that there is an arbitration process, and you referred to it in your submission. What happens if one state claims that another state is jamming its services? What sanctions can be enforced if there is an infringement of the articles and the regulations?

Nigel Fry: Our experience of that process is one whereby when the evidence has been gathered and presented to the Radio Regulations Board and to the BR, as it is called within the ITU, they then looked at the evidence and asked France—in this case, the filing agency was France; the administration was France—to work on a bilateral basis with the Iranians. The Iranians disputed the evidence that was presented; they said they had no knowledge of the jamming taking place. It was met with denial and, under those circumstances, it was not possible to take forward the arbitration.

Q75 Mike Gapes: What can you do if a state denies it and refuses to accept? What sanction can follow?

Nigel Fry: That is the challenge that we face at present. The ITU is a body conceived, and works best, in developing technical standards and allowing nations to communicate with each other when they wish. What we have now is a political issue that challenges the scope of the ITU, and that some would say is beyond the scope of the ITU.

Q76 Mike Gapes: In effect, there is no enforcement mechanism.

Nigel Fry: There is no enforcement mechanism and no arbitration mechanism identified that is seen to be viable.

Q77 Mike Gapes: That is for radio and telecommunications. What about the internet? Is there any mechanism or international structure by which you can deal with internet jamming? Is that covered by any mechanism?

Nigel Fry: The two are in the same basket. We know now of the importance of international communications, be it on the internet or in broadcasting, in terms of global influence, diplomacy and balance of power. We are dealing with technologies that are so relevant to the 21st century, but the mechanisms of government and international bodies have not been developed to cope with the consequences.

There is no single body able to deal with those issues. Last November, there was the world conference in

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Dubai, which started to consider regulation and governance of the internet, but the conference broke down and was unable to reach agreement on even quite basic matters.

Q78 Mike Gapes: The ITU as such does not even mention the existence of the internet.

Nigel Fry: The ITU is split into the radio sector and the telecoms sector. The telecoms sector was the one that organised the world conference, which was starting to try to develop mechanisms for governance of the internet. The perspectives of delegations were quite diametrically opposed. The result was that the conference was not a success at all.

Mark Bunting: The ITU has tried to take on that responsibility but has not yet successfully found a way to do so.

Q79 Mike Gapes: It needs a consensus to do that, does it?

Nigel Fry: Indeed, yes. The issue is that we are moving into areas of content and politics that go far beyond the scope of the ITU. Many feel that it is something that the ITU should not tackle because its mechanisms are not appropriate for dealing with such issues.

Q80 Mike Gapes: Does that mean there needs to be further consideration of this area? If the ITU is not able to deal with it, should the United Nations directly take on the issue and have some new approach that deals with the 21st century, rather than 80 or 90 years ago?

Nigel Fry: Yes, indeed. It is something that Governments need to look at in their own right. There are issues with internet security as well as internet content. At the same time, we have the wider global issues of regulation or otherwise of the internet and content. Structures within Governments and the international domain need to be looked at to see if they are appropriate for where we are at the moment.

Q81 Sandra Osborne: You say in your brief that technology will make broadcasts more resistant to jamming, and that it is being introduced by operators at the moment, but it will take five or 10 years before that technology is widely available. Why will it take so long?

Nigel Fry: The prime issue is the life of the satellites. In fact, the time scales may be slightly longer. Satellites have a life of 10 or 15 years and once they are in orbit, the operators are very reluctant to move them to another position. Some satellites are configured to work in groups of two or three, which means their design is quite specific. While there are satellites at the moment that provide some resistance, and there are others going into service later this year that will work for other broadcasters and again will provide them with resistance to jamming, it will take many years for that cycle of new satellites to be launched and to replace the existing ones.

Q82 Sandra Osborne: What about commercial interests? To what extent are the commercial interests

of satellite providers the key to preventing or constraining jamming?

Nigel Fry: One of the things that we are working to do is to try and ensure that the whole industry moves forward together, and that they recognise the challenge that they face as an industry—the vulnerability of the industry to jamming.

Some operators attempted to look at others and say, “Well, it’s their problem, not ours. Therefore they have to solve it.” The competition there could either work for or against incentivising the operator suffering the jamming to invest in new technology. We are trying to say it is a problem for the industry, and to encourage them all to move forward and develop solutions that are more resistant to jamming.

Q83 Rory Stewart: This is a basic technical question, which I do not really understand the answer to. To what extent does it make a difference to someone in Iran, for example, in terms of their access to a BBC website, whether they are receiving their internet through a satellite or through a copper or fibre-optic cable connection?

Nigel Fry: It would make little difference. While we are looking at the issue of satellite jamming from the broadcast sector, there is of course a lot of telecoms traffic continuing to go through satellites. That is always kept in the background and it is always quite difficult to access some of the figures and information around it. A lot of internet traffic, though, does go through satellite.

Q84 Rory Stewart: I am just trying to understand why using a satellite would not allow you to escape the local restraints. For example, let us say that Ethiopia, for the sake of argument, owned all the internet service providers. Why could you not set up a dish on your roof in Ethiopia and then access some ISP outside Ethiopia?

Nigel Fry: There are constraints—typically, licensing constraints—in a country, as to what equipment is legal or not legal. People who are able to access that sort of equipment would be able to do that, but it would not be the majority of the population.

Q85 Rory Stewart: In how many cases is the blocking of websites happening through state ownership of ISPs, and in how many cases is it happening through other means? Let us take a couple of examples. Ethiopia, Iran and China: what is the situation in terms of state ownership of ISPs, and the way in which the blocking works?

Nigel Fry: I cannot comment specifically on the level of state ownership. The level of state influence, though, would be quite high and one would imagine that if an ISP wanted to continue in business, it would have to abide by whatever direction was coming from central Government. The use of the ISP to put constraints on internet access is the easiest and cheapest, most probably, for any Government to undertake.

Q86 Rory Stewart: So it does not really matter, in essence, whether the request for a website is being routed to a non-existent server or whether it is simply

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being disallowed. In fact, the way in which the Government does it is not actually that relevant, directly. So long as the Government has either ownership or influence over the ISP, they are going to be able to get in the way of it, through three or four different technical means.

Nigel Fry: Yes.

Q87 Rory Stewart: This goes back to the earlier question. There is a general assumption in your memorandum which would not have been made in the Cold War. During the Cold War, nobody would have said, “Look, we can do technical things to try to get round this, but the only way this is going to be resolved is through some great international conference, where pressure is made diplomatically”, because we acknowledged that the Soviet Union, for the sake of argument, was not likely to accede to those kinds of requests for internet freedom. Why do you think the world has changed so much? During the Cold War, we spent a lot of time and ingenuity trying to beat these systems, without fantasising that there was going to be some international silver bullet which would resolve it, but in your memorandum you seem to be proposing such a thing as being the long-term solution.

Nigel Fry: I would not say that it was true that we—the BBC, the UK or the international community more generally—had given up on finding tools to circumvent some of these challenges. The BBC does use some technology to try to help audiences in places like China to get access to our websites. It does require a certain amount of work and effort and technical sophistication on the behalf of the users and it certainly is not a silver bullet. The US authorities are spending much more substantial sums of money on this kind of technology than we are, and they share the lessons and the techniques they learn from that with us.

The point we were trying to make in the memo is that in the long run, purely by virtue of the nature of the internet as a global communications network, there needs to be a legal framework in place that can effectively address the range of issues it raises, whether they be commercial, cultural or related to the issues we are talking about today. Eventually, the most effective way of managing it will be to have some form of international agreement.

Q88 Rory Stewart: Let us assume that is some way off. These states believe they have a clear national interest in keeping this stuff out, so to that extent, the Cold War has not completely ended. In the meantime, is there more that we can do, whether through virtual private networks or setting up internet proxy sites, so that we are not simply taking lessons from the United States, but are more energetically collaborating financially with our allies and with major west coast internet providers, and so that you, the BBC, do not have to reach deep into your pockets to set up these fancy ways of getting round the system? We could have a general EU-US investment with a large amount of capital and money so that those VPNs and proxies operate more effectively.

Nigel Fry: We are already using the same supplier as other European broadcasters and the US, and working at a more commercial level with the same suppliers, so that we can use the circumvention technologies and products and apply them in the market. We are taking more of a market-based approach, rather than one that is directly collaborative.

Q89 Rory Stewart: Do you have enough resources? If you had more money, could you do more? What constraints are you currently facing? Let us say we somehow managed to write you an extra £50 million cheque by getting Google, the United States Government and everybody else to cash in, what would the BBC be able to do that it cannot currently do, in terms of circumventing?

Nigel Fry: It is early days with this type of technology. There is less than a handful of suppliers, so it is a question of identifying the best route forward. As you say, we must work with the other international broadcasters to see whether we can bring that coalition together. However, they are state-funded organisations, so they do not necessarily collaborate particularly well. It is a question of developing the best approach based on the products available in the market.

Mark Bunting: It is true that the resources we have available for this kind of activity are constrained compared with what the US Government have put into this area. The point Nigel is making is that many of these technologies are not particularly well tested or developed at this point. Looking ahead over a longer period—the next 10 years or so—could this be one of the things that has the greatest effect on our ability to have an impact on countries such as China, as we were discussing earlier, in the context of short-wave radio not working any more? Yes, absolutely. We are keenly interested in this area, and we would like to do more in it. We constantly have to balance, from a BBC perspective, investment in long-term, slightly speculative, technical products, versus sustaining the quality of the offer we are providing to our audiences across the world right now. That is a long-term strategic tension that we have to manage.

Q90 Rory Stewart: How practical is the idea that the way to overcome the problem that you will never have the finances to do this on the scale that countries such as the United States are able to do it is to pool resources? Or should you simply go to the US and say, “You believe in the BBC; you believe in freedom of expression. Would you deliver these things—the alternative means of getting around the systems?”

Mark Bunting: We have a very good relationship with our peers—not just the US, but a number of other global players with international broadcasting interests. They share a lot of their expertise with us. It is helpful for them to do that, because that broadens it out from just being a US campaign against the Chinese—to caricature it—into a broader international collaboration. That has been very helpful.

Will we reach a point where we need to be investing more heavily ourselves? I think that is possible. I don’t think we are quite there yet, but it is one of the

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areas that we are looking at as we plan over the next few years.

Q91 Chair: Final question. We have been talking mainly about broadcast and internet. Does everything you have been saying apply to social media? I gather there was a Twitter feed into Iran. Does that get jammed?

Nigel Fry: The social media side is attacked in a slightly different way. Colleagues have faced—

Q92 Chair: It is attacked?

Nigel Fry: Yes, through defamation and the creation of fake sites that potentially carry 90% or 95% of the

same content as the legitimate Facebook site. They will have 5% spurious content added to them, which clearly has not come from the author of that site. I have not heard of Twitter feeds being corrupted or hacked, but certainly Facebook.

Chair: You had short notice for that question. If you have any further thoughts on social media, drop us a line.¹ We would appreciate it. Thank you both very much for coming along. It has been really helpful.

¹ See Ev

Examination of Witnesses

Witnesses: **Baroness Warsi**, Senior Minister of State, **Amy Clemithshaw**, Deputy Head, Human Rights and Democracy Department, and **Simon Shercliff**, Head of Counter Terrorism Department, Foreign and Commonwealth Office, gave evidence.

Q93 Chair: May I welcome Baroness Warsi, Senior Minister of State at the Foreign and Commonwealth Office, and her officials. A warm welcome to you. Baroness Warsi, is there anything you would like to say by way of an opening statement? I have a very general first question to get the ball rolling.

Baroness Warsi: I am quite happy for you to start with the first question.

Q94 Chair: Okay. You have been in post for 10 months. What have your human rights priorities been during that time?

Baroness Warsi: This was an incredibly interesting area for me, because, in my job before I came into politics, it was something that I was already familiar with and I had seen it from a different perspective. To be on the inside of the Foreign and Commonwealth Office and dealing with this from a different perspective was probably one of the challenges that I was looking forward to.

What I did quite early on was to go through our priorities that had been set at the beginning of this coalition Government and the six specific priorities that we had set in the human rights and democracy department. We also looked at how human rights were effectively mainstreamed as well, because one of the concerns that I had early on was that, although these were our six priorities, how did that therefore impact upon other issues that we may have in other countries? One of the big challenges for me early on was to make sure that our country briefs and information were given not just to Foreign and Commonwealth Ministers, but to other Ministers who travelled to these countries, to make sure that they were properly briefed on human rights issues in that particular country.

The second issue was personal priorities. I made freedom of religion and belief a personal priority. If members of the Committee are interested, I can go through that in detail as to how we have moved that agenda on. Thirdly, it was about trying to find new ways in which to have a debate around human rights, bringing in experts and making sure that we added to

the strength that we already had, for example, in the human rights advisory group. We have specifically brought in an expert on Islam, who has now been appointed. It was about bringing additional expertise in areas where I felt we needed further advice.

Q95 Chair: Can I first congratulate you on introducing the criteria for countries of concern in the report? This Committee has been pressing for that for some time, as have others. Looking at the criteria that have been established, the last one leaps out at us. It says: "How active the UK is in the country and our level of engagement there." How did that get in? Our level of engagement there does not really affect whether or not there is human rights abuse.

Baroness Warsi: Our human rights work is not just about the things that we are concerned about; it is also about the things about which we can do something. Human rights in individual countries is also about that individual country's journey in how they view human rights and what they intend to do about it and how they even recognise whether certain things are classified as human rights. Among the refining criteria to the overarching criteria are the main criteria: the gravity of the human rights situation in any one country, and the severity and extent of particular abuse in that country.

We took on board what the Committee said last time and tried to articulate a much more refined agenda to say, "That is what we are concerned about, but what are the specific things we look for under that when we assess what is a country of concern?" For me, it is not just about saying that a country has issues in relation to human rights; it is also about saying, "What can we do? Are there certain countries that we can make a priority, because we have made some progress on an area and we need to push that to take it to the next level?" That is why the level of UK activity and engagement is about the practical application of our values and ideas.

Chair: Fair enough.

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Q96 Rory Stewart: The Foreign Secretary made a speech in February at RUSI in which he laid out a new vision of combining human rights and countering terrorism overseas. It has come under a certain amount of criticism from Amnesty and others, who have suggested that the vision is weak. My first question, though, is what is actually new about the vision? What did the Foreign Secretary say that represents a change in policy? Is there anything that we are doing now that we were not doing before?

Baroness Warsi: From what I understand, it is one of the first public speeches about CT and our policy on it. It was important for the Foreign Secretary to articulate what our thinking is, what we view as the current counter-terrorism threat and for us to describe the framework within which we intend to operate. It is stripped back initially to basic principles: the first responsibility of a state is to keep its citizens safe, but that does not come at any cost. We try as far as possible to abide by the highest possible standards in exercising the powers that we need to exercise to keep our citizens safe. The speech was an articulation of where we were, what the problem was and the framework within which we intend to operate.

If you want me to go wider than that, I will talk in terms of how the Government's approach is different. In terms of values and our reputation overseas, human rights campaigning is ultimately about our reputation. The early settlement of the Guantanamo Bay civil cases was an opportunity to start to draw a line under some of the concerns that were raised. We published the consolidated guidance about how our intelligence services operate overseas in relation to detainees and the questions about detainees overseas.

We have a pretty transparent system within Government through the National Security Council, in which I have had a lot of personal involvement, where the different bits of Government sit around the table where these discussions are had and these decisions are made. Having the intelligence information available to all those Ministers around the table before we start those discussions means that the discussion is much more informed, and that gives us an opportunity to check robustly some of these issues around the table. There is also the Justice and Security Act 2013, which provides oversight and security and is only a few weeks old. I think that there is a marked change and that speech was starting to lay out some of that.

Q97 Chair: Can I turn to the suspended detainee inquiry? As you know, Sir Peter Gibson was holding an inquiry into the improper treatment of detainees, which was then suspended following the allegations of rendition to Libya of Abdel Belhadj and Sami al-Saadi. It is proposed that once that process has completed, a judge-led inquiry will be set up and there will be consultation on its form. Have any discussions taken place with any of the human rights NGOs about that?

Baroness Warsi: No, they have not, because the inquiry, as you are aware, reported about a year ago. It did not proceed to a full inquiry. Sir Peter Gibson was then asked to mark out those areas where he felt that we could focus the inquiry once the criminal investigations and criminal cases had come to an end.

Those matters are clearly still ongoing and at this moment in time the Government are still looking carefully at his report. We are clear that we will make as much of that public as possible in due course.

Q98 Chair: Do you have a time scale for that?

Baroness Warsi: I do not. That is a question that I have asked, and I am aware that the report is being considered at this moment in time, but the clear view is that once the police investigations have been concluded, there will be, as you said, a fully independent, judge-led inquiry into these matters.

Q99 Chair: The finding of the documentation inside the intelligence agencies in Tripoli after the fall of the Gaddafi regime was pretty serious stuff. We expressed concern a year ago that the Metropolitan Police inquiries were taking an unnecessarily long time and asked what the Government could do to jolly it up. In response to that, they said that those were matters for the Metropolitan police. None the less, this cannot just go on ad infinitum; we have to draw a line at some point. Don't you think that it is taking an inordinately long time to conduct what really is a fairly narrow-based inquiry?

Baroness Warsi: I have to be careful about commenting on intelligence matters. This is my first Foreign Affairs Committee appearance—

Chair: To which you are very welcome, but we do ask quite focused questions.

Baroness Warsi: I am sure that it will be a good experience. I took some advice on the remit of the Foreign Affairs Committee and the remit of the Intelligence and Security Committee and what kind of answers would be provided to one and to the other. I had quite extensive discussions with officials on the questions that you are raising and, indeed, I have discussions with the Minister who has responsibility for these, Alistair Burt, on a day-to-day basis.

I am sure that Sir Peter Gibson's report is being considered at this moment in time and there is a commitment to make as much of that public as we possibly can, but the Metropolitan police inquiry and operation is ongoing. We do not know when that will conclude and unfortunately I do not have time scales to give you, but if and when that further information is available, I am sure that either Alistair Burt or the Foreign Secretary will write to you.²

Q100 Chair: Sure. I think that it is important not to confuse two inquiries here. There is the inquiry led by Sir Peter Gibson, who, in due course, will publish what he feels able to, and I accept what you said about the time scale. My concern and the Committee's concern is about how long the Met is taking to investigate the allegations of rendition, particularly the Belhadj ones and the evidence found in the ruins there. Without divulging any classified material, do you not think that this is taking an inordinately long period of time?

Baroness Warsi: It would be difficult for me to comment on Metropolitan police investigations. What I can comment on from a Foreign Office perspective

² See Ev

is whether these matters are being looked at properly in terms of the report.

There are a number of issues that have an overlap with the Foreign and Commonwealth Office that are subject to police proceedings. We come across this all the time on all sorts of issues. It is incredibly important that in such cases we are not seen to be involved in police investigations in any way, including in terms of the pace of the investigation. Using my pre-politics hat, there are a number of questions that I would certainly be asking as a criminal defence lawyer if I felt that there had been any ministerial involvement in the pace and detail of criminal investigation.

Chair: Please note that we continue to watch this closely.

Q101 Sir Menzies Campbell: I am sympathetic to the view that you have just expressed about the fact that publication at this stage might prejudice an inquiry, but it goes a little further than that. Drawing on your legal experience, if there were to be a decision to take proceedings and prosecute, as long as these were live and had not yet been dissolved, the same issues would come into focus in relation to publication as do during the duration of the police inquiry. Is that right?

Baroness Warsi: Sorry, I did not quite understand how that question was phrased.

Sir Menzies Campbell: The Government are rightly exercising discretion about the question of the publication of any contents of Gibson during the police investigation. If the investigation produces prosecutions, the Government will have to continue to exercise that discretion until the point at which the prosecutions are exhausted.

Baroness Warsi: Are concluded. That is right.

Q102 Sir Menzies Campbell: So that could be quite a long time indeed.

Baroness Warsi: It could be, but that should not stop the Government laying out what I think are the broad parameters of our approach, which the Foreign Secretary has done. I do not think that it should stop the Government settling civil cases, which they are doing. I do not think that it should stop us strengthening legislation, which, looking forward, would prevent some of the concerns that have been raised. I do feel, however, and I think Members will appreciate, that we need to allow criminal investigations, whatever format they may take—whether the matter goes to court and whether there is a formal prosecution and verdict thereafter. We have to allow that to take place before we start the formal inquiry. I think Sir Peter Gibson was asked to guide us in terms of the quite specific areas where, having seen what he has seen, he felt a future investigation would take us.

Q103 Rory Stewart: Minister, we requested in our report last year some reports on monitoring. In their December response, the Government said that the information was already in the public domain but undertook to provide the details to the Committee. We did not actually receive a letter until you wrote to us

on 3 June. What was responsible for the six-month delay in replying to the questions around monitoring?

Baroness Warsi: Was this monitoring of “deportation with assurances”?

Rory Stewart: Yes.

Baroness Warsi: I cannot explain what the delay was about. That is the direct answer to the direct question. I can certainly go away and find out.³ I hope, however, that I answered your specific questions quite fully in the letter.

Rory Stewart: If we could perhaps in slower time get an answer to what the delay was—

Chair: In quicker time I hope.

Q104 Rory Stewart: In quicker time, as the Chairman says.

Could you give a sense of what is happening with “deportation with assurances”? How many people have actually been returned under DWA arrangements and are currently being monitored?

Baroness Warsi: The latest information that I have is that 11 have been returned, specifically to Algeria and Jordan. Currently, 13 applications are in progress. You will be aware that there are five countries with which we have “deportation with assurance” agreements, which are Algeria, Jordan, Ethiopia, Morocco and Lebanon.

Q105 Rory Stewart: I would like a little more detail on how exactly this works, because, as an amateur, it looks as though there is not a lot of clarity, at least for the Committee, on what exactly the monitoring arrangements are in Morocco. In Algeria, it appears as though the embassy is responsible for the monitoring. In Ethiopia, it is the Ethiopian Human Rights Commission, about which there have been some questions. Could you give us some sense of those three types of monitoring arrangement?

Baroness Warsi: I think that the monitoring arrangements for Morocco are still being finalised, but you are correct that the others have now been fixed. We do not think that one size fits all, because the structures in an individual country can differ. Sometimes there are quite strong Government-linked structures and sometimes there is quite a strong independent human rights commission and a strong NGO sector. Sometimes we feel that we need to keep that in-house in the embassy. Even the terms of reference of the detail of each individual agreement are quite country-specific, because the concerns that we have about returning people to individual countries depend on the kind of things that we think that country may have done in the past, or on our concerns about what it is capable of doing.

Q106 Rory Stewart: To ask a very naive question to conclude this part, if an embassy member in Algeria discovered that somebody we deported or returned was not being treated properly, what would happen?

Baroness Warsi: When we sign a deportation with assurances agreement, countries put their reputations at stake in doing that. The DWA is always part of a much broader relationship with a country. When the detailed discussions on DWAs take place—that is, of

³ See Ev

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course, a Home Office lead—we sit down and in quite some detail go through various scenarios and monitoring. Monitoring includes being given access to detention facilities and being allowed to go in with experts on trauma and physical and mental injuries. We think that the strength and robustness of those relationships and agreements mean that there would be serious consequences to the relationship between two countries if it was to break down because they were to breach the basis of that DWA.

Q107 Rory Stewart: The answer seems to be—to put it in very naive, blunt terms—that it would be quite difficult to do something about the individual concerned. It would have a radical effect on the nature of the relationship or any future deportations, but in the case of the individual, it would be quite difficult to work out what exactly one could do in that situation. Would that be right?

Baroness Warsi: I think that the terms of these agreements would allow us to intervene, in terms of getting access, making our concerns known and the consequences that therefore follow from that. Maybe I am being naive when I say that I genuinely believe that when we are in these detailed discussions with these countries, any country wanting to breach a DWA in relation to an individual and to risk the whole diplomatic relationship between two countries off the back of an individual gives me some comfort. We have to strike a balance between being able to keep our country safe and being able to return people who are not conducive for us on these shores, and to seek whatever agreements we can and be sure in our mind that we are satisfying both our national and international obligations.

With countries that we do not currently have agreements with, but with which there are potential discussions about agreements, we are doing quite extensive work with many of them on other areas as well. The DWA is part of a process and part of a broader relationship where we feel that they are heading in the right direction and we are working with them. It also, remarkably, has quite interesting, positive impacts on their criminal justice systems, because discussions and processes that we take part in with them ultimately have an impact on the way in which they deal with matters domestically, not just in relation to the specific individuals that we return.

Q108 Rory Stewart: Finally, on Jordan and Abu Qatada, in the FCO explanatory memorandum on the treaty, your Department says that the UK does not need a treaty basis to provide mutual legal assistance. Can you clarify why we decided to have a treaty with Jordan, rather than a memorandum of understanding? Does that imply that in future, we will be going for treaties rather than MOUs when dealing with countries?

Baroness Warsi: My understanding is that we have got both. This goes back years and years, but there were initially concerns under article 3 around torture, and the Court held that the MOU was sufficient to satisfy them that article 3 would not be breached. Further concerns were raised about article 6 and the right to a fair trial. We felt, therefore, that we needed

to have a specific treaty between the two countries on fair trials and process to satisfy the Court. It did not just satisfy the Court;⁴ it clearly satisfied Abu Qatada as well, because he felt that he was now in a position where he would go back. I believe that most people were content with that result.

Q109 Rory Stewart: But that does not necessarily mean that we will be seeking treaties rather than MOUs with other countries in future, does it?

Baroness Warsi: Each case is different, and it is important that we do not allow our future discussions with countries to be focused around an individual case. That is bad law making, and it is bad diplomacy. In this case, which had become quite iconic in so many different ways and had a huge public profile, we felt that it was important to go down this route. It may well be that with other countries we do not have to do the same thing. I am not sure that it necessarily sets a precedent, but equally I am not sure that it is something that we would never use again.

Q110 Sandra Osborne: I would like to ask you about violence against women and the Preventing Sexual Violence in Conflict Initiative. The initiative is very welcome, but it has come under some criticism in relation to the emphasis placed on impunity rather than prevention, and I note that the recently updated FCO business plan stands by that approach towards impunity and not so much towards prevention. Are you open to doing more work on prevention, which, at the end of the day, is the only thing that is going to change things for the long term?

Baroness Warsi: I do not think it is an either/or choice. We have been doing prevention work for many years, under the previous Government and the Government before that. The issue of women's rights and the different stages that individual countries have reached in relation to women's rights is something that we have been heavily engaged in, and DFID continues to be engaged in. For example, in a country that I have responsibility for, Afghanistan, the Secretary of State for International Development has made women's rights one of her big priorities in terms of DFID work. That is prevention of violence, making sure that legislation in relation to violence, domestic violence and abuse is implemented properly, and working with other countries and other NGOs in providing safe houses and shelters. All that preventive work is being done.

All of us, as Ministers, have personal priorities—it is what drives us, as politicians, to do the jobs that we do, because there is something that we fundamentally want to become involved in and change. The initiative is something that is incredibly important to the Foreign Secretary, and therefore through him the whole of Government has come to realise that political will in this area has been so lacking.

It is something that I am hugely supportive of. I saw this first hand in my pre-political days when I was dealing with asylum applications. You would find that

⁴ The Court has not considered the Treaty itself. The Court had previously expressed concerns which prevented deportation, and the Government considers that the Treaty satisfies those concerns

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sexual abuse during conflict—I saw it specifically during the Balkans and then with refugees coming out of Kurdistan and Iraq—was the part of the case that would not come to light until many, many months after an application had been submitted, because it was something that victims felt they could not talk about; they felt they would be victimised a second time if they brought it to the fore. In some cultures and communities, that had consequences for family relations. There was just a general sense that this was a part of the crime that people could get away with: there was a general culture of impunity.

The Foreign Secretary felt that this required political will, and I am incredibly proud of the way in which he has led on this, including the successful communiqué at the G8 recently, with more money and more support pledged for this initiative. There are proposals to take this further at the United Nations General Assembly ministerial meeting in September this year. So as I said, I do not think it is an either/or. I think it is about giving quite specific political will to a horrendous by-product of conflict and war, which is sadly overlooked.

Q111 Sandra Osborne: In relation to the team of experts, a few countries have been prioritised so far. What is the constraint on the team of experts: are there financial constraints, or is it that there are not enough experts to cover the ground required, given that, as you know, many countries have extreme and systemic violence against women?

Baroness Warsi: This is a two-way relationship. We have to make sure that countries that we work with are ready for this and have bought into this agenda. We cannot do this to them; we have to do it with them, because that is when the experts are most successful. There are some countries that we have already deployed to and others with which we are having further discussions—for example, during the Somalia conference, this was an element that we took forward with the Somali Government.

There are plans for these experts to be deployed to more places around the world, but it has to be on the basis of what is needed there. Is it about victim support? Is it about strengthening the judicial system? Is it about the gathering of evidence? Is it about dealing with a current situation—for example, on the borders outside Syria—or is it about something that happened in the past, as in the Balkans? Each situation requires a different type of expertise and a different kind of expert. We have some fantastic experts. We have over 70 experts already in this area, but we intend to work with experts and communities and countries that are open to taking this initiative forward.

Q112 Sandra Osborne: You mentioned Afghanistan. We have been told by Amnesty that women in Afghanistan feel that the rights that have been gained are slipping away and that, in relation to violence against women, more of the substantial resources that have been put into security in Afghanistan should be directed towards family response units and towards having more female police officers, if the law on elimination of violence against women is to be

implemented in any way effectively. What is the Government's view about that?

Baroness Warsi: I absolutely agree with you. I absolutely agree that we need to make it a priority. I do not know whether you know some of my own history on our intervention in Afghanistan and some of the concerns that I have. I am sure that people around the table have similar concerns. Having been in Afghanistan and made the sacrifices that we have made, and the people of Afghanistan have made, it is important that we do not allow the gains that we have made to slip—and there have been real gains. When I took over this portfolio in September, I had quite a cynical perspective on these issues, but I have been incredibly impressed with the amount of progress that has been made on women's rights. That is why the Secretary of State's prioritising of women's rights and violence against women as part of the DFID agenda is important.

The amount of money that we are currently committed to with the DFID work will continue post-2014 and the withdrawal of our troops, so the level of funding will remain. You will also be aware that the issue of women's rights is part of the Tokyo accountability framework, so it is tied in: they have to make progress in return for us doing what we have agreed to do.

There have been some setbacks with the law, in terms of it not proceeding as quickly as it should have done and its being implemented in the way that it should be. We need to carry on putting on pressure about that, while also recognising that it is an incredibly conservative society with its own challenges. Sometimes I think that, in the public mind, we forget what Afghanistan was like pre-Taliban: it certainly wasn't the swinging '60s there and then suddenly things changed. We have to be realistic about what happened in Afghanistan pre-Taliban and about the societies that existed there, and then work with the grain of those societies as well.

There have also been some positive statements—for example, the statement by Foreign Minister Rassoul at the Human Rights Council in Geneva earlier this year. Again, there was a big focus on the issue of women's rights. When I have been out there, on every visit to Afghanistan I have had a women-focused meeting either with NGOs, with parliamentarians, or with female members of the High Peace Council, discussing things like how women will be involved in the reconciliation process with the Taliban. So let me reassure you all by saying that I, as the Foreign Office Minister who has day-to-day responsibility, and the Secretary of State, who has responsibility in Afghanistan, are hugely committed to this.

Q113 Sandra Osborne: I am pleased to hear it. The same problems exist in the Kurdish regional government-controlled areas of Iraq. You mentioned difficulties in implementing these laws. You have also talked about the long-term nature of cultural change, which is fair enough, but expectations have been raised, particularly in Afghanistan. Should aid be tied to a requirement to take this issue more seriously and to implement the laws effectively?

Baroness Warsi: Of course, we have the same challenge in Iraq, with the family violence

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legislation—there are concerns whether that has been properly implemented. I am not as experienced on Iraq; it is not a country I have day-to-day responsibility for.

Conditionality is there through the Tokyo accountability framework, but it has to be practical conditionality. Diplomacy and politics are the art of the possible, and there is no point setting conditionality which we feel cannot be met in the short term. We have to keep pushing things in the right direction. It is better to stay there and to keep pushing so that people keep going down the right path than it is to disengage because they are not doing things in the way we would like. So I am quite a pragmatist on this.

I also think we need to have some incredibly robust discussions. My own background has enabled me, certainly in places like Afghanistan, to go that little bit further in those discussions. Sometimes, much of this is rooted in culture and religion, and we have quite long cultural and theological debates. I think diplomacy should go that far and we should be prepared to challenge certain views: we should challenge them without saying that particular values or women's rights are the preserve of western democracies, but that they are, actually, the preserve of humans—that is what we are, first and foremost. Again, I know from personal experience that we have been prepared to push those boundaries on this and many other issues—child abuse, for example, and the abuse of young boys in Afghanistan.

The kind of overall discussion I had with, for example, Zainab Bangura, who is the special representative to the Secretary-General on violence against women and girls, was about how we challenge the notion in many of these countries that there should be punishment for permissive sexual relations, but impunity for non-permissive sexual relations. How do you start to unpick some of those societal challenges? If a young man and a young woman engage in consensual sexual relationships, they are subject to all sorts of corporal and capital punishments, but with violence against women, there is almost a culture of, "Well, we can dismiss that." Zainab Bangura, with her background, is incredibly interested in starting to do some of these things.

One of the issues is about having that wider debate and expertise around how, sometimes, faith and culture play a role. That is why the Foreign Secretary's advisory group brought in somebody who was an expert on Islam to help us have some of the theological background and unpick some of these arguments.

Q114 Ann Clwyd: Baroness Warsi, is there not a big gap between the rhetoric and the reality? For instance, the FCO's annual report talks about the family violence Bill in Kurdistan, which criminalises forced marriages, child marriages and the abuse of girls and women and bans female genital mutilation. The FCO described that as a big step forward, but Human Rights Watch and Amnesty say that the implementation of the family violence Bill is "poor" and that "dozens of girls and practitioners said that they had either undergone or performed FGM since

the law was passed." Who is following up the implementation? Human rights organisations are saying, "It's all very well, but this is not being implemented." We cannot quite say this has been a good thing if it has not been implemented.

Baroness Warsi: I would say it is a good thing and I will try to explain why. The first point is acknowledgment. The second point is having the political will to change the parameters within which these matters can be dealt.

Q115 Ann Clwyd: But whose political will?

Baroness Warsi: Their political will.

Q116 Ann Clwyd: It is obviously not there if these things have not happened.

Baroness Warsi: You can go to countries—I do and my colleagues do—where these issues are not even on the table and up for discussion.

Q117 Ann Clwyd: Sorry, but you say in your annual report that this is a big step forward. How can it be a big step forward if it isn't actually being implemented? As for FGM, about which there is a lot of concern in this country, it persists. Can you show that any of these laws are being implemented? That is what I am asking.

Baroness Warsi: You will be aware that there are many cases of FGM in this country, where we have a much more sophisticated system of policing.

Q118 Ann Clwyd: But no prosecutions.

Baroness Warsi: Yes. Despite the fact that the legislation has been on the statute book under the previous Government and this Government, we are still struggling to get the evidence—

Q119 Ann Clwyd: As I put it on the statute book, I am particularly interested in its implementation. It is not being implemented in this country, and we suggest that it might be implemented in Kurdistan, Iraq, Afghanistan and so on. It is not true, is it?

Baroness Warsi: I completely understand what you are saying. Like you, I and many others have been campaigning on this issue for many years. I still feel that getting a first step—it is only a first step, but it is a significant one—of getting legislation on the books and setting the parameters is important, so I do see this as a success. But you are absolutely right: until this is implemented and girls' lives are saved and changed as a result, what is the purpose? That is why we are engaged with a number of projects in Iraq and other places where FGM is prevalent, but also in the United Kingdom where we work with women's groups to try to get them to come forward—

Q120 Ann Clwyd: We know about the United Kingdom. You mentioned Iraq and Kurdistan and the report mentions Afghanistan. What support will there be from the UK Government, for example, and the wider international community for Afghan women after the NATO pull-out? I cannot see it. I think they are being sold down the river.

Baroness Warsi: I do not agree, because I hear from Afghan women when I am in Afghanistan. Of course

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they raise real concerns—worries about when ISAF forces are no longer there in a combat role—but, to give some anecdotal evidence, women say, “Things will never go back to the way they were because we all have mobile phones,” and, “They can never change back to the way things were because too much progress has been made. Despite challenges, we have too many allies who will not allow things to slip backwards.” You probably know Sima Samar; she was the chairman of the Afghanistan Independent Human Rights Commission and is an incredibly impressive lady. She continues to fight these battles, but is still sure that it will not go back to the way it was. It is not perfect.

Q121 Ann Clwyd: How are we going to help them? If the political and security situation deteriorates how can we help those women?

Baroness Warsi: I am confident that many of the projects that we have started will continue. For example, in Helmand, there is a much more cohesive working with UN bodies. All the different UN bodies are coming together and are the basis for some of this work continuing in places where we will not be providing the security. Then there is a confidence in the Afghan national security force. Every time I go I see them taking more and more control of more and more posts. They are now in control of 90% of check posts in the country. There are countries that have similar problems to Afghanistan in which we do an incredible amount of good work on women’s rights. Therefore, I am confident that we will carry on doing good work on women’s rights after the troops are drawn down.

Q122 Ann Clwyd: Thank you. Finally, in the Afghan section of the FCO’s human rights report it says: “Extensive new project activity is also planned for 2013 to support women’s leadership at a national level.” Could you provide us with fuller details? Perhaps not now—you might want to send us those details if they are not to hand.

Baroness Warsi: I can. It is activities such as parliamentary exchanges, making sure that they are part of delegations when they are attending and ensuring that we help them with parliamentary training and how to be effective as parliamentarians, in terms of bringing through legislation. I can send you a full list of proposed projects from the Department for International Development.⁵

Q123 Mike Gapes: Can I take you, Minister, to Sri Lanka? For several years—in fact, for many years—successive Government reports have expressed concern and said that Sri Lanka is, and remains, a country of concern. I have a specific issue that I want to raise with you. It relates to the position taken by Ministers in answer to questions that I and others have raised about the removal from the UK of individuals to Sri Lanka who subsequently came back to this country and were given asylum here because of the mistreatment they received or because of concerns that they could not be sent back a second time. We have been told by Foreign Office Ministers and others

that there is no credible evidence that Sri Lankans have been returned by the UK immigration authorities and then tortured on their return to Sri Lanka. Is that still the position of the Government? Do you still believe that there are no substantiated allegations that any individuals sent back to Sri Lanka have then been tortured?

Baroness Warsi: I think the position is that we do not feel that anybody returned to Sri Lanka will be tortured per se—

Q124 Mike Gapes: That is not what my question is. That may be your view generally, but I am asking a specific question about specific individuals who have been returned. Is it the position that there are no substantiated allegations?

Baroness Warsi: We have concerns about torture in Sri Lanka—

Q125 Mike Gapes: I understand that, and that is also in the answers that we have had before from Ministers—you are concerned about the situation, etc. The specific question I have got relates to people that we have sent back to Sri Lanka who subsequently have come to this country and been given asylum the second time they were here. As you know, there have been freedom of information requests by Freedom from Torture, and there are statements made to this Committee by Human Rights Watch that dispute the position that the Government have taken. And I understand that the Government have actually been asking for the NGOs to provide the names of the individuals, and many of us believe—certainly the NGOs believe—that that puts those individuals’ families at risk in the context of Sri Lanka.

My question is specific: is it still the position of the Government that there is no credible evidence, and that there are no substantiated allegations? Is that still the position that you are taking?

Baroness Warsi: We are taking the position that the court gave its judgment earlier this month about our position about returning people to Sri Lanka—

Q126 Mike Gapes: You are talking about the 5 July decision?

Baroness Warsi: I am talking about the 5 July decision, and the Home Office is currently considering that decision, where—of course—the Home Office’s country guidance was looked at. The Home Office is currently looking at that decision, and looking at—whether in light of that decision—it will or will not change its current position. I do not have a final answer on that, but I can certainly make sure that when the Home Office has made that decision that we write to you.⁶

Q127 Mike Gapes: So the Government at this moment have not changed their position? They are still—at this moment—saying that there is no credible evidence and that there are no substantiated allegations?

Baroness Warsi: The position we have is twofold: one, that there are allegations of torture, and we know torture happens in Sri Lanka; but secondly, not

⁵ See Ev

⁶ See Ev

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everybody who is returned from the United Kingdom is subjected to torture—

Q128 Mike Gapes: That is not my point, and you know that.

Baroness Warsi: I think that is probably, Mr Gapes, as far as I can take it on this occasion, but I will certainly make sure that the Home Office writes to you once it has considered its—

Q129 Mike Gapes: Okay. Can I then raise with you the wider question of UK-Sri Lanka relations? In the light of the fact that there is a deep concern—I have a large number of constituents who have asylum in the UK who have come from Sri Lanka over the last 10, 15 years—you as a Government decided that the Prime Minister would attend the Commonwealth Heads of Government meeting later this year in Colombo. Why, if we were not prepared in 2009 to support the proposal that was made at that time within the Commonwealth for Sri Lanka to host the CHOGM meeting in 2011, did we then not object to the proposal that was made in 2011 that Sri Lanka should host the CHOGM in 2013?

Baroness Warsi: There are two parts to that: the decision to go, and the decision to object in 2011. There were initially concerns raised about when Sri Lanka wanted to host, and it was put back because when the initial date for hosting was put forward, there were concerns about the human rights situation.

Q130 Mike Gapes: And that was under the previous Government?

Baroness Warsi: Of course.

Q131 Mike Gapes: And then they decided to go to Australia—to Perth—instead in 2011?

Baroness Warsi: Of course.

Q132 Mike Gapes: My question is why did this coalition Government think it was appropriate not to object, whereas the previous Government did object in 2009?

Baroness Warsi: My understanding is that we did raise those concerns in 2011—perhaps this is the point where I bring in one of my experts. If we do not have the answer here, I can formally write to you. My understanding is that we did raise our concerns, but the appetite at the Commonwealth meeting was not such that it would prevent Sri Lanka from hosting the Heads of Government meeting.

Q133 Mike Gapes: Is it not the case that decisions in Commonwealth meetings are taken by consensus?

Baroness Warsi: Yes, they are, but not unanimously.

Q134 Mike Gapes: Sorry. Can you unpack that for me because I don't understand?

Baroness Warsi: You can have consensus without everyone around the table having completely agreed to the situation.

Q135 Mike Gapes: In other words, the Government decided not to press the matter in 2011, because the

general view was that other countries were content with it being in Sri Lanka?

Baroness Warsi: No. I think I will have to go back to the details and the read-out of that particular meeting to find out what our objections were, who raised them and how we raised them.⁷ It would be wrong for me to comment on a meeting at which I was not present. If it helps, what I can tell you about is the discussion in relation to our attendance and our relationship with Sri Lanka. There have been huge discussions within Government. It was not an easy decision. The arguments not to attend were strong; the arguments to attend were strong, too. In the end, we took a decision that to not attend and to boycott was not going to take our concerns in relation to human rights any further, and that CHOGM could be used, and will be used, as an opportunity to shine a light on Sri Lanka and its lack of progress, despite its own reports, on the issue of human rights. The Foreign Secretary has indicated that, beyond CHOGM, he will certainly be looking to travel and meet groups and the Sri Lankan Government to raise these concerns. The Minister with responsibility for this, Alistair Burt, raises this matter on a weekly basis with his counterparts and indeed the high commissioner here.

You are probably aware that I have a double-hatted job; I also have a domestic role in terms of faith and communities, so I am incredibly aware of the views and concerns of the British Tamil community around our attendance. Indeed I was at its international conference that it held in Portcullis House. I am also aware of the consequences of foreign policy on domestic issues and domestic communities. All that was fed in, and discussions between Alistair Burt and the Sri Lankan-British Tamil community have also taken place. It is not an easy decision, nor is it one that we take lightly. It is not a decision that we all sit entirely comfortably with, but we do feel that our commitment to the Commonwealth goes beyond the country in which it is held, and that our commitment to shining a light on the real human rights concerns that we have in Sri Lanka outweigh a boycott.

Mike Gapes: Okay. We will watch it closely and see what happens.

Q136 Chair: Can I clarify a point? You will have a copy of the Foreign Secretary's letter of 30 May 2013, which is attached to your brief. Paragraph 3 says, "The decision to hold CHOGM in Sri Lanka in 2013 was taken at the 2009 Port of Spain CHOGM where Sri Lanka's offer to host CHOGM was discussed by Foreign Ministers before being referred to Commonwealth heads to decide. All Commonwealth heads agreed a package that included Australia's bid to host in 2011 and Mauritius' in 2015."

Baroness Warsi: Chairman, I am sorry to intervene but I have a vote.

Chair: I thought you said that it would be after 5 o'clock.

Baroness Warsi: I was hoping it was going to be after 5 o'clock.

Chair: You must go. We will await you. If colleagues want to leave, we will not restart until at least 4 o'clock.

⁷ See Ev

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Sitting suspended.

On resuming—

Chair: Minister, thank you for being so speedy in getting to the vote and back—you ran for about half a mile, as far as I can see. We have a vote, as I told you, at 16.27, so I would like to finish this session by then.

Ann Clwyd: May I ask about Burma, Minister?

Chair: Ann, I apologise, but Ming had a question he wanted to ask on the last subject.

Q137 Sir Menzies Campbell: Minister, you know that the Commonwealth is based on the Harare Declaration, which sets out that the Commonwealth is based on a proper respect for human rights. In the case of South Africa, under threat of expulsion it left voluntarily. In the case of Zimbabwe, there has been a suspension.

You will also have understood from the questions asked by Mr Gapes that there is real anxiety among some members of the Committee about the fact that the CHOGM should be held in Sri Lanka, in the light of what we regard as credible evidence from respected human rights groups. Just what would it take for a CHOGM to be cancelled because the human rights position was unacceptable?

Baroness Warsi: It would require more consensus and potential leadership than we are maybe seeing in the Commonwealth at the moment. I had quite frank discussions at the Foreign Ministers meeting that took place in London not so long ago in terms of the concerns that we felt it was important for the Commonwealth to be raising and the necessary people in the chairs to be raising on the issue of Sri Lanka. I know what we would find unacceptable. At the moment my colleagues and I find the human rights situation in Sri Lanka incredibly serious, as well as their approach to implementing some of the recommendations that have come out. We have to balance that with our commitment to continuing to shape and play our role within the Commonwealth.

You will be aware of some of those discussions within the Commonwealth about how sometimes the world is seen in quite a polarised way. It is important for us to remain and support and direct the Commonwealth and countries in it, as far as we can, to the right place. That is not just in relation to Sri Lanka. We have concerns about LGBT rights and the use of the death penalty in Commonwealth countries, but they are individual nations and countries that have come together.

Q138 Sir Menzies Campbell: The difference about the CHOGM, of course, is that it is an opportunity for a shop window. It is not beyond the bounds of possibility, is it, that the Government of Sri Lanka will use the fact that the CHOGM has come to Sri Lanka as some kind of endorsement of its position and policies?

Baroness Warsi: It may do, but we have also been very clear in pointing out to Sri Lanka that, if it thinks in that way, it should also be acutely aware in today's media age of the spotlight that will be shone upon Sri Lanka and the lack of progress in many areas. We have already seen many reports coming out of Sri

Lanka. Many of our own broadcasters have been involved in highlighting and exposing some of the atrocities that happened in Sri Lanka.

Q139 Sir Menzies Campbell: Have we discussed this with the Canadians? I think they are taking a more robust view than has been expressed by the British Government.

Baroness Warsi: They are, but I am not sure of the details of that discussion.

Q140 Sir Menzies Campbell: I think the Canadian Prime Minister said that he would not go. Isn't that right?

Baroness Warsi: I think the Canadians have indicated that, but I am not aware of the discussions that we have had with the Canadians on that.

Sir Menzies Campbell: I will leave it there, in that case. Thank you.

Q141 Ann Clwyd: On Burma, there were some criticisms when economic sanctions were lifted, although the arms embargo still remains. There are still a number of political prisoners; there is an argument over how many. Having lifted economic sanctions, what political levers do we have as far as Burma is concerned?

Baroness Warsi: One of the policy areas that I have been looking at is how we operate sanctions and apply them as part of a broader policy response, rather than a just quick policy response that can be seen not as an end in itself but part of a series of policy levers. Specific sanctions that were targeted at specific concerns and wrongs are not the same concerns and wrongs that we possibly have now as those we had two or three years ago, because Burma has been on that journey to becoming a more responsible international player. However, this is a country that has made progress.

Q142 Ann Clwyd: No one disagrees with that. My question is: what levers do we still have, since we have lifted economic sanctions? Do we have any?

Baroness Warsi: I think the biggest lever is the fact that this is a country that wants to be part of an international community. It is a country that is trying to do the right thing, saying the right things and heading in the right direction, but it has got much further to go.

As far as specific sanctions are concerned, you will be aware that the sanctions needed the consent of every single member state to remain in place. If a single member state objected, everything including the arms embargo would have fallen away. We felt it was important for the arms embargo to remain, and therefore reach consensus on the other sanctions still to have that level of protection.

Q143 Ann Clwyd: You probably know that President Sein announced in February that a committee would be set up to review the cases of political prisoners who were still in detention, and that representatives of civil society organisations and political parties would be represented on the committee. Has that committee been set up? Is it working?

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Baroness Warsi: I have had some involvement with Burma, predominantly through the freedom of religion and belief priority. It is not clear from this document whether that committee has been set up.

Q144 Ann Clwyd: In order to save time, perhaps you could let us know.

Baroness Warsi: Yes. It is not clear from this.⁸ In terms of my own involvement in Burma, the Minister with responsibility for Burma is Hugo Swire, and you may be aware that he was one of the first western Ministers to visit, and indeed to visit Rakhine province.

Q145 Ann Clwyd: That is what I was going to ask you about—whether you have raised with the Burmese Government allegations that serious crimes have taken place against the Rohingya community. What plans are there to raise these concerns with Opposition leaders, who have been criticised for remaining silent on the issue, including Aung San Suu Kyi herself?

Baroness Warsi: These issues have been raised with the president, with senior Ministers and with Aung San Suu Kyi. We think that the ethnic reconciliation element is probably one of the areas where by far the least progress has been made. You might be aware that the presidential adviser on ethnic reconciliation—the Minister who has responsibility for that—and the Minister for reconciliation within the Rakhine province were here with a delegation a couple of months back to look at our experiences post-Northern Ireland. I met with them, and the arguments that they made in relation to the Rohingya community centred around them not having been in Burma for long enough, the fact that they looked different and the fact that they had a different religion. The irony of the fact that they were having this conversation with me was clearly lost on them. I had to say, “There are many of us in this country who do not look the same, who have a different religion and who have not been here for more than half a decade, but we are still British.”

Every country is on its own journey, and it was important to be able to have quite frank discussions with them on this area. The fact that the commission was set up and has reported, and the fact the president has welcomed some of its findings, is a positive move but we think it needs to go further. We think the proper consideration of the issue of citizenship, and full citizenship, is where this eventually needs to go. We presented quite strong evidence about information that we had about the hundreds of years of Rohingya presence in Burma. What I am trying to say is that this is an issue that I am personally passionate about and that the Minister with responsibility for Burma is incredibly passionate about. The Foreign Secretary and the Prime Minister have raised this as well.

Q146 Ann Clwyd: Can I ask you, then, if things do not improve as far as the Rohingyas are concerned—I was at the UN recently, where they had first-hand knowledge of what was going on with the community—would the UK Government support an

international investigation into the plight of the Rohingyas?

Baroness Warsi: I think the president has indicated that he will allow an Office of the UN High Commissioner for Human Rights office to open. That commitment was given many months back, and we have been pushing—indeed, we did so at the recent UN Human Rights Council meeting in Geneva—for this office to open. We think that that would be a good forum through which we could all operate on these issues. As well as that, our ambassador is incredibly engaged on this and was one of the first ambassadors into Rakhine province as well as Kachin.

Chair: I interrupt to say that our vote may come earlier than expected. May I ask you, without cutting down on the beef, to keep your answers succinct?

Q147 Ann Clwyd: It is just that the UN special rapporteur on the human rights situation in the country said that he regretted the absence of “recommendations to address impunity” or to ensure that investigations were held into “allegations of... violations targeting the Muslim community”. I have not heard what the UK Government feel about the report or whether they agree with those observations.

Baroness Warsi: I cannot remember the details of all the recommendations in the report, but we broadly welcomed the fact that the report had happened, that recommendations had come forward and that the President had accepted them. There were, however, some specifics that we did say that they needed to go further on. What those specifics were, I cannot properly recall off the top of my head, but we certainly were not content with how far the report went.

Q148 Ann Clwyd: Would you be able to let us know what the UK Government’s response is?

Baroness Warsi: Certainly.⁹

Ann Clwyd: On Uzbekistan—

Chair: I fear that we have not got far enough on to say that we will write to you with the rest of our questions. I am afraid that it is going to be your turn to wait now. How are you placed time wise?

Baroness Warsi: The only thing I have is another vote.

Sitting suspended.

On resuming—

Chair: Thank you for your patience.

Q149 Ann Clwyd: Back to Uzbekistan. Do you think that a harder bargain could have been driven with Uzbekistan when the UK was negotiating agreements permitting the withdrawal through Uzbekistan of equipment from Afghanistan?

Baroness Warsi: You are probably aware that we have a policy that gifting any equipment is treated in the same way as selling equipment. The same procedure and the same criteria that we would consider for granting an export licence are the criteria that I consider in particular in relation, for example, to this gifting. Because Uzbekistan is a country that I have responsibility for, once the detail of what could potentially be gifted came through, I spent some time

⁸ See Ev

⁹ See Ev

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with officials going through the various options and the consequences of various items that we could have given them. I got advice from the arms export department, the human rights and democracy department and from the desk, so it is quite a long process. An agreement to have a transit agreement, which is necessary for us in terms of troop draw-down as we approach 2014, and for gifting to be part of that, is not a done deal. It is gifting to be part of that, but what we give them is subject to controls thereafter.

Q150 Ann Clwyd: What monitoring can be done to ensure that the gifted equipment is not actually used for internal repression?

Baroness Warsi: It is one of the criteria that we consider, and if there is any sense that this equipment has been or could be used for internal repression, the mandatory obligation is to refuse. Whether that is selling or gifting, I would apply exactly the same rules. I went into quite a lot of detail about parts, vehicles, how many of these vehicles they had had in the past, where they have bought them from, where they had been used, and, when there had been internal disturbances, as you are aware there have been in Uzbekistan, whether the police or the army used them. I take these obligations incredibly seriously, as do my colleagues, because this is the kind of thing that, not just before this Committee but committees in future, we would be answerable for. Under this Government, there is much more ministerial oversight of these decisions, and that is important.

Q151 Ann Clwyd: Getting back to the monitoring, what kind of monitoring will take place on the ground to ensure that that equipment is not used for internal repression?

Baroness Warsi: I think that would be dealing with the issue after the horse has bolted. What is more important is getting advice from our post, which we did, about whether this kind of equipment has ever been used for internal repression in the past. That, for me, is a much stronger indication.

Q152 Ann Clwyd: Mistakes are made. I am on the Committee on Arms Exports Controls and mistakes are made and then the FCO has to review its position on licences, so always the same question: what kind of monitoring takes place? I have seen it in so many countries where some of our equipment has been used, despite all the promises beforehand, for internal repression. Therefore, there is always a criticism of the actual monitoring that takes place on the ground.

Baroness Warsi: That monitoring takes place as our human rights work that we do anyway. Our officials in our embassy in Uzbekistan, as in other countries, consistently monitor the human rights situation. They are in contact with NGOs who work on the ground and they are in touch with journalists and human rights defenders who are in the thick of these disturbances as and when they happen. They have quite a lot of information about what was used and how it was used, and that was exactly the kind of information that I went back to ask for before I made a decision.

Of course I accept that mistakes are made, but I think that is really too late. What we need to do as Ministers, is be as sure as we possibly can that the items that we are allowing to be sold, or the items that we are gifting in situations like this cannot be used for internal repression, but also for other bits of the criteria, which would mean there would, under normal circumstances on a sale, be a mandatory refusal.

Q153 Chair: Zimbabwe is still a country of concern, yet we have relaxed our attitude to the sanctions. Is this as a result of an improvement in human rights?

Baroness Warsi: Of course, we still have concerns about human rights in Zimbabwe, and we continue to work with NGOs on the ground. However, we feel that, since the national unity Government in 2009, progress has been made. Targeted sanctions were being applied to specific situations, which had now possibly changed. As you will be aware, this is a crucial year for Zimbabwe with elections approaching. Indeed, there is a suggestion that they will be called possibly by the end of this month. Much of our assessment in relation to how much progress has been made will come to the fore at that moment. I think it can be a watershed moment for the process that Zimbabwe has been on.

On sanctions, it is important that we are clear about why we are applying them; what effects they will have; that they are targeted; that they are part of a broader policy approach; and that when things start to improve they are also part of the policy approach in terms of lifting and allowing that country to make some progress as well. We feel that Zimbabwe is heading in the right direction, and these elections will be an important moment.

Q154 Mike Gapes: Can I take you to Russia briefly? We have been told that the human rights climate in Russia today is as bad as it has been at any point in the post-Soviet period. Would you agree with that assessment?

Baroness Warsi: I do not think I am enough of an expert on Russia to be able to make a judgment.

Q155 Mike Gapes: As the human rights Minister, would you agree that human rights in Russia are as bad as they were at any point since the Soviet Union?

Baroness Warsi: As the human rights Minister who has been in post for 10 months, I can certainly say that in the last 12 months we have seen a deterioration in the situation.

Q156 Mike Gapes: Therefore, what is the purpose and what is your assessment of the UK-Russia human rights dialogue? What has it achieved?

Baroness Warsi: I think it does have a purpose. It is important for us to maintain a forum within which these discussions can be had. We might not always be successful in moving Russia, but the fact that it is an opportunity for us to push them and try and get some progress is important. I am a firm believer in engaging with people we disagree with, rather than disengaging because we disagree with them. I do not think we can achieve things by not talking to them.

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We also use them as a basis for where sometimes we get some movement at director level dialogues—for example, when politicians meet their counterparts. When the Prime Minister met President Putin recently, he raised some specific human rights issues. Some of those discussions that happen at director level form that thinking.

Q157 Mike Gapes: You will know that the NGOs are very concerned about recent legislation in Russia, including definitions of international NGOs as “foreign agents”. Was that issue raised with the Russians when we had our human rights dialogue?

Baroness Warsi: Human rights issues were raised between the Prime Minister and President Putin. I do not know whether that matter was specifically raised.

Q158 Mike Gapes: What about the meeting in May?

Baroness Warsi: I do not know whether it was raised at the dialogue, but I can find out. In terms of the law on foreign agents, we are incredibly concerned about it, but, whether that was one of the issues raised, I do not know.

Q159 Mike Gapes: Perhaps we could have a written submission that gives us details of what was raised—in detail, not generalities.

Baroness Warsi: I can do that.¹⁰

Q160 Mike Gapes: Finally, the Russia-EU discussions about visa-free travel. Because the UK is not a member of Schengen, we are not part of the decision-making process between the Schengen countries and Russia, but we are able to attend meetings. Have we expressed a view about whether the European Union should be rewarding Russia with visa-free travel in the light of our human rights concerns in Russia?

Baroness Warsi: I know we have had discussions with Brussels, both in the working groups and at the European Council. What the nature of those discussions was and whether we raised these concerns, I do not have that information to hand. Rather than try and second-guess what took place, let me tell you correctly what happened in those meetings—I will write to you.¹¹ But I can tell you that we have been in discussions, even though we do not play an active part in the formal negotiations.

Q161 Chair: Are you concerned about human rights in Bahrain?

Baroness Warsi: I am concerned about human rights in Bahrain. The Bahrainis, thankfully, are concerned about human rights in Bahrain. I had an incredibly frank conversation with the Foreign Minister when he was here, a few months back. We consider the Bahrainis to be an important partner and important friend, and with that friendship, as I said to the Foreign Minister, comes a level of honesty and frankness about these issues. Certainly, they are committed. They are making some progress. It is not as quick as they or we would like, but we do feel that they are heading in the right direction.

Q162 Chair: Yet it is not on your list of countries of concern.

Baroness Warsi: It was brought up last time by this Committee, as to why it was not a country of concern, on that particular occasion. As well as generally discussing countries of concern and what the criteria were for countries of concern, I looked at the specific issue of Bahrain.

I am sure you are aware, Chairman, how we document the information which then informs ministerial judgments. We get country briefs, information from NGOs, and because we receive information from all our ambassadors and high commissioners, we have an opportunity to be able to kind of judge this against what is happening in different countries. After the recommendations from the Committee here, we also spoke to the human rights advisory group and they came back with further things which, for example, posts should be looking at when assessing a human rights situation. They said, “Is there, for example, a special representative appointed by the Secretary-General at the UN?”, “Who is operating in that country?” So they gave us additional things to look at in terms of countries. Having considered all that, we felt that there were concerns, and it was on a trajectory and we needed to keep that under review, and that is why it is a case study, but we did not feel that it fell within a country of concern, at this stage.

Q163 Chair: On this theme of values versus interests, we do quite a lot of business in Bahrain and the surrounding countries and we have been expecting for some time a business and human rights strategy, which weighs up the arguments as to how you address interests versus values. Its target date for publication was September last year, yet we do not have it. I wonder whether you could give us an update on where that has got to.

Baroness Warsi: I might be part of the problem there, Chairman, because I felt that it was important for that policy to be robust and to take into—I saw an early draft a few months into starting the job and the Foreign Secretary did, as well. We sent officials away to do further work. You are probably aware that DFID, MOD and BIS have fed into this policy, as well as engagement with business.

I am of the belief that you cannot—coming predominantly from the private sector—operate as a successful business in the long term in an unstable environment, whatever the returns might be in the short term, and that it is ultimately in the interests of business for countries to be stable. Countries will ultimately only be stable if they are on the right path in terms of their human rights agenda. The Sarvar tragedy in Bangladesh, with the fire, again brought some of these things to the fore.

I have seen what is effectively a final draft; I think I saw that last week. There are some further details that I have looked at again. I think there was some suggestion that we would look for a date for publishing it. I was quite keen for that not to be done just before or during recess. It was important for Parliament to be sitting when we announced this. So I hope that it will be very soon.

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¹¹ See Ev

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Q164 Chair: It will be a very important document because in this accelerating world we live in, a key issue is how you balance the two together.

Following on that theme, what progress has been made on drawing up a list of goods that might be used to restrict freedom of expression on the internet and might be subject to export controls?

Baroness Warsi: The whole debate about freedom of expression is so new in terms of the way in which technologies are developing. There are some things that you and I might regard as benign technology—the kind of stuff that is on my computer at home so that I know what my kids are doing and where they are surfing. As a parent with young children, I think that is important. That could be used in quite illegitimate ways by regimes around the world that want to try to track what human rights defenders are doing, for example. The criteria we use are the same that we would use on exporting arms, so we would look at whether this could be used in an illegitimate way. If we felt that it could be and it fell within the consolidated criteria for not allowing this to be exported, it would not be.

Discussions are taking place at the moment. There was a conference at the back end of last year at Baku in Azerbaijan, and then a further conference—the WCIT conference—last December in Dubai. There were discussions about what the parameters are, about protections online compared with offline, and about what is considered to be legitimate. Of course, if something is proportionate and reasonable, and it is for protection—we have controls on our internet on child pornography, for example—it is quite right to have those protections in place, but there has to be a legitimate purpose for that and there has to be independent oversight of it. That aspect of it is part of that discussion.

Q165 Chair: And what about drawing up a list? Do you think that a list will appear?

Baroness Warsi: I am not sure whether we will draw up a definitive list. I think Amy might be able to help here.

Amy Clemitchaw: Some cyber-type goods are on the list of controlled goods, so they are already subject to arms export controls. However, as the Minister says, this is a fast-moving area. The key concern in our discussion with industry and other Governments is to ensure that we come up with a global solution that will create a level playing field for business in all countries. There will obviously be implications of any new controls.

Baroness Warsi: It is one of the questions that I asked. If you were a small, innovative IT company operating out of the north of England, how would you know that the goods you were about to supply could be used in this way? There is some outreach work done by BIS with these businesses. Sometimes, tragically, companies find out when their goods are stopped at port. As this is fast moving, we need to allow that space to remain as free as possible for business to thrive and for innovation to continue. It has done, because no Government have had their hands on that space, but we are acutely aware of how these items can be used.

Q166 Chair: Without clarity there is no policy, really.

A couple of loose ends. In Colombia, the British embassy has been emphasising to NGOs that they should work in partnership with the Colombian Government. As a result, some NGOs have been boycotting, or refusing to take funds that we are offering them. Is that as a result of a decision made in Colombia by the post, or centrally here in London?

Baroness Warsi: That decision has not been taken. We are not refusing funds to NGOs that will not work in conjunction with—

Chair: No. They are not seeking funds because of our insistence.

Baroness Warsi: The point I am making is that we are not insisting on them working with the Colombian Government. From my understanding, that decision has not been taken. We work with the Colombian Government on projects that they are doing on human rights. We work with NGOs that do not work with the Colombian Government—we work bilaterally with them and completely independently of the Colombian Government. My understanding—I have checked with desk on this—is that we do not have a policy, and no decision has been taken, that we will work with NGOs only if they are prepared to work with the Colombian Government.

Q167 Chair: So why does Amnesty International describe it as an unreasonable condition?

Baroness Warsi: I cannot answer that. I can answer from the information I have based on the conversations that I have had.

Q168 Chair: Does the question surprise you? Are you aware of an issue in Colombia?

Baroness Warsi: I was aware that this issue had come up and that there was some suggestion that we had insisted that only NGOs that work with the Colombian Government would be funded. I asked about that and was told that it is not the case.

Q169 Chair: Where do you think it has come from?

Baroness Warsi: I have no idea where it has come from, but when I asked, I was told that it was not the case.

Q170 Chair: Can you drop us a line on that? Clearly there is something going on.

Baroness Warsi: I can. It might be that Amy has further information.

Amy Clemitchaw: We are very happy to write, and all I would add is that across all our programme funding, one of the things we are looking for is what is going to make the most effective project. In many cases, depending on the type of project, having the involvement of the Government is pretty much a condition of delivering what it is about, but obviously that will vary by project.

Baroness Warsi: But I think that the Chairman's question was: have we taken a decision or have we explicitly said that to NGOs in Colombia? My understanding from the briefing and the information that I have is that that is not the case, but if that is not correct—Amnesty clearly seems to think that there is

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some suggestion—I will certainly write to you. However, I will write to you in any event and explain where we think that that idea may have come from.¹²

Chair: Add it to the growing list.

Baroness Warsi: It is added to the growing list of things I am going to write to you about.

Q171 Chair: We have had some evidence from NGOs that insufficient priority is being given to children's human rights. Is that a fair comment?

Baroness Warsi: We have to prioritise those areas where we feel we want to try to focus some political energy and maybe even some resourcing, but that does not mean that other human rights are not looked at. In fact, we may find that some of our priority areas do not apply in specific countries and other human rights priorities apply. For example, children may not be a

priority under the human rights and democracy programme, but in Uzbekistan, a country with which I have been involved, the issue of children in cotton fields is a very specific issue that is absolutely part of the issues we would raise. I do not think that those rights are overlooked, but I accept that we take judgments about which areas we are going to prioritise.

Q172 Chair: Thank you very much. I think that that completes our questions. Have you got over all the points that you wanted to make?

Baroness Warsi: I think I have—it has been broad. This has been a good first experience of a Foreign Affairs Committee sitting, so thank you.

Chair: We look forward to seeing you next time. Thank you very much indeed to you and your two colleagues.

¹² See Ev

Written evidence

Written evidence from Amnesty International UK

SUMMARY OF RECOMMENDATIONS:

1. *The UK's role in the promotion and protection of human rights.*

Amnesty International UK recommends that:

- The FAC asks the UK Government to clarify the timetable for ratification of the Council of Europe's Convention on Preventing and Combating Violence Against Women and Domestic Violence.
- The FAC urges the UK Government to cease the pursuit of diplomatic assurances that are aimed at circumventing international human rights law and standards.
- The FAC asks the UK Government what measures it is taking to work with EU countries to table a resolution at the UN Human Rights Council on Bahrain.
- The UK Government provides an update about negotiations around EU accession to the Convention and explains what, if any, its objections are.
- The FAC asks the UK Government how progress in implementing the UN Guiding Principles on business and human rights will be monitored and how shortcomings will be dealt with.
- The FAC asks the FCO how and if it advocates human rights with other departments.

2. *The FCO's efforts to strengthen the ability of states to counter terrorism whilst working to protect human rights in those states, as described by the Secretary of State in his speech on 14 February 2013 on Countering Terrorism Overseas.*

Amnesty International UK recommends that:

- The UK Government to investigate and, where appropriate, try individuals suspected of terrorism-related activities, rather than establish and use procedures such as Terrorism Prevention and Investigation Measures that circumvent and undermine the ordinary criminal justice procedure.
- The FAC asks the FCO what measures are taken to ensure that UK domestic legislation cannot be quoted by other governments to justify repressive measures.
- The UK Government to make public the specific legislative changes that would be necessary to allow ratification of the (Enforced Disappearances) Convention.
- The UK Government articulates how it actively supports civil society organisations, human rights defenders as well as non-judicial institutions (eg National Human Rights Institutions) specifically as part of its approach to strengthening the ability of states to counter terrorism.
- The UK Government to cease seeking, using and relying on unreliable diplomatic assurances against torture and other ill-treatment to forcibly return persons to places where they are at risk of such abuses.
- The UK Government to publish the interim report from the UK Detainee Inquiry without further delay.
- The UK Government to establish a human rights compliant inquiry on alleged UK involvement in human rights violations, including torture and other ill-treatment of detainees held overseas, that ensures real accountability, and that conforms with and fully discharges the UK's obligations under international human rights law.
- The FAC asks the UK Government to what extent it has sought to engage with civil society groups in Somalia, including women's groups.

3. *The 11 April declaration by G8 Foreign Ministers on the prevention of sexual violence in conflict, and the impact of the FCO's Preventing Sexual Violence Initiative, launched in May 2012.*

Amnesty International UK recommends that:

- The UK Government should outline indicators in the National Action Plan (on women, peace and security) to measure success, budget, ensure effective consultations in country and joining up with the NAPs of other countries.
- The UK Government identifies specific and measurable improvements in the funding, political intervention and other forms of support given to WHRDs, particularly those working outside of Kabul.
- The UK Government (with EU partners and the UN Special Rapporteurs on Human Rights Defenders and Violence Against Women) lobby for the Afghan Government to issue an open invitation to the United Nations Special Rapporteurs to make a country visit before the end of 2014.

- The UK Government to more effectively and publicly advocate for Afghan women to be meaningfully represented in both planning stages and during peace and reconciliation talks in all forums, including in the trilateral talks hosted by the UK.
- The UK Government to ensure that its £70 million contribution to supporting the Afghan National Army and police (2015–2017) specifically address women’s recruitment in the security sector.
- The FAC asks the FCO whether the UK Government will lobby for the next phase of the UNDP/Law and Order Trust Fund for Afghanistan (LOTFA) to include a stronger focus on women’s recruitment into the police.
- The FAC enquires about the implementation of Tokyo Mutual Accountability Framework, specifically how the UK government intends to meet the commitments to tackle gender-based violence and whether (and what) benchmarks have been set.
- The FAC seeks clarification from the FCO regarding how gender perspectives are integrated across government departments, including Ministry of Defence doctrine, training and practice.

4. Threats to freedom of expression through the media, including the jamming of broadcasts and the growing trend of imposing controls on access to the internet.

Amnesty International UK recommends that:

- The FAC asks the UK Government how it consistently engages with civil society organisations in its freedom of expression work.
- The UK Government uses its influence to help secure an effective Southern African Development Community mission that can ensure space for civil society is safeguarded up to and during the election.
- The FAC asks the UK Government what it is doing to tackle the misuse of “national security” and “public order” legislation.
- The FAC asks the UK Government to develop a strategy to use the period between now and Commonwealth Heads of Government Meeting to press the Sri Lankan Government to deliver significant improvements in human rights prior to the meeting in November.
- The FAC asks the UK Government about the impact of its work in Russia and how its concerns are raised whilst seeking to build commercial partnership and security efforts such as Syria.
- The FAC asks the UK Government what plans they have to use the UK/Russia Cultural year of 2014 to promote human rights.
- The FAC asks the UK Government how human rights are incorporated into engagement with the Syrian opposition.
- The UK Government to continue to help ease the humanitarian crisis in Syria by urgently helping to provide housing, food, water, sanitation and health care to refugees.
- The UK Government to continue to press—through the UN Security Council—for the situation to be referred (including abuses by both authorities and armed opposition groups) to the Prosecutor of the International Criminal Court.

AMNESTY INTERNATIONAL UK

1. Amnesty International UK is a national section of a global movement of over three million supporters, members and activists. We represent more than 230,000 supporters in the United Kingdom. Collectively, our vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. Our mission is to undertake research and action focused on preventing and ending grave abuses of these rights. We are independent of any government, political ideology, economic interest or religion.

INTRODUCTION

2. Amnesty International UK (AIUK) welcomes this opportunity to contribute to the work of the Foreign Affairs Committee (FAC) in its assessment of the UK’s human rights efforts in 2012. This submission addresses the questions asked by the FAC, but does not include all of AIUK’s observations and recommendations regarding the work of the UK Government on human rights or the Foreign and Commonwealth Office’s (FCO) report. We therefore welcome the opportunity to provide oral evidence before the FAC and would be happy to submit any additional information should the FAC find it of assistance.

1. The UK’s role in the promotion and protection of human rights:

3. As highlighted in the FCO’s report, the UK played key leadership roles in human rights issues in 2012. The UK’s signature of the Council of Europe’s Convention on Preventing and Combating Violence Against Women and Domestic Violence was welcome although the UK has not yet ratified the treaty. At the UN in March 2013, the UK was instrumental in securing an Arms Trade Treaty. The UK’s leadership on the Preventing

Sexual Violence in conflict Initiative as part of its G8 Presidency is demonstrative of the UK's influence in international affairs and its ability to garner high-level support. The success of both the Treaty and the Initiative will, of course, be in their implementation. Under the UK's chairpersonship of the Council of Europe, AIUK welcomed the priority placed on human rights, but raised several concerns about the UK's proposed reforms of the European Court of Human Rights. AIUK was also concerned by the continued pursuit of diplomatic assurances to circumvent the absolute prohibition on torture as well as the increasing reliance on secret evidence which leaves many victims, including those seeking effective remedy from overseas, in the dark.

Amnesty International UK recommends that the FAC asks the UK Government to clarify the timetable for ratification of the Council of Europe's Convention on Preventing and Combating Violence Against Women and Domestic Violence.

Amnesty International UK recommends that the FAC urges the UK Government to cease the pursuit of diplomatic assurances that are aimed at circumventing international human rights law and standards.

1.1 Human rights promotion through multilateral organisations

4. The FCO's report places a strong emphasis on the UK working through networks such as the Commonwealth, the EU and the UN, with an emphasis on the UK seeking election to the UN Human Rights Council for 2014–16. The success of the UK's human rights objectives and its ability to “turn the dial”¹ in international affairs is dependent on its credibility and authority. This authority relies, inter alia, on the UK being consistent in its approach to promoting and protecting human rights. We welcome the UK's continued support of the International Criminal Court and other international and ad hoc international criminal tribunals as this is vital for holding the perpetrators of human rights abuses to account. In addition, the UK continues to provide important support to UN agencies as well as mechanisms and procedures (such as the Universal Periodic Review and UN Special Rapporteurs). However, the UK appears to “pull its punches” on some countries. For example, we would like them to employ a more robust and critical approach to human rights abuses in Bahrain at the UN Human Rights Council, yet to date they have failed to do so.

Amnesty International UK recommends that the FAC asks the UK Government what measures it is taking to work with EU countries to table a resolution at the UN Human Rights Council on Bahrain.

5. In multilateral fora, the UK has used its influence to encourage and build the capacity of other states to protect human rights. For example, the human rights criteria attached to states seeking EU membership and the UK's commitment to EU expansion. AIUK is concerned, however, by the UK's position on EU accession to the European Convention on Human Rights. Statements by UK Government ministers about their intention to “scrap”² the Human Rights Act or reconsider the UK's relation with the European Court of Human Rights are also worrying. These messages are not only heard in the UK; they reverberate across Europe and send a signal to other countries that adhering to the Court and Convention is optional or negotiable. Undermining the rule of law and these regional protections that the UK has a long history in developing is a serious setback for the millions across Europe who rely on the Court for justice. These moves by the UK also undermine the UK's ability to work with and through those same structures, as well as the UK's human rights credibility with other member states.

Amnesty International UK recommends that the UK Government provides an update about negotiations around EU accession to the Convention and explains what, if any, its objections are.

1.2 Business and human rights

6. There are also inconsistencies in the context of trade and investment. AIUK is concerned, for example, by the UK's restrictive interpretation of the extraterritorial application of human rights protections under international law with respect to the impacts of UK-based companies operating overseas. We have documented a number of cases in which companies with headquarters in the UK have caused or contributed to human rights abuses in other countries, and where the UK has both regulatory and administrative means to take action to prevent and sanction such abuse, but has failed to do so.³ AIUK is deeply concerned that measures introduced in the Legal Aid, Sentencing and Punishment of Offender Act also create a barrier for the overseas victims of UK based multi-national companies to seek redress for human rights abuses in UK Courts. AIUK expects that the UK's forthcoming Action Plan on Business and Human Rights will be sufficiently coherent and robust to

¹ Foreign Secretary's speech at the Lord Mayor's Easter Banquet, 16 April 2013: <https://www.gov.uk/government/news/foreign-secretary-speech-at-the-lord-mayors-easter-banquet> (accessed on 22 May 2013).

² In addition to the Conservative's 2010 General Election Manifesto (http://media.conservatives.s3.amazonaws.com/manifesto/cpmanifesto2010_lowres.pdf) see also: the Prime Minister in 2011 <http://www.telegraph.co.uk/news/politics/8802230/Conservative-Party-Conference-2011-David-Cameron-backs-Theresa-May-over-chilling-Human-Rights-Act.html> (accessed 15 May 2013) and more recent statements by both Justice and Home Secretaries in March 2013 (<http://www.bbc.co.uk/news/uk-politics-21726612>; <http://www.guardian.co.uk/politics/2013/mar/03/tory-ministers-human-rights-act>).

³ See, for example, Amnesty International, *Nigeria: The true 'tragedy': Delays and failures in tackling oil spills in the Niger Delta*, (November 2011): <http://www.amnesty.org/en/library/info/AFR44/018/2011>; Amnesty International, *Don't mine us Out of Existence: Bauxite Mine and Refinery Devastate lives in India* (February 2010): <http://www.amnesty.org/en/library/asset/ASA20/001/2010/en/0a81a1bc-f50c-4426-9505-7fde6b3382ed/asa200012010en.pdf>; Amnesty International, *Petroleum, Pollution and Poverty in the Niger Delta* (June 2009): www.amnesty.org.uk/uploads/documents/doc_19492.pdf; Amnesty International and Greenpeace, *The Toxic Truth* (September 2012): http://www.amnesty.org.uk/news_details.asp?NewsID=20342.

bring about significant improvements in the human rights impacts of UK companies and in the ability of their victims to access remedy.

Amnesty International UK recommends that the FAC asks the UK Government how progress in implementing the UN Guiding Principles on business and human rights will be monitored and how shortcomings will be dealt with.

1.3 Strengthening human rights internally:

7. In the promotion of human rights internationally, the UK should be seeking to set the national standard for others to follow. The FCO, therefore, should be an advocate for human rights across all government departments. Not only does this relate to concerns around human rights reporting that we have previously raised with the FAC⁴ but it would also strengthen human rights protections in both domestic and foreign policy and practice. AIUK continues to argue that human rights reporting in cross-departmental initiatives such as the UK's National Action Plan on UNSCR 1325 (NAP) and the implementation of strategies such as the Building Stability Overseas Strategy⁵ should be strengthened by stating clear and defined objectives and indicators, upon which progress and implementation should be reported against.

Amnesty International UK recommends that the FAC asks the FCO how and if it advocates human rights with other departments.

2. The FCO's efforts to strengthen the ability of states to counter terrorism whilst working to protect human rights in those states, as described by the Secretary of State in his speech on 14 February 2013 on Countering Terrorism Overseas.

2.1 Setting the standard:

8. The UK, like all states, has the primary responsibility to protect, promote and respect human rights of all people in its territory, including the obligation to protect them from violations (including acts of terrorism) as much as possible. Individuals suspected of involvement in terrorism-related activities should be investigated and, where there is sufficient evidence, prosecuted in ordinary criminal courts, in conformity with international fair trial standards. The UK must not seek to operate clandestinely. It should seek to operate in a manner that enables it to be held accountable for policy and practice, including by upholding the principles of a fair, transparent and open judicial process. The Foreign Secretary argues that the approach outlined in his speech is a "framework of accountability and human rights". The approach offered, however, is not a rights based approach to security, but a continuation of an approach that not only inconsistently promotes human rights in other countries, but also undermines human rights through the UK's own domestic counter-terror measures. This undermines the UK's reputation abroad and fails to set a standard appropriate for a credible international human rights advocate. For example, AIUK is concerned that measures in the Justice and Security Act are not only contrary to traditions of fair and open justice in the UK but could have a negative impact on the credibility of the UK's judicial system and be replicated elsewhere, leading to negative consequences for victims of human rights violations elsewhere in the world. Similarly, AIUK considers that the Terrorism Prevention and Investigation Measures (TPIMs) can amount to deprivation of liberty or constitute restrictions on the rights to privacy, expression, association and movement as well as allowing the UK Government to rely on secret material.

Amnesty International UK urges the UK Government to investigate and, where appropriate, try individuals suspected of terrorism-related activities, rather than establish and use procedures such as TPIMs that circumvent and undermine the ordinary criminal justice procedure.

Amnesty International UK recommends that the FAC asks the FCO what measures are taken to ensure that UK domestic legislation cannot be quoted by other governments to justify repressive measures.

9. The UK should also be setting the standard by supporting international treaties and mechanisms. AIUK is therefore disappointed that the UK has not fully committed to the ratification of the UN Convention for the Protection of All Persons from Enforced Disappearance. Noting the UK Government's commitment to make further progress towards ratification by the UK's mid-term UPR report (2014),⁶ AIUK continues to advocate that a timetable be established and adequate resources allocated to ensure the Convention's ratification as soon as possible.

Amnesty International UK urges the UK Government to make public the specific legislative changes that would be necessary to allow ratification of the Convention.

2.2 Measures to strengthen ability of states to counter terrorism:

10. AIUK has long documented cases where security provisions (often coupled with excessive force) have been abused and used against human rights defenders and critics under anti-terrorism and other "national

⁴ Amnesty International UK: *Submission to the Foreign Affairs Committee's inquiry into the FCO's human rights work in 2011* (May 2012): paragraph 5, page 4.

⁵ *Ibid.* Section 3 (pages 13–17).

⁶ Hansard source (Citation: HC Deb, 30 January 2013, c828W); Hansard source (Citation: HL Deb, 30 October 2012, c123W).

security” legislation. Over-broad or vague provisions (including “states of emergency”) are at particular risk of abuse or being applied in an arbitrary and/or discriminatory manner. “National security” and “public order” definitions, for example, should be in line with the Johannesburg Principles.⁷ Narrow and clearly defined provisions, together with effective oversight and robust accountability mechanisms which involve civil society in both drafting and implementation are essential. UK efforts to build counter-terror capacity in other countries must be matched with strengthening accountability measures, not only rule of law measures (such as improvements to judicial systems) but also by ensuring enabling environments for human rights defenders or supporting the development of National Human Rights Institutions (NHRIs).⁸

Amnesty International UK recommends that the UK Government articulates how it actively supports civil society organisations, human rights defenders as well as non-judicial institutions (eg NHRIs) specifically as part of its approach to strengthening the ability of states to counter terrorism.

11. The four measures highlighted in the Foreign Secretary’s speech⁹ speak more to the UK’s desire to deport individuals and seek assurances rather than the promotion or protection of human rights. AIUK has long considered the use of diplomatic assurances to deport individuals (alleged to pose a threat to the UK’s national security) to countries where there is real risk of torture and other ill-treatment to be an unreliable and unenforceable mechanism which circumvents the absolute prohibition on torture or other ill-treatment. In his speech, the Foreign Secretary claims a “need” to share information which will see the UK relying on assurances and—more concerning—that even when these assurances are not credible the UK will still seek to build a “justice and human rights partnership”.¹⁰ Whilst international partnerships can and should be used to promote human rights, AIUK is concerned that the UK’s previous “partnerships” with governments of countries such as Lebanon, Jordan, Libya, Ethiopia and Morocco¹¹ aimed to circumvent these. In addition, under the recent examination of the UK’s fifth periodic report to the UN Committee against Torture, the UK stated that it was not enforcing the return of Sri Lankan failed asylum seekers but admitted that it uses assurances in individual cases and used arrangements such as “monitoring by a local human rights body, to ensure that the assurances could be independently verified”.¹² The process of monitoring a single person returned under diplomatic assurances has few, if any, of the safeguards built into system-wide protocols for monitoring all detainees in all places of detention in a given country.¹³ Assurances regarding torture from governments of countries where torture and ill-treatment are systematic or widespread are inherently unreliable and do not sufficiently protect against torture and other ill-treatment. They simply are not worth the paper they are written on.

Amnesty International UK urges the UK Government to cease seeking, using and relying on unreliable diplomatic assurances against torture and other ill-treatment to forcibly return persons to places where they are at risk of such abuses.

2.3 Safeguards

12. In his speech, the Foreign Secretary highlighted five safeguards¹⁴ to support the measures previously mentioned. AIUK believes these are unacceptably weak and represent a continuation of a counter-terror approach that is inconsistent with international human rights standards. The UK’s claim that intelligence efforts will always be “in accordance with the law” is misleading given its habit of changing the law, often to circumvent international standards. AIUK has long criticised the UK Government for many of the practices it has adopted in the name of countering terrorism and protecting national security and does not consider that existing scrutiny measures are sufficiently robust. One of the safeguards mentioned in the speech regards ministerial oversight and approval. Yet serious problems remain regarding credible allegations made against the UK (including involvement of Ministers) of human rights abuses in counter terror operations under the “war on terror”. The UK Detainee Inquiry began work in July 2011 and fell short of international human rights standards for effective, independent and thorough investigations. It was concluded early in January 2012 and reported to the UK Government in June 2012 on its work to date. The UK Government has yet to publish the report. Whilst we understand that a new inquiry is on-hold pending on-going criminal investigations, there still remains a need for an adequate investigation into allegations of UK complicity in torture and other abuses. Any future inquiry must be fit for purpose and consistent with human rights standards. Consultation with

⁷ The Johannesburg Principles on National Security, Freedom of Expression and Access to Information (Principle 2). See also the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annexed to a note verbale dated 24 August 1984 from the Permanent Representative of the Netherlands. UN Doc E/CN.4/1984/4 (1984), Principles 29–31.

⁸ Consistent with the UN Principles Relating to the Status of National Institutions (Paris Principles).

⁹ I.e. Building the counter-terrorism capacity of overseas security services; working with local investigators to improve the ability to build cases based on evidence; supporting prosecutors and judges; “improve and where appropriate monitor conditions in detention facilities so that convicted terrorists can be held securely and their treatment meets with international standards”.

¹⁰ Foreign Secretary William Hague, *Countering Terrorism Overseas* (14 February 2013): <https://www.gov.uk/government/speeches/countering-terrorism-overseas> (accessed 22 May 2013).

¹¹ Amnesty International: *United Kingdom: Briefing to the UN Committee Against Torture* (50th Session, May 2013) EUR 45/002/2013 <http://www.amnesty.org/pt-br/library/info/EUR45/002/2013/en> (accessed 22 May 2013).

¹² UN OHCHR, *Committee Against Torture examines report of the United Kingdom* (8 May 2013): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13312&LangID=E> (accessed 22 May 2013).

¹³ *United Kingdom: Briefing to the UN Committee Against Torture* (50th Session, May 2013) EUR 45/002/2013 <http://www.amnesty.org/pt-br/library/info/EUR45/002/2013/en> (accessed 22 May 2013).

¹⁴ Foreign Secretary William Hague, *Countering Terrorism Overseas* (14 February 2013): <https://www.gov.uk/government/speeches/countering-terrorism-overseas> (accessed 22 May 2013).

victims, civil society organisations and others is key to ensuring that the terms of reference and protocol of such an inquiry meet international standards which require it to be prompt, independent, thorough and subject to public scrutiny with the participation of victims.

Amnesty International UK urges the UK Government to publish the interim report from the UK Detainee Inquiry without further delay.

Amnesty International UK urges the UK Government to establish a human rights compliant inquiry on alleged UK involvement in human rights violations, including torture and other ill-treatment of detainees held overseas, that ensures real accountability, and that conforms with and fully discharges the UK's obligations under international human rights law.

2.4. The Somalia “model”

13. The speech highlights the UK’s approach to Somalia as a model, with reference to the key features of “helping a new legitimate government, African troops bringing peace and security, with the international community giving constant diplomatic, financial and humanitarian support.” AIUK is, however, concerned by reports regarding the UK’s intention to relax the UN arms embargo as civilians still face a high risk of being killed or injured. Adequate safeguards should be implemented first and proven effective before the UN lifts the embargo.¹⁵ AIUK was concerned by the lack of focus on human rights at the 2012 Somalia conference in London.¹⁶ Since then, there has been a welcome increase in efforts to include human rights concerns (particularly sexual violence) and civil society groups, with the Foreign Secretary meeting groups in Mogadishu¹⁷ and side events around the 2013 Somalia conference in London.¹⁸ The UK has made commitments to support civil society participation in Somalia under the New Deal for Engagement in Fragile States¹⁹ and, through the EU, as a “New Deal” partner for Somalia.²⁰ The UK should seek to strengthen this approach and apply it consistently to the UK’s efforts elsewhere.

Amnesty International UK recommends that the FAC asks the UK Government to what extent it has sought to engage with civil society groups in Somalia, including women’s groups.

3. The 11 April declaration by G8 Foreign Ministers on the prevention of sexual violence in conflict, and the impact of the FCO’s Preventing Sexual Violence Initiative, launched in May 2012

14. AIUK welcomes the Preventing Sexual Violence in conflict Initiative (PSVI) and the leadership that the UK has provided in securing such a strong declaration from the G8 Foreign Ministers. The strengths that we see in the PSVI, however, highlight the need to show strong leadership on the UK’s wider efforts around women, peace and security (ie the UK’s obligations under UN Security Council Resolution 1325 et al.) as well as women’s rights more generally (one of the FCO’s human rights priorities). AIUK recognises that the UK’s National Action Plan on UNSCR 1325 (NAP) has benefitted from an increase in staff resourcing and the review has brought some improvements, but we continue to see gaps that need to be addressed. UK policies on women, peace and security should be replicated across other conflict strategies and afforded senior leadership (including in Embassies and High Commissions).

Amnesty International UK recommends that the UK Government should outline indicators in the NAP to measure success, budget, ensure effective consultations in country and joining up with the NAPs of other countries.

3.1 Women’s participation in peace and reconciliation:

15. The PSVI Declaration places welcome emphasis on the role of “women’s civil society organisations and networks, in particular women human rights defenders” and the commitment to “support conflict-affected countries to develop and implement country-level action plans with the involvement of local organisations.” Women and girls are uniquely and disproportionately affected by armed conflict and their participation in related processes is necessary to ensure a gender perspective in peace building. In addition to women having

¹⁵ Amnesty International, *Somalia: UN Arms Embargo must stay in place* (5 March 2013): http://www.amnesty.org.uk/news_details.asp?NewsID=20660 (accessed 22 May 2013).

¹⁶ Amnesty International, *Somalia: Protection of civilians and human rights are critical for stable future* (23 February 2012): <http://www.amnesty.org/en/for-media/press-releases/somalia-protection-civilians-and-human-rights-are-critical-stable-future-20> (accessed 22 May 2013).

¹⁷ UK Government announcement, *Foreign Secretary William Hague has travelled to Somalia to open the new British Embassy in Mogadishu* (25 April 2013): <https://www.gov.uk/government/news/foreign-secretary-opens-new-british-embassy-in-mogadishu> (accessed 22 May 2013).

¹⁸ E.g. UK Government announcement, *The UK government invited members of the diaspora community to help explain the challenges Somali women face—and their ideas to overcome them* (30 April 2013) <https://www.gov.uk/government/news/helping-somali-women-to-take-a-lead-role-in-rebuilding-their-country> (accessed 22 May 2013).

¹⁹ International Dialogue on Peacebuilding and Statebuilding, *A New Deal for engagement in fragile states* <http://www.pbsdialogue.org/documentupload/49151944.pdf> (accessed 22 May 2013).

²⁰ http://ec.europa.eu/europeaid/news/2013-04-19_international_dialogue_peacebuilding_and_statebuilding_en.htm (accessed 22 May 2013).

participation²¹ and victim²² rights, women are also proven effective agents of progress and change from Liberia to Northern Ireland, to Uganda and Sudan.²³ AIUK is therefore concerned by the limited participation of women in peace and reconciliation processes in Afghanistan. For example, the High Peace Council set up to negotiate with the Taliban has 70 members, but only nine of them are women. Afghan women human rights defenders (WHRDs) are some of the most active agents of positive social change in their communities and are on the frontline in protecting human rights.²⁴ AIUK is particularly concerned at the lack of protection mechanisms available to WHRDs who face daily threats and intimidation. Attacks against them are often gender-based, so they are targeted both because they are activists and because they are women. The UK is one of Afghanistan's largest bilateral donors, has troops on the ground and supports the peace process. It therefore has an important role in ensuring that the human rights' improvements felt by Afghan women and girls are not lost during transition or reconciliation processes.

Amnesty International UK recommends that the UK Government identifies specific and measurable improvements in the funding, political intervention and other forms of support given to WHRDs, particularly those working outside of Kabul.

Amnesty International UK recommends that the UK Government (with EU partners and the UN Special Rapporteurs on Human Rights Defenders and Violence Against Women) lobby for the Afghan Government to issue an open invitation to the United Nations Special Rapporteurs to make a country visit before the end of 2014.

Amnesty International UK urges the UK Government to more effectively and publicly advocate for Afghan women to be meaningfully represented in both planning stages and during peace and reconciliation talks in all forums, including in the trilateral talks hosted by the UK.

3.2 Women's participation in security sector reforms:

16. The PSVI Declaration provides welcome recognition that the promotion and protections of women and children's full human rights and fundamental freedoms are critical in the fight to end all forms of sexual violence in conflict and that "efforts to end sexual violence in conflict must also promote women's active and equal political, social and economic participation including in all conflict prevention, conflict resolution, transitional justice and security sector reform processes". For this commitment to be realised, security sector reform processes must be sufficiently gender sensitive. The Chicago summit emphasised the importance of the full participation of all Afghan women in the reconstruction, political, peace and reconciliation processes. However, AIUK has worked closely with Afghan women's groups and is concerned that the attempts by donors and the Afghan Government to increase women's recruitment into the police has, to date, been inconsistent and ad hoc. The development of an Afghan NAP and the development of a new UK NAP with an Afghanistan bilateral section provides an opportunity to link the Plans and ensure that measures to support women's recruitment into the security sector are mutually reinforcing.

Amnesty International UK urges the UK Government to ensure that its £70 million contribution to supporting the Afghan National Army and police (2015–2017) specifically address women's recruitment in the security sector.

Amnesty International UK recommends that the FAC asks the FCO whether the UK Government will lobby for the next phase of the UNDP/Law and Order Trust Fund for Afghanistan (LOTFA) to include a stronger focus on women's recruitment into the police.

3.3 Gender-based violence:

17. Although focused on sexual violence in conflict, the PSVI Declaration further commits states "to assisting conflict-affected countries in ensuring that their future national security sector and justice reform programmes are gender and child-sensitive and that they are designed to address and reduce gender-based violence". The FCO's report recognises that 87% of women in Afghanistan will experience at least one form of violence in their lives.²⁵ Through the Tokyo Mutual Accountability Framework (TMAF) the Afghanistan government and international partners (including the UK) committed to the implementation of both the Elimination of Violence Against Women law and the implementation of the National Action Plan for the Women of Afghanistan, yet progress on both counts has been, at best, inconsistent.²⁶ The UK's prioritisation of violence against women in DFID's operational plan for Afghanistan is welcome, but this must be reflected across government and result in tangible, adequately resourced implementation.

²¹ Such as UN Security Council Resolution 1325 (2000) on Women, Peace and Security and Resolution 2041 (2012) on Afghanistan.

²² Such as right to justice (e.g. those responsible for abuses are held to account); right to truth (e.g. about the abuse and identify perpetrators); right to remedy (e.g. prevent future abuses); right to redress, etc.

²³ <http://www.amnestyusa.org/our-work/issues/women-s-rights/women-peace-and-security> (accessed on 22 May 2013).

²⁴ Amnesty International with the Research Institute on Women, Peace and Security; the Organisation of Human Welfare; and the Afghan Women's Network, *Afghanistan: An action plan on women's rights* (May 2013).

²⁵ Foreign and Commonwealth Office, *Human Rights and Democracy Annual Report 2012* (May 2013), page 124.

²⁶ Amnesty International with the Research Institute on Women, Peace and Security; the Organisation of Human Welfare; and the Afghan Women's Network, *Afghanistan: An action plan on women's rights* (May 2013).

Amnesty International UK recommends that the FAC enquires about the implementation of TMAF, specifically how the UK government intends to meet the commitments to tackle gender-based violence and whether (and what) benchmarks have been set.

3.4 Gender mainstreaming:

18. AIUK continues to welcome cross-departmental working but recommends a more coordinated and coherent cross-government approach to addressing violence against women and girls by the FCO, DFID and MOD. The PSVI Declaration states that “government should review the doctrine and training provided to their national military and police to ensure that it includes training for appropriate personnel deployed to the relevant theatres”. AIUK believes that the UK’s work through the PSVI (and beyond) should be integrated more comprehensively in the UK’s engagement with conflict countries. The UK’s Team of Experts has the potential to be a positive contribution to existing international efforts to address sexual violence in conflict. However, to be consistent in the promotion of commitment under PSVI, the UK needs to ensure that all country work—particularly when working with opposition groups (such as in Syria or as previously in Libya) is gender sensitive.

Amnesty International UK recommends that the FAC seeks clarification from the FCO regarding how gender perspectives are integrated across government departments, including Ministry of Defence doctrine, training and practice.

4. Threats to freedom of expression through the media, such as the jamming of broadcasts and the growing trend of imposing controls on access to the internet

19. AIUK welcomes the UK’s prioritisation of freedom of expression on the internet as well as the commitment that freedom of expression applies equally online as it does offline. Freedom of expression, however, is much wider²⁷ than the interpretation provided in the FCO’s report.²⁸ Whilst the media and journalists play a key role in the effective realisation of all aspects of freedom of expression,²⁹ it is important that the role of civil society more broadly is included in work on freedom of expression.

Amnesty International UK recommends that the FAC asks the UK Government how it consistently engages with civil society organisations in its freedom of expression work.

20. Restrictions to freedom of expression are often systemic attempts to stifle voices of dissent and ensure reports of abuses are silenced. AIUK has long reported on situations where the curtailment of freedom of expression is part of a much larger crackdown on civil society and human rights. In Zimbabwe, for example, we have reported such a crackdown ahead of the 2013 elections. In February 2013, the police announced a ban on short wave radios which we see as an attempt by police to curb access to alternative sources of news. Shortly after the ban was announced, police searched the offices of Radio Dialogue in Bulawayo and seized 180 radios and charged Zenzele Ndebele, the station manager, under section 182 of the Customs and Exercise Act.³⁰

Amnesty International UK recommends that the UK Government uses its influence to help secure an effective Southern African Development Community mission that can ensure space for civil society is safeguarded up to and during the election.

21. We have also witnessed a proliferation of “national security” and “public order” legislation aimed at restricting the space in which civil society operates. Such laws have been introduced in Russia,³¹ Ethiopia³² and proposed in Uganda.³³ Both Syria³⁴ and Sri Lanka³⁵ use counter terror laws to persecute activists. All legislation, whether designed to combat terrorism or to guarantee safety and public order should be consistent with human rights standards. Such legislation should not be used or abused to prevent a safe and enabling environment for human rights defenders and civil society organisations.

²⁷ Freedom of expression encompasses: the right to seek, receive and impart information and ideas of all kinds (e.g., political, religious or philosophical, artistic and cultural), by any means (e.g. writing, speech, music, graphic, internet, language, behaviour). It is highly relevant therefore for combating discrimination against those expressing their identity (LGBT or compulsory dress codes)

²⁸ essentially limited it to press freedom, bloggers and users of social media

²⁹ <http://www.amnestyusa.org/news/news-item/ten-ways-to-repress-a-journalist>

³⁰ Amnesty International, *Zimbabwe: Prominent human rights defender hunted down through the media* (8 March 2013): <http://www.amnesty.org/en/for-media/press-releases/zimbabwe-prominent-human-rights-defender-hunted-down-through-media-2013-03-> (accessed 22 May 2013).

³¹ Amnesty International, *The clampdown against freedoms of expression, assembly and association in Russia* (April 2013): <http://www.amnesty.org/en/library/info/EUR46/011/2013/en> (accessed 22 May 2013).

³² Amnesty International, *Ethiopia must improve its human rights record to be a credible candidate for election to the Human Rights Council* (28 August 2012): <http://www.amnesty.org/en/library/info/AFR25/012/2012/en> (accessed 23 May 2013).

³³ Amnesty International Annual Report (May 2013): <http://www.amnesty.org/en/region/uganda/report-2013#section-153-5> (accessed 23 May 2013).

³⁴ Amnesty International (joint public statement): *Syria: Rights Activists Face Terrorism Charges* (17 May 2013): <http://www.amnesty.org/en/library/asset/MDE24/021/2013/en/19bb9afd-78c9-4739-9f00-dac5e7a7542e/mde240212013en.pdf> (accessed 23 May 2013).

³⁵ Amnesty International, *Sri Lanka: Assault on dissent thrives in Sri Lanka’s climate of impunity* (10 May 2013): <http://www.amnesty.org/en/library/info/ASA37/011/2013/en> (accessed 22 May 2013).

Amnesty International UK recommends that the FAC asks the UK Government what it is doing to tackle the misuse of “national security” and “public order” legislation.

4.1 Bilateral approach:

22. As demonstrated by the UK’s response to the “Arab Spring”³⁶ and Syria,³⁷ various funding by the UK of civil society groups and the Prime Minister’s “golden thread”³⁸ theory, the government recognises the importance of a vibrant civil society for accountability, human rights and security. The UK must therefore consistently press countries to respect international human rights standards even when there may be tensions with other priorities. AIUK was deeply disappointed that the Government failed to assert that the Commonwealth Heads of Government (CHOGM) should not be hosted by Sri Lanka unless there were significant improvements in human rights. We continue to witness a deterioration of human rights in Sri Lanka, including attacks on the judiciary and broader civil society.

Amnesty International UK recommends that the FAC asks the UK Government to develop a strategy to use the period between now and CHOGM to press the Sri Lankan Government to deliver significant improvements in human rights prior to the meeting in November.

4.2 Direct support for HRDs:

23. The UK must also provide consistent support for HRDs on the ground including by raising cases of concern. The FCO’s report maintains that the UK continues to work on human rights concerns through the UK-Russia dialogue and UK government representatives issue reactive statements, such as the passing of the “foreign agents’ law”³⁹ or the Pussy Riot case.⁴⁰ However, the impact of the dialogue is unclear and the issuing of statements is ad hoc and we were unable to find a statement from the UK to support the Association in Defence of Voters’ Rights Golos (Voice) became the first NGO to fall foul of the “foreign agents’ law” in April 2013.⁴¹ Golos played a prominent role in organising election monitoring and reporting allegations of electoral fraud in the 2011 parliament and 2012 presidential elections, and the FCO provided support for the work of Golos in 2011.⁴² The priority for the UK appears to be more in developing commercial relationships with Russia⁴³ and, more recently, in security interests (particularly regarding Syria). Whilst these are legitimate avenues for the UK Government to pursue, it must not be at the cost of side lining human rights.

Amnesty International UK recommends that the FAC asks the UK Government about the impact of its work in Russia and how its concerns are raised whilst seeking to build commercial partnership and security efforts such as Syria.

Amnesty International UK recommends that the FAC asks the UK Government what plans they have to use the UK/Russia Cultural year of 2014 to promote human rights.

4.3 Syria

24. Even in conflicted-affected countries, the UK should ensure that freedom of expression is protected as part of mainstreaming human rights in its wider approach. Not only is this important in itself, but it also preserves the truth which is essential for reconciliation. In Syria, AIUK has documented that professional media workers and “citizen journalists” have been victims of unlawful killings, torture, enforced disappearances, abductions and intimidation by both pro-government and anti-government forces. Whilst some armed opposition groups have helped international journalists to gain access to some of the main conflict areas and often afforded them protection, other armed opposition groups have abducted or murdered journalists considered sympathetic to the government or hostile to the opposition (such as those working for state TV). Armed opposition groups have launched online campaigns against journalists they describe as *media shabiha*, posting public threats and rejoicing when attacks against those journalists have been carried out.⁴⁴ Human

³⁶ <https://www.gov.uk/government/speeches/the-arab-partnership>
<https://www.gov.uk/government/news/the-arab-spring-is-a-moment-of-huge-opportunity-to-build-peace-security-and-prosperity-for-the-region-and-by-extension-the-world>

³⁷ <https://www.gov.uk/government/news/foreign-secretary-pledges-continued-support-for-syrian-people>

³⁸ <https://www.gov.uk/government/speeches/transcript-of-david-cameron-qa-at-new-york-university>

³⁹ UK Government Announcement: *Foreign Office concerned about Russian NGO pressure* (28 March 2013): <https://www.gov.uk/government/news/foreign-office-concerned-about-russian-ngo-pressure> (accessed 23 May 2013); UK Government Announcement: *Foreign Office expresses concern about new Russian NGO law* (25 July 2012): <https://www.gov.uk/government/news/foreign-office-expresses-concern-about-new-russian-ngo-law> (accessed 23 May 2013). Also see Foreign and Commonwealth Office, *Human Rights and Democracy Annual Report 2012* (May 2013) p. 205.

⁴⁰ <https://www.gov.uk/government/news/foreign-office-minister-deeply-concerned-at-pussy-riot-verdict> and report

⁴¹ <http://www.amnesty.org/en/news/russia-voters-rights-ngo-first-victim-foreign-agents-law-2013-04-25>

⁴² Foreign and Commonwealth Office, *Human Rights and Democracy Annual Report 2011* (May 2012), page 30.

⁴³ UK Government Announcement: *Prime Minister David Cameron has spoken with President Putin of Russia* (25 March 2013): www.gov.uk/government/news/pm-call-with-president-putin-of-russia (accessed 22 May 2013); UK Government Announcement: *Prime Minister David Cameron has visited Russia at the invitation of Russian President Dmitry Medvedev* (12 September 2011): <https://www.gov.uk/government/news/pm-visits-russia-to-boost-trade> (accessed 22 May 2013); UK Government Announcement: *Russian trade mission aims for export boost* (27 November 2012): <https://www.gov.uk/government/news/russian-trade-mission-aims-for-export-boost> (accessed 22 May 2013).

⁴⁴ Amnesty International, *Syria: Journalists deliberately targeted as country becomes most dangerous in world for reporters* (3 May 2013): http://www.amnesty.org.uk/news_details.asp?NewsID=20759 (accessed 23 May 2013).

rights must be mainstreamed throughout the UK's efforts in Syria including transition efforts (such as work with opposition forces⁴⁵) and helping to ease the humanitarian crisis by supporting neighbouring countries where 1.5 million Syrians have fled and providing assistance to the estimated 4 million internally displaced people.⁴⁶

Amnesty International UK further recommends that the FAC asks the UK Government how human rights are incorporated into engagement with the Syrian opposition.

Amnesty International UK urges the UK Government to continue to help ease the humanitarian crisis in Syria by urgently helping to provide housing, food, water, sanitation and health care to refugees.

Amnesty International UK urges the UK Government to continue to press—through the UN Security Council—for the situation to be referred (including abuses by both authorities and armed opposition groups) to the Prosecutor of the International Criminal Court.

24 May 201

Supplementary written evidence from Amnesty International

RE FOLLOW UP TO FAC EVIDENCE SESSION 11 JUNE 2013

I am writing to you to provide additional information (as requested) to issues raised during Kate Allen's (Director of Amnesty International UK's) evidence session with the Foreign Affairs Committee on 11 June 2013 regarding the FCO's human rights work in 2012.

1. *Follow-up monitoring on arrangements for those detained having been returned from the UK under DWA arrangements, if you have any (Q 19)*

Amnesty International considers that no system of post-return monitoring of individuals will render assurances an acceptable alternative to rigorous respect for the absolute prohibition of transfers to risk of torture or other ill-treatment. Such ad hoc monitoring schemes necessarily omit the broader institutional, legal and political elements that can make certain forms of system wide monitoring of all places of detention in a country just one way, in combination with other measures, of potentially reducing the country-wide incidence of torture over the long term. Moreover, a series of post-return visits to a particular individual or just a few people would also put the detainee in an untenable position: the person is forced to choose between staying silent or reporting abuse in a situation where he or she will be clearly identifiable as the source of the report, and which may therefore heighten the risks such a person faces.

With respect to Algeria, the assurances negotiated between the UK and Algerian governments do not provide for formal arrangements for post-return monitoring. The UK's domestic courts have found that the assurances are nonetheless capable of being verified through informal means, including indirectly by international NGOs, such as Amnesty International. We have, however, rejected any suggestion that we can be relied upon to verify or monitor assurances, even indirectly. To assume so, we believe, misrepresents the type of work that Amnesty undertakes and the conditions, frequency, privacy, and degree of access the organisation has to detainees returned in such circumstances (for example). Furthermore, it undermines international legal principles of state responsibility pursuant to which states must uphold their international obligations, and not rely on non-governmental organisations to do so for them.

As far as Amnesty is aware, no one has been returned to Ethiopia, Morocco or Lebanon under a Memoranda of Understanding (MoU).

With respect to Ethiopia, Amnesty has noted that the UK's Court of Appeal recently found that the Ethiopian Human Rights Commission (EHRC)—the monitoring body for the MoU—"could not be trusted to report deliberate breaches by the Ethiopian Government" and that there is "work to be done before the EHRC will have developed proper capacity for monitoring" and "the EHRC is not at the moment competent to monitor the conduct of junior officials; it may or may not become so in the future."⁴⁷

We would also highlight Amnesty's submission to the Committee Against Torture (April 2013) which contains a section on post-return monitoring (<http://www.amnesty.org/en/library/info/EUR45/002/2013/en>).

2. *Any further information on whether Mikhail Khodorkovsky is expected to face another trial (Q 58)*

On 17 May 2013, the Russian Supreme Court ordered to start a supervisory procedure regarding the sentence to Mikhail Khodorkovsky and Platon Lebedev in the second case. The Court took this decision following a supervisory appeal submitted by Khodorkovsky and Lebedev's lawyers on 4 February 2013. This is already

⁴⁵ UK Government Announcement: Foreign Secretary William Hague, *Foreign Secretary welcomes declaration by Syrian national coalition* (21 April 2013), <https://www.gov.uk/government/news/foreign-secretary-welcomes-declaration-by-syrian-national-coalition>—2 (accessed on 22 May 2013).

⁴⁶ Amnesty International, *People on the Move: 'For many displaced Syrians, going back home is out of the question'* (22 May 2013): <http://www.amnesty.org/en/news/people-move-many-displaced-syrians-going-back-home-out-question-2013-05-22> (accessed 23 May 2013).

⁴⁷ *J1 v Secretary of State for the Home Department*, 27 March 2013 <http://www.bailii.org/ew/cases/EWCA/Civ/2013/279.html>

the second supervisory appeal in the case and the last possible domestic instance. The appeal will be heard on 6 August 2013.

In the meantime, it transpired that the Russian Investigation Committee initiated questioning of several experts who participated in drafting a report commissioned by the Presidential Council for Civil Society and Human Rights in 2011 on the second case against Khodorkovsky and Lebedev. Besides, premises of some of the experts were searched and their electronic correspondence was taken. Following the wave of the searches and rumours that they might signal the start of the third Yukos case, at least one of the experts, Rector of the Russian School of Economics and one of the leading Russian economists, Sergei Guriev, fled Russia fearing that he might be arrested.

Since May 2011, Amnesty has considered Khodorkovsky to be a prisoner of conscious and, as such, calls for him to be unconditionally released once his original sentence had been served (25 October 2011).

3. Any indication that women's groups (and other human rights groups) in Colombia have chosen not to apply for funding from the UK. It has been suggested that the "requirement" by the UK Embassy in Bogota that groups work in conjunction with the Colombian Government has deterred some groups from applying for funding from the UK (Q 60)

We understand that the FCO is asking NGOs receiving support from UK to work with the Colombian Government. This would be an unreasonable condition for human rights organisations including for women's NGOs which are denouncing serious sexual violence against women other serious human rights violations or abuses, criticising government policy/lobbying government to take appropriate action, all work which exposes them to considerable risk and requires them to protect the anonymity of their sources and undertake discreet work to protect women under threat.

We note the recommendation made by AB Colombia in its written evidence to the inquiry (section 5.6: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmcaff/writev/humanrights/hr07.htm>):

"Over recent years our partners in Colombia have raised their concerns that the funding provided via the British Embassy has increasingly emphasised working in partnership with the Colombian government. Funding to women's organisations and NGOs working on conflict related sexual violence should not be conditioned on working in partnership with national governments. The emphasis on this has excluded many human rights organisations from applying to the UK Embassy (in Colombia) for funding."

We have no further information at this point and would recommend that the FAC asks the Minister to respond to AB Colombia's concern.

4. What work, if any, has been undertaken by the Government in drawing up a list of goods, software and technology which might be used to restrict freedom of expression on the internet, to make them subject to export controls (Q 61)

Amnesty has not conducted any substantive research into this area but would highlight that these types of items should be subjected to necessary export controls, which would require a rigorous human rights risk assessment as part of the export control licensing process, as with other categories of military, security and policing equipment. The UK's Export Control lists should be in line, inter alia, with the European Union common military and dual-use goods and the Wassenaar Agreement and notes the commitment made in the Government's final response to the FAC's 2011 report (published in December 2012, page 22) to work through this mechanism and with international partners to agree such a list over the course of 2013.

The Committee may find ongoing work by Privacy International relevant (eg <https://www.privacyinternational.org/blog/oecd-complaint-against-gamma-international-accepted-for-further-investigation>).

5. Whether controls on the export of such equipment have been discussed in the FCO's Expert Panel on Freedom of the Internet (Q 62)

Amnesty does not recall any discussion on this in sub-group discussions although believes it has been mentioned in passing.

28 June 2013

Written evidence from Human Rights Watch

SUMMARY

- Despite a commendable emphasis on human rights in many Ministerial statements and much good work by FCO officials towards particular countries, as well as on thematic issues like sexual violence in conflict, **the FCO’s overall policy and practice on human rights lacks consistency and falls short of its declared policy statements and its international human rights obligations in some significant areas.**
- **There is no justification for the continuing exclusion of Bahrain, Egypt, Ethiopia and Rwanda from the “countries of concern” section of the annual report,** given the gravity of the rights abuses in these countries and given UK influence with these governments.
- There are **a number of countries where the FCO appears reluctant to press human rights concerns with sufficient vigour,** despite the severity of the rights abuses there. This is perhaps because of competing economic, trade and security interests. In this category, Human Rights Watch would particularly highlight **Saudi Arabia, the United Arab Emirates, China and Uzbekistan.**
- **The UK is failing to fully adhere to its obligations under the UN Convention on Torture, as indicated in the recent report of the UN Committee against Torture.** This report highlighted the continuing failure of the UK government to undertake a proper, fully independent inquiry into UK involvement in rendition and torture, expressed concern at the growing number of serious allegations of torture and ill-treatment as a result of UK military interventions in Iraq and Afghanistan and the failure of the UK to properly investigate these, and condemned the UK’s use of “unreliable and ineffective” diplomatic assurances when seeking to deport people to countries where they risk being tortured. Human Rights Watch shares this analysis and believes that the FCO and UK government need to take urgent steps to address these issues.
- **The Committee against Torture also criticised existing UK risk assessment guidelines relating to asylum applications by Sri Lankan Tamils, given credible evidence that some Tamils, previously deported by the UK, have been tortured on their return to Sri Lanka.** Human Rights Watch has documented some of these cases and we urge an immediate revision of UK guidelines.
- **Repeated attacks by senior UK government ministers on the concept of human rights, the UK Human Rights Act (HRA) and the European Convention on Human Rights (ECHR) damage the FCO’s credibility when raising human rights concerns with other governments.** Both the Minister of Justice and Home Secretary suggested recently that a re-elected Conservative government might scrap the Human Rights Act, which incorporates the ECHR into UK law. The Committee against Torture said it was concerned that the Human Rights Act is the subject of negative criticism by public figures. The Home Secretary has also indicated that the UK should consider withdrawing from the Convention itself. The President of the European Court of Human Rights has said that UK withdrawal from the Convention would be a “total disaster”. FCO Ministers should be pressed on how these attacks on human rights domestically impact on their international work on human rights, perhaps particularly towards countries like Russia and Turkey.

“COUNTRIES OF CONCERN”

1. In the course of 2012, the FCO undertook a review of its approach to “**countries of concern**” in order to refine the criteria for inclusion. Although the review concluded that the severity of human rights abuses and UK influence with their governments were both relevant factors, **the annual report inexplicably and indefensibly continues to omit four countries that ought to be included. These are Bahrain, Egypt, Ethiopia and Rwanda.** FCO Ministers should be pressed on why these countries have been left out.

2. Human Rights Watch has already submitted separately to the FAC on **Bahrain**, as part of the committee’s inquiry into UK policy towards Bahrain and Saudi Arabia. In summary, we believe that the FCO continues to overstate the extent of reform in Bahrain and downplay serious and continuing rights abuses there. While the Bahrain Independent Commission of Inquiry (BICI) published a highly critical report on the government’s handling of the protests in early 2011 and issued a strong set of recommendations in November of that year, the government of Bahrain has done relatively little to implement these. 13 detainees had long-term prison sentences upheld in January 2013, although there was no evidence that they had done anything other than exercise their rights to free expression and assembly. Furthermore, there has been no serious attempt to hold senior figures accountable for these and other abuses.

3. Human Rights Watch is very concerned about the human rights situation in **Egypt** and disappointed that the UK is not pressing human rights issues more strongly with the government there, especially in UK public statements. We are concerned about elements of the new Egyptian constitution, including parts that relate to women’s rights, the rights of religious and other minorities and freedom of expression. We urge the UK to press the issue of the Associations Law at the highest levels of the Egyptian government. This law—recently

submitted to the Egyptian Parliament—threatens to seriously restrict the activities, funding and independence of NGOs. The UK should similarly be urging the Egyptian government to reform its police and security forces, which are responsible for very grave abuses over the last two years.

4. Despite the recent change of leadership in **Ethiopia**, the human rights situation in the country has not improved. The government routinely detains and prosecutes journalists, political opposition leaders and others under a deeply flawed anti-terrorism law, and uses the Charities and Societies Proclamation (CSO law) to limit independent human rights activity and scrutiny of the government's human rights record. Human Rights Watch remains concerned about abuses associated with the Ethiopian government's resettlement programme, known as villagization. While the UK government continues to deny that this programme is linked to rights violations, Human Rights Watch has documented multiple examples of abuse in Gambella, where the World Bank Inspection Panel (the Bank's independent accountability mechanism) recently recommended an investigation into whether the Bank has contravened its own policies through its support for villagization. The UK should continue to push for a full and independent investigation into rights abuses associated with villagization, as well as the role of the World Bank in supporting the resettlement programme. Because of its close diplomatic and security ties and its large and growing development programme in Ethiopia, the UK has some real leverage with the government in Addis, which it should use more assertively in support of human rights.

5. In November 2012, the UK government made a significant shift in policy towards **Rwanda**, withholding £21 million of general budget support to the government of Rwanda because of clear and compelling evidence of Rwandan support for the abusive M23 rebel group in eastern Congo. Yet curiously, this very public UK acknowledgement of Rwandan support for human rights abuses did not lead to Rwanda's inclusion in the "countries of concern" section. Human Rights Watch has documented these M23 abuses and Rwandan support for them in considerable detail. But we have also documented serious rights abuses within Rwanda's own borders. Our research shows that members of opposition parties, journalists and other perceived critics of the government have been arrested, detained and tried, some solely for expressing their views, and that charges such as endangering state security and inciting public disobedience have been increasingly used to prosecute government critics.

RIGHTS VERSUS UK TRADE AND SECURITY INTERESTS

6. FCO Ministers say that they raise human rights concerns "whenever and wherever" they arise. However, it appears to Human Rights Watch that the UK is more hesitant about pressing human rights concerns where important economic, trade or security interests are perceived to be at stake. In this category of countries, we would particularly highlight Saudi Arabia, the United Arab Emirates (UAE), China and Uzbekistan.

7. Human Rights Watch has already submitted separately to the FAC on **Saudi Arabia**, as part of the committee's inquiry into UK policy towards Bahrain and Saudi Arabia. In summary, we are concerned that the FCO is not pressing human rights concerns strongly enough with the government of Saudi Arabia, despite a serious crackdown by the Saudi authorities on peaceful dissidents, the use of lethal force against demonstrators and ongoing and arbitrary detentions. In recent months, the Saudi authorities have imposed harsh sentences on two peaceful human rights activists, with sentences of 11 years and 10 years imprisonment respectively. Their organisation, the Saudi Civil and Political Rights Association, was dissolved by the authorities and its assets confiscated, and the authorities ordered that its website and social media accounts be closed. This is an outrageous case and shows the extremes to which the Saudi authorities are prepared to go to silence even moderate critics. Despite some very modest reforms in respect of women, the essentials of Saudi Arabia's male guardianship system also remain in place. This system subjects Saudi women to systematic discrimination and treats them as perpetual minors, requiring the permission of a male relative—husband, father or brother—if they are to travel or open a bank account. Given the emphasis that UK Ministers give to women's equality in other international forums, they should be pressing the Saudis much more strongly on this issue.

8. The UK government has been largely silent in the face of a deteriorating rights climate in the **United Arab Emirates (UAE)**. FCO Ministers should be pressed on whether lucrative potential arms contracts with the UAE are the explanation for their reticence to press rights concerns more strongly. The mass trial of 94 political dissidents with links to an Islamist group began in March and is expected to conclude on July 2nd. Human Rights Watch believes that the trial suffers from serious violations of due process, given the authorities' successful attempts to prevent independent scrutiny of trial proceedings. All of the detainees were denied legal assistance until late February, even though some had been in detention for nearly a year. The detainees include prominent human rights lawyers, judges, teachers and student leaders, and many of them claim they were tortured in detention.

9. Human Rights Watch is concerned that human rights appear to come significantly behind trade and economic interests in UK relations with **China**. The UK-China human rights dialogue is described by the FCO as the UK's main bilateral channel for raising human rights concerns at senior levels, but Human Rights Watch has seen little evidence that these dialogues have much impact in shifting Chinese policy on human rights and we are told consistently by Chinese human rights and civil society activists that public pressure and the public spotlight is often the most helpful way to support their efforts. The space for human rights work and civil society activity in China remains extremely limited, with a pattern of repression, abuse and harassment against those who question Chinese state policy or highlight rights abuses. We urge the FCO to press these concerns at the highest levels of the Chinese government.

10. Human Rights Watch remains concerned about the abysmal human rights situation in **Uzbekistan** and the reluctance of the FCO to press rights concerns more strongly with the Uzbek authorities. Over the last year, Uzbek authorities have intensified their crackdown on civil society, placing human rights activists under house arrest and incommunicado detention for peaceful protest, extending the prison sentences of peaceful opposition figures without due process, and deporting international journalists who attempt to visit the country. Torture remains endemic to the criminal justice system, the use of forced labour in the cotton sector is widespread, and Uzbek authorities continue to oppose an independent investigation into the Andijan massacre of May 2005, when Uzbek government forces opened fire on hundreds of mainly unarmed protestors, killing hundreds of civilians. Over a dozen rights defenders, and numerous independent journalists and opposition activists, are in prison in retaliation for their work or criticism of the government. Despite this record of abuse, the UK government announced in February that it had reached a deal with Tashkent to “gift” certain leftover military equipment from the war in Afghanistan, linked to the withdrawal of UK forces and equipment. We strongly urge the UK government to drive a harder bargain on human rights with President Islam Karimov, who seeks Western recognition and legitimacy and relies heavily on NATO’s military presence in Afghanistan, and to move to place Uzbekistan’s human rights situation back on the agenda of the EU foreign ministers at the EU Foreign Affairs Committee.

UK OBLIGATIONS UNDER THE UN CONVENTION AGAINST TORTURE

11. While Human Rights Watch welcomes some of the work that the FCO has done on torture prevention, there are a number of areas where its policy and practice fall short. We agree with many of the points made in the recent, highly critical UN Committee on Torture report on the UK. We would highlight our own four areas of concern.

12. Firstly, despite compelling evidence that **some people working for the UK government have been involved in rendition and torture over the last decade, no one has yet been held accountable for this.** Human Rights Watch uncovered evidence in September 2011 that UK security services were complicit in the illegal transfer (rendition) of two men to Libya under Gaddafi despite knowledge that they were likely to be tortured there. The two Libyan cases are the subject of criminal investigations in the UK, and this criminal process was used by the UK government as justification for shelving an existing inquiry (set up in June 2010), to look into UK involvement in rendition and torture, the Gibson Inquiry. The UK says it will launch a second inquiry once the Libya criminal investigations are resolved. But it has not acknowledged or accepted the serious criticisms made of the Gibson Inquiry, including its lack of adequate independence and investigative powers. Nor has it honoured its promise to make public as much as possible of the Gibson report, despite the fact that it was completed almost a year ago. A genuinely independent inquiry into these issues is an essential step to restore the UK’s moral authority and to prevent such abuses from recurring.

13. Secondly, Human Rights Watch is concerned that **the FCO and the government are still pursuing and promoting internationally the policy of “deportation with assurances”**—ie sending foreign terrorism suspects to countries known to practice torture, on the basis of paper commitments from those governments that these individuals will not be tortured on their return. Like the UN Committee on Torture, we believe that this policy lacks credibility. Rather than seeking to extend the policy, the UK government should instead be looking to prosecute terrorism suspects like Abu Qatada in British courts, while working with countries that have poor records on human rights, for example Jordan, to help bring about systemic reforms to end torture and that would genuinely facilitate the safe removal of terrorism suspects.

14. Thirdly, **the new Justice and Security Act will extend the use of secret hearings known as “closed material procedures” to the civil courts on national security grounds.** This means that it can now be applied in cases where applicants bring civil claims that the UK government was responsible or complicit in their torture. Victims of torture bringing cases against the UK government can be excluded from the court during their case, and be unable to see or hear the government’s evidence, meaning that the government can effectively prevent the disclosure of material showing that the UK was involved in wrongdoing by third parties. The UN Special Rapporteur on Torture has expressed concerns that the law will shield the UK from accountability for abuse.

15. Fourthly, **the UK is still apparently denying that human rights law should apply fully to cases of abuse or torture by members of the British army outside of the EU.** The UK’s global standing on human rights is seriously damaged by such abuses. Perhaps the most notorious recent case is that of Baha Moussa who died while in the custody of the British army in Basra, Iraq in 2003. In its recent report, the UN Committee on Torture said that it was “deeply concerned” that, to date, there have been no criminal prosecutions for torture or complicity in torture for UK officials involved in abuses against civilians in Iraq. Human Rights Watch shares this concern. The UK government should take urgent steps to ensure that British soldiers always operate within the framework of international human rights law and hold accountable those responsible for any abuses against civilians.

SRI LANKAN TAMILS — UK DEPORTATIONS TO TORTURE

16. Human Rights Watch has argued for some time, on the basis of our detailed research, that **the UK Border Agency’s risk assessment processes for Tamil asylum seekers are dangerously inadequate.** There is mounting evidence that some Tamils removed to Sri Lanka from the UK in recent years have been tortured

or ill-treated on their return. The risk is particularly significant for those with a real or perceived association with the LTTE (the former terrorist group, the Tamil Tigers). Despite this documentation, FCO Ministers have asserted over the last year that they have seen no “evidence that substantiates the allegations” and Tamils within this risk category have been deported to Sri Lanka. Although the Immigration and Asylum Chamber of the Upper Tribunal is in the process of hearing a case on the risk of return for Tamils, the UK has not suspended or changed the country guidance while this case is being assessed. We urge the UK to immediately revise the country guidance relating to Tamils and Sri Lanka, to better reflect the real risks they face and to prevent the UK from returning Tamils who would then be at risk of torture.

ATTACKS ON HUMAN RIGHTS, THE HUMAN RIGHTS ACT (HRA) AND THE ECHR BY UK MINISTERS

17. In the UK today, the idea of human rights and specific human rights instruments like the Human Rights Act and the European Convention on Human Rights are under attack from some politicians, including some government Ministers. In the context of this FAC inquiry, it is worth highlighting just one specific, highly negative consequence of this—the damage done to UK credibility on human rights internationally. Human Rights Watch’s work across Europe and Central Asia has shown the real benefits of the European Convention on Human Rights and the European Court of Human Rights, which is perhaps the single most effective mechanism for human rights protection in the world today. The European Convention was drafted in the 1950s with the support of Winston Churchill and very extensive UK input. In the half century since, it has proved its worth in protecting and promoting rights for people across 47 countries in Europe. Its case law has contributed greatly to ending commonplace torture in custody, in moving towards equal treatment for women and lesbian and gay people, ending corporal punishment in schools, and abusive interrogation practices by the British army in Northern Ireland, and in upholding the freedom of the media to publish articles in the public interest, against the wishes of the authorities. To suggest, as some UK Ministers do, that the UK should withdraw from the ECHR would be a wholly retrograde step and a betrayal of many across Europe, for whom the ECHR is a critical forum in which they can press for their basic rights to be upheld. FCO Ministers should be pressed by the FAC on the consequences for their international human rights advocacy of these repeated attacks on human rights, the Human Rights Act and the ECHR.

5 June 2013

Supplementary written evidence from David Mepham, UK Director, Human Rights Watch

The additional information the Committee requested from us.

RUSSIA

Khodorkovsky—when his second trial was ongoing, HRW signed on to/published several letters arguing why the second case against him was clearly politically motivated. (press release: <http://www.hrw.org/news/2010/12/30/russia-khodorkovsky-sentence-spotlights-unfair-trial>) (<http://www.hrw.org/news/2010/11/02/russia-joint-letter-president-medvedev-regarding-khodorkovsky-trial>) Last year HRW co-sponsored an event to draw attention to his case. We flag his case as characteristic of the Kremlin’s determination to eliminate powerful political alternatives.

You should also be aware of the case of Sergei Guriyev, the Russian academic, who’s left the country to stay in France after Russia’s prosecutor’s office and Investigative Committee started questioning him repeatedly and asked for his emails of the past five years. Guriyev is being pursued in connection with the role he played as one of the independent experts, asked by then-President Medvedev to assess Khodorkovsky’s second trial.

IRAQI KURDISTAN

The Kurdistan Regional Government’s (KRG) parliament passed a law, the Family Violence Law, in June of 2011. It bans FGM and requires the government to implement measures to prevent domestic violence, including by establishing special courts for domestic violence cases in Sulaimaniyya, Erbil and Duhok. It also requests that victims of domestic violence be compensated and that there should be an increase in the number of female police officers and the creation of shelters for those who have suffered from domestic violence. Domestic violence remains ubiquitous in Kurdistan; men routinely beat and rape their wives, partners and daughters with impunity. Moreover, stigma against divorce and the absence of state-sponsored protection mechanisms means that many women remained trapped in abusive marriages and households.

Human Rights Watch, local human rights groups and other international organisations have advocated for implementation of the law’s FGM ban and successfully raised awareness of the problem. However, to date, the KRG has largely ignored its responsibilities with regard to the 2011 law’s domestic violence provisions. HRW recently met with two leading women’s advocacy group in Kurdistan who said the government has failed to implement the law’s domestic violence provisions due to a “lack of political commitment and legal interest, and administrative malaise”. They said passage of the Amnesty Law in 2012 had freed many people convicted of killing women and other violence against women.

Local organisations also told HRW that despite their advocacy with KRG authorities to ensure that family members cannot infiltrate shelters or pressure women to return to abuse environments, family members still frequently harass women in shelters and women are remain afraid to press charges against abusive family members.

Human Rights Watch has documented two recent cases of honour killings in the past couple of months, where the government has still not investigated or held family members that committed the killings accountable.

In a November 2012, we met with Ismat Argushi, the director of the KRG's security forces, who are officially tasked with supporting the Kurdish police, by educating them about the new law and helping them to implement it. Argushi said that the security forces' procedures for responding to domestic violence had not changed since the passage of the law, and that security forces use the same (unspecified) methods they used before the law's passage to gather information on domestic violence cases and to share this information with police. Argushi was unaware of protection mechanisms available to survivors.

Human Rights Watch believes that the FCO and the UK government should pressure KRG authorities, especially the Ministries of Justice, Interior, and Labor and Social Affairs, to establish a court for domestic violence cases, hire additional female police officers, and create additional shelters.. To the extent that they provide direct assistance to KRG authorities, they should link this assistance to the implementation of these provisions. They should also consider providing direct assistance to local civil society organisations who work to support shelters and provide assistance to victims of domestic violence, and who are frequently harassed by authorities for doing so.

These links may also be useful

<http://www.hrw.org/reports/2010/06/16/they-took-me-and-told-me-nothing> (report)

<http://www.hrw.org/news/2010/06/16/iraqi-kurdistan-girls-and-women-suffer-consequences-female-genital-mutilation> (press release)

<http://www.hrw.org/news/2012/08/29/iraqi-kurdistan-law-banning-fgm-not-being-enforced>

1 July 2013

Written evidence from the BBC World Service

SUMMARY

Internationally and nationally, the media landscape has changed radically since the Cold War years with liberalisation, deregulation and the advent of new technologies creating new opportunities and challenges for broadcasters. There remains, however, a tension between the concept of national sovereignty and the desire for the free-flow of information across national borders. International broadcasters are seeing an increase in the jamming, blocking and censorship of their services, as well as increased levels of intimidation and violence towards journalists and media workers.

Shortwave radio, satellite broadcasting (TV and radio) and the internet are all international distribution platforms which can deliver content across national borders. BBC World Service has suffered extensive deliberately-targeted interference to its satellite broadcasting services (in particular BBC Persian TV) and is working alongside other international broadcasters in technical, regulatory and political environments in attempts to address and resolve this issue. This year also saw a return to a level of jamming of shortwave radio which has not been seen for many years. The steady rise of blocking and control of internet services remains a cause for concern. FM radio is a national distribution platform and, although offering significant benefit to BBC World Service through access to local radio broadcasting facilities, also carries some degree of risk. Some of BBC World Service FM services have been closed down or subject to content restriction or censorship.

If Article 19 of the UN Universal Declaration of Human Rights is to be upheld in our increasingly connected world, the problems international broadcasters like BBC World Service face in providing news and information to audiences need to be addressed. New technology can be introduced to mitigate the effect of jamming or blocking and political initiatives can be pursued. However, it is only at the appropriate international fora, and through the combined efforts of industry, users, regulators and nation states that threats to freedom of expression through the media can be properly addressed.

INTRODUCTION

The BBC World Service December 2012 submission to the Foreign Affairs Select Committee inquiry into the FCO's Performance and Finances 2011–12, included a section on media freedom and noted that “concerns have been growing about the global threat to impartial and independent news through censorship and intimidation”.

This year, to mark UNESCO's World Press Freedom Day on the 3rd May, BBC World Service and seven other major international broadcasters⁴⁸ issued this joint press release:

"The jamming of satellite broadcasts has become a regular occurrence as regimes seek to block certain services from being received. This jamming affects areas stretching from Northern Europe to Afghanistan and as far south as Northern Africa. We have also seen internet blocking of services and cyber-attacks on media organisations of all over the world, shortwave jamming and disruption and interference with FM broadcasts. Media Freedom has not faced such a concerted campaign of disruption since the end of the Cold War."

CHALLENGES THROWN UP BY THE CHANGING MEDIA LANDSCAPE

Internationally and nationally, the media landscape has changed radically since the Cold War years with liberalisation, deregulation and the advent of new technologies creating new opportunities and challenges. Then, shortwave radio was the only platform available for international broadcasters to provide services to audiences around the world. Now we have both international and national distribution platforms available to us and radio, television and the internet accessible to audiences on an increasing variety of devices.

Article 19 of the UN Universal Declaration of Human Rights states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." However, Article 34 of the Constitution of the ITU (International Telecommunications Union, the UN agency for information and communication technology issues) gives Member States the right to cut off, in accordance with their national law, any telecommunication "which may appear dangerous to the security of the State or contrary to its laws, to public order or to decency".

The tension between the concept of national sovereignty and the desire for the free-flow of information across national borders means that international broadcasters are likely to continue to be jammed, blocked or censored at least somewhere on the globe.

In addition, as collection and production of content becomes more localised, intimidation of journalists and threats of physical violence are rising. 2012 was the deadliest year on record, with UNESCO condemning the killing of 121 journalists worldwide. The safety of reporters in the field is of paramount importance to the BBC and all staff operating in the field are given full health, safety and high-risk training. However, in many cases less well-supported journalists are killed with little or no reaction from governments. The BBC supports the creation of proper international frameworks to ensure that journalists are protected, and together with many other news media organisations it has publicly welcomed the UN Action Plan on the Safety of Journalists and the Issue of Impunity which was initiated in November last year.

The BBC continues to express concern that BBC Persian Service staff have suffered intimidation from the Iranian authorities who have harassed their families living in Iran, and there have been crude attempts to discredit individual staff members.

JAMMING, BLOCKING, CENSORSHIP AND CONTROL

Shortwave radio, satellite broadcasting (TV and radio) and the internet are all international distribution platforms which can deliver across national borders. Medium wave and FM radio, terrestrial or cable television are more typically national platforms and regulated technically and in terms of content by a national administration.

(a) *Satellite Jamming*

In the past four years, BBC Persian TV, BBC Arabic TV and BBC World News (the international 24-hour news and information channel in English) have all been affected by satellite uplink jamming.

There has been a steady increase in deliberate interference targeted at satellite broadcasting. This has affected both public service and commercial broadcasters. Cases which have been brought before the ITU have identified jamming signals coming from Iran and Syria. In the past, accusations have also been levelled at Libya, Bahrain, Ethiopia, Eritrea and Jordan. However, it is Persian TV which has suffered the most, having been deliberately targeted.

Uplink jamming occurs when a second signal is transmitted up to the satellite on the frequency used by the legal user. This signal interferes with the main service and prevents it from being decoded by the viewers' receivers. It affects all services on the transponder (not just the target service) and wipes out the whole footprint. Unlike downlink jamming, which blocks signals locally using local or mobile jammers and is a grey area in terms of regulation, uplink jamming breaks international radio regulations (Article 15 of the Radio Regulations of the International Telecommunication Union).

⁴⁸ Audiovisuel Extérieur de la France (AEF), Australian Broadcasting Corporation (ABC) [Australia], British Broadcasting Corporation (BBC) [United Kingdom], the Broadcasting Board of Governors (BBG) [US], Deutsche Welle (DW) [Germany], Nippon Hoso Kyokai (NHK) [Japan] and Radio Netherlands Worldwide (RNW)

BBC Persian television (PTV) is currently carried on four different satellites: Eutelsat Hotbird (HB13), Eutelsat 7A (7A—previously known as W3A), Eutelsat 25C (previously known as Eurobird 2), and Telstar 12 (T12). The main service is carried on HB13 because this is the satellite in Iran serving the biggest audience.

PTV was launched in Jan 2009 on Hotbird 6 (HB6) and first jammed in early June 2009. PTV was removed from the transponder by the satellite service provider (because of the impact on other users sharing the same transponder) and then returned later in the year when the jamming ceased. The source of the jamming was triangulated by Eutelsat to Tehran and formal complaints were lodged by the French regulator (AFNR). This pattern of reinstatement, jamming and removal, with long periods when PTV was off-air, was repeated until February 2012. At this point, Eutelsat (the satellite owner) provided a new service using technology which isolated PTV from other broadcasters. Additional carriage of PTV on alternative satellites to Hotbird was arranged, including a service provided by Eutelsat that was not easy to jam (W3A from Jan 2010). Despite this, W3A also suffered intermittent jamming during 2011.

After a period of relative calm, there was a return to the jamming in October 2012, when both HB13 and W3A were targeted whilst covering the financial crisis in Iran. This was followed by an

unprecedented level of jamming involving 3 Eutelsat satellites, 7 transponders and more than 500 TV channels (including BBC, CNN, Euronews, Voice of America, France 24, Deutsche Welle, Sky Italia and RAI) as well as the distribution of BBC World Service English, Arabic and Persian radio services. The source of the jamming was located to Syria and ANFR filed a formal complaint.

Additional detail on this summary can be found in Appendix 1.⁴⁹

- There has been no further jamming to BBC satellite services apart from to 7A (formerly W3A) on 9 February 2012, when PTV and other services sharing the same transponder were off-air for some of the day (no specific content on BBC PTV is considered likely to have triggered this, however).
- We expect further jamming to PTV services in the run up to the presidential elections in Iran on 14 June and are working with Eutelsat and other satellite operators on ways to reduce its impact on our audiences.

Since 2010, the BBC World Service has been working alongside other international public broadcasting organisations to combat the increased prevalence of deliberate interference to satellite broadcasting. This involves working in technical, regulatory and political environments and, in the last 3 years, we have seen a steady and positive change in the way this issue is being addressed. We would like to record our thanks here for the invaluable support and advice we have received from Ofcom, FCO, BIS, DCMS and the UK Space Agency in our attempts to address this issue.

The “International Broadcasting without Barriers” event, hosted by BBC World Service at New Broadcasting House in November 2012, has been followed by a number of key initiatives from industry, regulators and broadcasters.

- Eutelsat held a “Naming and Shaming the Jammers” workshop in January 2013 at their headquarters in Paris, showcasing geo-location techniques and concentrating on technical mitigation and developments in satellite design. Like the BBC event, this was attended by broadcasters, industry, regulators and governments. Significantly, 4 members of the ITU Radio Regulation Board (which considers reports of unresolved interference investigations) attended the workshop.
- Discussion was continued in the Middle East in March by BBC visits to Arabsat in Saudi Arabia and Al Jazeera in Qatar (both have suffered extensive jamming like Eutelsat and the BBC). BBC World Service also gave a well-received presentation on satellite uplink interference to the Arab Spectrum Management Group (ASMG) the group of Arab State regulators preparing positions for the next World Radio Conference in 2015. A session on deliberate satellite interference was also hosted by industry groups at CABSAT, the annual regional trade exhibition for the broadcast and satellite sectors, in Dubai in the same month.
- Future events include: a workshop on preventing harmful interference to satellite systems in June hosted by the ITU at its headquarters in Geneva, and an event being planned for October in Tunis hosted by the Arab States Broadcasting Union.
- Satellite operators are starting to introduce new technology on satellites that will make broadcasts more resistant to jamming. However the lead times within industry are such that it will take between five and ten years before such systems are widely available.

(b) *Shortwave Radio Jamming*

During the Cold War, the jamming of shortwave radio broadcasts to east of the Iron Curtain was commonplace. With the collapse of the Soviet Union, engineers from both East and West who had spent years frustrating each other’s efforts to escape the jamming, found themselves working together co-ordinating the international use of shortwave frequencies.

⁴⁹ Not published

The jamming of the BBC did not go away completely, however. BBC Mandarin radio on shortwave was jammed for many years by the Chinese by transmitting a Chinese broadcast on the same frequency as the BBC, making it impossible to listen to. The impact was strongest in the cities and less effective in more rural areas. Shortwave jamming is only possible if the high-power transmitting facilities and specialist planning expertise is available—hence countries like China and Russia being able to employ it so easily.

- BBC Uzbek radio on shortwave is still (and has been for many years) jammed by the Chinese on some frequencies using the same method as for the Mandarin.
- The morning shortwave radio programmes of BBC Farsi shortwave have been jammed using bubble jamming since May 2012 (although programmes later in the day have not been jammed). Bubble jamming is the use of an interfering noise signal transmitted on the same frequency as the victim broadcast. Various methods have been employed to reduce the impact of the jamming (including the use of alternative frequencies and facilities) and the formal complaint procedure was initiated by the UK in June 2012 (and again in April 2013) once Ofcom had confirmed the source as Iran. Following a complaint the jamming has ceased, at least temporarily, since 20 April 2013.
- Since early February 2013, BBC English shortwave radio to China has been intensively jammed using hash jamming (the transmission of white noise on the victim frequency), with other broadcasters like Voice of America and Radio Australia being similarly targeted. The source has been identified as China and the jamming is also affecting listeners outside China, for example in India, Bangladesh and South East Asia. A monitoring exercise carried out on 13 February checked 134 frequencies over the 24 hour period at a variety of locations and found 75% of them jammed. A formal complaint has been initiated on behalf of the UK and the matter has been raised with the Chinese Ambassador in the UK. This is the first time that English-language services have been targeted in such a widespread way.

(c) *Internet Blocking*

All 28 BBC World Service languages now have their own web page and many are also accessible via a mobile or other handheld device. The internet is an attractive means for international broadcasters to communicate with audiences because it is not subject to the same degree of regulation as other distribution platforms. Since 2000, however, denied access, blocking and filtering of content have increased and there are international discussions about changes to internet governance.

- Both the English and Chinese (Mandarin) websites are subject to blocking by the Chinese authorities. BBCChinese.com has been completely blocked since its launch in 1999, while BBC.com is subject to a selective blocking practice (most of the site is accessible in China but some China-related story pages will be blocked).
- BBC Persian.com has been blocked intermittently from 2006, and routinely since 2009. As the June presidential elections approach, the Iranian authorities have recently stepped up their efforts to filter information and block the use of Virtual Private Networks (VPNs) and circumvention software.
- The BBC is committed to finding ways in which it can make its content available and works with Psiphon (a Canadian corporation that develops advanced censorship circumvention systems and technologies specifically designed to support users in countries where access to the internet is restricted) to deliver content into China, Iran, Kyrgyzstan and Uzbekistan in a manner that enables it to circumvent blocking. Over 1 million pages are viewed weekly through the BBC's Psiphon web proxies.
- More recently, “social engineering” type cyber-attacks have created fake Facebook accounts and blogs which mirror those of BBC journalists from the Persian service. Some of the fabricated content on these sites, designed to discredit them personally and also the BBC, has then been republished by Iranian state-affiliated news organisations.

(d) *Problems which can arise with FM relays and partnerships*

There is significant benefit to BBC World Service in having access to local radio broadcasting facilities for its English and vernacular programmes. A locally-available service of good quality audio helps to retain audiences in increasingly competitive markets. There are two ways that this can be done: via a BBC relay or via a partnership with a local broadcaster.

There are around 180 BBC World Service FM relays located in major cities around the world, broadcasting a 24-hour feed of English or vernacular programmes. These are either owned, supported by, or hired to the BBC and are usually located on a local broadcaster's site. They broadcast on a dedicated frequency granted to the BBC by the local government broadcasting authority.

There are also around 1,200 partner broadcasters around the world who re-broadcast a variety of BBC English and vernacular programmes lasting from a few minutes to a few hours a day and inserted into the locally-produced material.

Operating locally will always carry some degree of risk in some countries in terms of gathering or distributing our content and that risk can change over time. Facilities can be closed down, licences withdrawn or content restricted or censored. Some examples in recent years of where BBC WS has adversely affected by this are:

- Somalia—In 2010, BBC World Service was taken off-air by Al-Shabaab militants who seized the transmitters of the BBC relays in Mogadishu and 5 other cities. The FM relay in Mogadishu has only recently been reinstated.
- Sudan—The 4 BBC World Service FM relays in Khartoum, Port Sudan, Wad Madani and El Obaid were closed in August 2010, after the Sudanese government decided not to allow the BBC to broadcast within Sudan any longer and terminated the licence agreement.
- Azerbaijan—International broadcasters, including the BBC World Service, were banned from using local broadcasting facilities in January 2009.
- Tajikistan—Licences were withdrawn for the BBC FM relays in Dushanbe and Khojand in 2006, when the Tajik authorities decided not to allow BBC World Service to use local broadcasting facilities any more.
- Nigeria—Restrictions have tightened on local carriage of foreign broadcasters. BBC relays have never been allowed but, for the last 10 years, partners cannot carry foreign broadcasters' news and only sport, documentary or business content is accepted by the Nigerian regulator.
- BBC World Service suspended broadcasts on SLBC (the Sri Lankan Broadcasting Corporation) in March 2013, following continued interruption and interference to the content of BBC Tamil programming. Despite requests for discussion about any complaints that SLBC might have had about any specific output, the issue has not been resolved. The BBC took similar action in 2009 when its services were also disrupted.

CONCLUDING OBSERVATIONS

If Article 19 is to be upheld in our increasingly connected world, the problems international broadcasters like BBC World Service face in providing news and information to audiences need to be addressed. As shown by the efforts around satellite jamming, this involves working for resolution in technical, regulatory and political environments and a willingness to discuss difficult and often controversial subjects.

Satellite operators can introduce new technology on satellites to make broadcasts more resistant to jamming and internet security companies can develop more sophisticated circumvention tools, but technology will never solve these problems on its own. US OFAC and EU sanctions may have given some satellite operators grounds to withdraw broadcast satellite services from Iran but this has also resulted in accusations of censorship and a stalemate situation with Iran continuing to “illuminate” the satellite thus rendering re-use of the capacity impossible.

The issue of satellite jamming was raised and discussed at both the last Plenipotentiary and World Radio Conference of the ITU and the future of internet governance proved a controversial and divisive issue at the recent World Conference on International Telecommunications of the ITU.

However, the ITU (a body that predates the UN) is mandated to deal with technical matters and although it successfully provides a forum for the resolution of matters relating to broadcasting (the ITU R sector) and telecommunications (the ITU T sector), it primarily achieves progress in developing international standards through seeking consensus and, seeks to resolve matters of dispute through bi-lateral negotiation.

Matters relating to the freedom of the internet (within the T sector) and satellite jamming (within the R sector) are now challenging the processes and capabilities of the ITU. Some have suggested that the ITU mandate should change and some have suggested that the UN is a more appropriate body to address current issues associated with media freedom.

There will continue to be discussion about the technical, legal and political issues pertaining to threats to freedom of expression through the media. Whatever the final decisions might be regarding the appropriate international body to deal with these issues, all interested parties from industry to broadcasters to regulators to nation states need to continue to work together if the current and damaging ambiguity regarding the legitimacy of international broadcasting is to be addressed.

We have appreciated the UK Government's support in addressing these issues and look forward to continuing to work closely with the Government and industry.

Appendix 2

BBC MONITORING: SNAPSHOT OF WORLD INTERNET BLOCKING, BROADCAST JAMMING MAY 2013

Feature by BBC Monitoring on 20 May

Leading international broadcasters, including the BBC, used World Press Freedom Day on 3 May 2013 to warn that media freedom faces its greatest challenge since the Cold War. In particular, they cited internet

blocking and deliberate interference to broadcasts. The following is a snapshot, compiled by BBC Monitoring in May 2013, of the activities of countries that are routinely reported to be engaged in blocking the internet, and/or jamming over-the-air broadcasts.

PART ONE: INTERNET BLOCKING

Two billion people worldwide have internet access but, for a third of them, access is limited by government censorship, filtering and surveillance, Reporters Without Borders (RSF) declared in its 2013 “Enemies of the Internet” report.

Blocking techniques range from the automatic filtering of URLs and content types to the wholesale blocking of many thousands of sites, using extensive technical and human resources.

RSF identifies 12 countries—Bahrain, Belarus, Burma, China, Cuba, Iran, North Korea, Saudi Arabia, Syria, Turkmenistan, Uzbekistan and Vietnam—as Internet Enemies. The list focuses mainly on online surveillance.

China and Iran stand out as major players in the world of online censorship. Iran is reported to be developing a national internet, which would bar citizens from external websites, while China’s “Great Firewall” blocks many thousands of sites.

Middle East

Bahrain: Filtering targets political, human rights and religious matters and content deemed obscene. During 2012, the government blocked a number of opposition websites including those carrying live coverage of protests, US-based Freedom House reported. The level of internet filtering and surveillance “is one of the highest in the world”, RSF reported in 2013.

Iran: Iran has significantly increased the sophistication of its web blocking since the disputed 2009 presidential election and has used advanced techniques to disable anti-censorship software.

Many thousands of sites are blocked. The authorities can limit internet speeds. Filtering takes place at central and ISP level. Religion-related and “obscene” content is targeted. Censorship extends to political and human rights sites. In February 2013, the filtering monitoring organization OpenNet Initiative (ONI) said it had found consistent filtering of websites “pertaining to social media, international news, non-Shi’i religion, social and religious taboos and anything remotely opposed to official government policies”. In March 2013, unauthorized virtual private networks (VPN), used to circumvent web blocks, were shut down.

An official from the Committee to Determine Instances of Criminal Content stated in early 2013 that an average of 1,500 websites with “anti-Islamic” content are filtered on a monthly basis (Citizenlab.org).

Iran says it is developing a “national internet”; some observers say this will sever the country from the global web. “The construction of this parallel internet, with a high connection speed but fully monitored and censored, is supposed to be completed in the very near future,” RSF reported in March 2013.

Kuwait: The communications ministry blocks content considered to incite terrorism, or deemed immoral or politically-sensitive, the US State Department reports. The government has instructed ISPs to block certain sites for political or moral reasons, says US-based Freedom House. Kuwaiti filters block access to porn, gay and lesbian content, secular sites and those which present critical views of Islam, Arab Times newspaper reported in April 2013.

Oman: Extensive filtering of pornography, politically-sensitive material and criticism of Islam is in place, says ONI. Blocking criteria are not transparent or consistent, says the US State Department. Censorship is carried out using automation software operated by ISPs, Muscat Daily website reported in 2012.

Qatar: Authorities filter political criticism, material deemed offensive to Islam, pornographic content and privacy resources, reports ONI.

Saudi Arabia: Strict filtering is in place, targeting “pornographic”, Islam-related, human rights and political sites. The authorities say some 400,000 sites are blocked. Twitter, Facebook or YouTube accounts with “inappropriate” content will be blocked, an ICT official warned in February 2013.

Sudan: Officials “openly acknowledge” filtering “immoral” content and material that threatens public order, says ONI. The authorities regularly block access to YouTube, says the US State Department.

Syria: Automated filtering and internet surveillance were in place before the 2011 uprising. Targeted content includes political criticism, pornography, religion, and Israeli sites. Blocked sites include Facebook, Blogspot, Maktoob, Amazon, Skype, YouTube. An “ultra-centralized internet architecture” allows the government to cut off the country from the rest of the world, RSF reported in March 2013.

UAE: RSF says filtering targets pornography, political dissent, non-orthodox views of Islam, and criticisms of society and the royal family. Twitter, Facebook and YouTube are partially blocked. Skype was unblocked in April 2013, reports Citizenlab.org.

Yemen: Filtering blocks independent and opposition news sites and some sites containing material deemed immoral. The depth of filtering is inconsistent, says ONI.

Asia-Pacific

Burma: ONI in late 2012 noted a “significant reduction” in internet filtering, amid an apparent easing of political repression. ONI said filtration of political sites had dramatically decreased compared with test results in previous years. Filtering of sites relating to pornography, gambling, drug use and gay and lesbian content was still prevalent, it said.

China: An extensive filtering system, the “Great Firewall of China”, is one of the “most technologically-advanced in existence”, says RSF, and blocks tens of thousands of sites using URL filtering and keyword censoring. Thousands of cyber-police monitor the web for “subversion”. Filtering targets a wide range of material deemed politically and socially sensitive. Blocked sites include Facebook, Twitter, and human rights sites.

RSF says workaround tools such as Tor or Freegate are constantly targeted by the authorities. Following a “major upgrade” of the Great Firewall in late 2012, VPN services provided by non-Chinese companies were cut. The Great Firewall “now has the ability to dynamically block encrypted connections”, RSF says.

Korea (North): Access to the global internet is restricted to a “small section of the elite”, RSF reports. A state-run intranet—accessible to those with special clearance—provides an email inbox, a handful of propaganda sites and access to the databases of North Korea’s three largest libraries.

Korea (South): RSF says Seoul blocks access to some 40 pro-North websites, as well as social media accounts believed to be operated by the Pyongyang regime. In 2012 the government blocked access to the English-language website of North Korean newspaper Rodong Sinmun within hours of its launch. Under telecom laws, the government blocks violent, sexually-explicit, and gambling-oriented sites, says the US State Department.

Thailand: In 2011, RSF said online censorship had “reached new heights” with between 80,000–400,000 URLs blocked. Material that violates lese majeste laws is targeted, alongside opposition sites and some independent news sites. ISP-level filtering, based on state-mandated block lists, is complemented by automatic URL filtering, says ONI.

Vietnam: The authorities have established an “effective and increasingly sophisticated” content-filtering system, Freedom House reported in 2012. Blocked sites include newspapers and domestic and foreign blogs, and sites with content on the political opposition and human rights, ONI reported in 2012.

South Asia

India: Amid violent inter-ethnic unrest in August 2012, Indian authorities ordered ISPs to block access to more than 300 pieces of online content, India’s Centre for Internet and Society reported. It added: “There are numerous mistakes and inconsistencies that make blocking pointless and ineffectual.”

Pakistan: “Relatively stable” internet filtering is employed, aimed at content deemed blasphemous, secessionist, anti-state, or anti-military, says ONI. A 2011 directive ordered ISPs to ban the use of online encryption, ostensibly for anti-terrorism reasons. Plans for a national internet filtering system, intended to block access to millions of sites using deep packet inspection (DPI), were reported in the press in early 2012.

Europe, FSU

Belarus: The government has for a number of years engaged in “ad hoc efforts to limit access to internet content deemed contrary to its interests”, Freedom House reported in 2012. ISPs are inconsistent in their blocking practices, Freedom House adds.

Kazakhstan: Opposition or sensitive political content is selectively filtered. In late 2012, legal moves were taken to ban leading opposition media, resulting in the blocking of websites carrying online versions of affected outlets, RSF reported. In 2011, the authorities blocked access to a number of sites—including Russian blog platform LiveJournal—which they said were being used to spread religious extremism and terrorism. The internet was “mysteriously down” across Kazakhstan during violent unrest in the west in December 2011, reported Radio Free Europe/Radio Liberty.

Kyrgyzstan: Political and news websites are sporadically blocked, Freedom House reported in 2012. Russian-language news site Ferghana has been blocked in Kyrgyzstan since February 2012 as a result of a parliamentary resolution, reports RSF.

Tajikistan: In 2012, RSF reported “several waves” of blocking of prominent news websites, including the BBC, and social networks. It said the national telecom body “is now in the habit of issuing orders to ISPs to block access to any sensitive content”.

Turkey: Taboo topics are used to justify the blocking of “several thousand” sites, including YouTube. Also targeted are sites deemed to involve online “crimes” against Mustafa Kemal Atatürk, modern Turkey’s founder.

A controversial internet filtering application, the Secure Internet Service, was launched in late 2011 by the state telecom regulator, ostensibly to protect children. Filtering criteria are determined by the government, Eurasianet.org reports. Although adoption of the filter is not mandatory, tests show that access to sites is blocked “arbitrarily”, says RSF.

In December 2012, the European Court of Human Rights ruled that a Turkish court had violated the right to freedom of expression by ordering a block on all Google sites in Turkey because of one person’s post.

Turkmenistan: The authorities filter the main, state-run ISP. Facebook, Twitter and Russian blog platform LiveJournal are blocked, RSF reported in 2011. RSF added: “There is so much censorship that Turkmen only have access to a sort of national intranet.”

Uzbekistan: Strict internet censorship includes filtering at a central level. The authorities appear to have “fairly sophisticated” technology at their disposal, Freedom House reported in 2012. This allows them to block whole domains, and also to restrict access to individual pages. Targets include opposition and news websites. These have included the BBC, Deutsche Welle, Uzmetronom.com and Ferghana.ru. LiveJournal, MySpace, Facebook, Twitter, Blogger, Flickr and blog platform Kloop are sporadically inaccessible.

Africa

Equatorial Guinea: The government blocked access to Facebook and some opposition websites ahead of May 2013 parliamentary elections. An AFP correspondent told RSF that Facebook had been blocked “at the request of the president’s office” following the announcement of anti-government protests by students.

Eritrea: Eritrea has been “stifled by internet censorship”, according to US-based African tech website oAfrica. RSF says that while there is no widespread internet filtering system, some diaspora websites have been blocked.

Ethiopia: The government owns the sole ISP “allowing it to censor when and where it sees fit”, the Committee to Protect Journalists reported in 2011. There is “substantial” filtering of political news, according to ONI. The government has restricted access to the sites of domestic “insurgent groups” and several blogs and websites run by opposition groups abroad, says the US State Department.

PART TWO: BROADCAST JAMMING

Satellite uplink jamming (SUJ) has become increasingly problematic for broadcasters and satellite operators. SUJ has been traced to several countries; prominent among them is Iran. The practice is against International Telecommunication Union (ITU) regulations, but there are few strategies available to stop it.

Meanwhile, jamming of shortwave and other AM radio broadcasts—a feature of Cold War-era international broadcasting—is still practised, notably by China.

The following is a summary of regular international jamming activity, affecting transmissions via satellite and terrestrial platforms.

Middle East

Foreign satellite TV and radio broadcasts into **Iran** are consistently targeted by deliberate interference. Iran is widely accused of carrying out the jamming, which tends to peak at sensitive moments, including key anniversaries and times of regional tension.

Since 2009, Western broadcasters—including the BBC, VOA and Deutsche Welle—have reported intermittent, deliberate interference to their satellite broadcasts in Persian. Paris-based satellite operator Eutelsat has lodged complaints about “deliberate jamming operations” and has said the interfering signals can clearly be traced to Iran. VOA noted in 2012 that satellite jamming often starts just before its Persian news bulletins.

Conversely, Iran has complained of deliberate interference to its own state-run satellite TV outlets, which are—or have been—carried by leading platforms, including Eutelsat. State media regularly blame the jamming on “British technicians, operating from Bahrain”. A regular programme for Bahraini viewers on Iran’s Arabic-language Al-Alam is a particular target for interference. Meanwhile, Al-Alam complained in early 2013 that its satellite transmissions were being jammed from within Syria by armed groups, overseen by Turkey and Qatar.

Iran also jams shortwave and mediumwave radio transmissions in Persian from the BBC and US-backed Radio Farda. Radio France Internationale reports intermittent jamming of its shortwave broadcasts in Persian.

Since 2012, **Syria** has regularly been accused of carrying out jamming activities. In January that year, the US Broadcasting Board of Governors (BBG) said recent jamming of VOA and BBC broadcasts in Persian emanated from “near Damascus”. At around the same time, satellite operator Arabsat said interference to Al-Jazeera broadcasts had been traced to locations in Iran and Syria, Eutelsat said jamming of Al-Jazeera “emanated from Syria”, and Al-Arabiya TV blamed Syria for jamming its transmissions via Arabsat.

In October 2012, a grouping of leading US and European broadcasters, known as the DG5, charged that deliberate interference emanating from Syria was disrupting satellite broadcasts “in an arc from Russia through

Europe, Central Asia and the Middle East". In early 2013, Syrian rebels said they had taken control of a satellite jamming centre near Damascus International Airport, which they said was being run by Iranians.

The wave of Arab uprisings in early 2011 witnessed a surge in satellite jamming. Al-Qadhafi's **Libya** was seen as the source of much of this disruption, but it was also itself a target. In November 2012, an official from **Egypt's** state-owned Nilesat satellite platform accused an unspecified "big institution" of jamming Egyptian state TV via Nilesat and Eutelsat. The interference coincided with protests against President Morsi.

Asia-Pacific

China has for years jammed Chinese and Tibetan-language radio services from Western international broadcasters, including those of the BBC, VOA and US-backed Radio Free Asia (RFA). In March 2013, it was observed that English-language shortwave broadcasts from the BBC, Radio Australia and VOA beamed towards China were subject to deliberate interference. English-language programmes had historically not been blocked. China has also jammed BBC broadcasts in Uzbek and RFA broadcasts in Uzbek and Uighur.

North Korea jams international shortwave broadcasters, including RFA and South Korean outlets. In May 2012, NorthKoreaTech.org reported that the North "appears to have recently installed more sophisticated transmitters acquired from a Chinese company". RFA noted in December 2012 that North Korea had intensified jamming of foreign radios, blocking signals from South Korea and the US "almost every day" during the last month of a period of mourning for former leader Kim Jong-il.

South Korea routinely jams cross-border broadcasts from the North.

Malaysian exile station Radio Free Sarawak, based in the UK, has complained of deliberate interference to its shortwave broadcasts, most recently in May 2013, when it noted "ferocious jamming" during the election period.

Vietnamese shortwave broadcasts from RFA are subject to deliberate interference.

Africa

For many years, **Ethiopia** has jammed opposition and international broadcasts. Terrestrial and satellite broadcasts from Eritrea have also been disrupted. In January 2012, Eritrea said jamming of its satellite TV broadcasts via Arabsat "has been confirmed to be [from] Ethiopia".

Other targets include the Amsterdam-based opposition Ethiopian Satellite Television (ESAT), which has been jammed since soon after its launch in May 2010, and Amharic radio services via shortwave of VOA and Germany's Deutsche Welle. VOA said in 2013 that jamming signals aimed at its Horn of Africa broadcasts are transmitted using equipment "installed by China in Ethiopia".

Opposition site Ethiopian Review reported in 2008 that the Ethiopian Telecommunication Corporation was using Chinese-supplied jamming equipment. At that time, satellite TV channels in many other countries were reportedly affected by the jamming, putting the Ethiopian authorities at loggerheads with Saudi-based Arabsat.

In February 2012, Lebanese reports said investigations had confirmed that jamming of Arabsat satellite transmissions, which affected several Lebanese networks, originated in Ethiopia.

Eritrea was accused in November 2012 of jamming satellite broadcasts from Radio Erena, an Eritrean exile radio station based in Paris and backed by Reporters Without Borders (RSF). RSF said Arabsat, which carried Radio Erena on its Badr-6 satellite, reacted by suspending the station because the jamming was disrupting other signals. "Geolocation indicates that the pirate transmission jamming the signal originates from within Eritrea," RSF stated.

Zimbabwe has been reported to regularly jam external and exile radio broadcasters and has been accused of using Chinese-supplied technology to this end. In 2011, VOA said listeners in Harare may experience "intermittent jamming" of its Studio 7 mediumwave broadcasts to Zimbabwe via a transmitter in Botswana. UK-based exile broadcaster SW Radio Africa has reported intermittent jamming of its shortwave broadcasts. It has said Zimbabwe's Central Intelligence Organization runs the operation.

Americas

Shortwave and mediumwave transmissions from US-backed Radio Marti are routinely jammed by **Cuba**. The Cuban authorities also target a powerful Miami-based Spanish-language AM station, WAQI, which airs some Radio Marti news broadcasts.

Caucasus

UHF terrestrial broadcasts from Iran's state-run Sahar TV are jammed in southern **Azerbaijan**. Baku and Tehran have historically been at diplomatic loggerheads. Azerbaijan also attempts to block broadcasts from a

powerful Iranian mediumwave transmitter on the Caspian coast. The jamming, which occurs at certain points of the day, comprises a relay of Azeri state radio on the same frequency as the Iranian broadcast.

3 June 2013

Supplementary written evidence from the BBC World Service

Social media uses web-based and mobile technologies and turns communication via the internet into active dialogue. BBC World Service and other international broadcasters now make extensive use of social networking sites like Facebook because they are powerful tools for communicating with audiences.

There are a number of ways that BBC World Service use of social media can be affected in order to prevent or corrupt it.

— Sites can be blocked

Facebook, Twitter and YouTube are all being blocked in China. Only internal social media sites such as Sina Weibo (Twitter equivalent in China run by local Chinese operators) or Renren (a Facebook-type site) are permitted. All social media sites in China are subject to censorship at ISP and central government level (by operating at the ISP level, posts and blogs can be quickly and completely blocked).

The weibo accounts of the Head of BBC Chinese Service (in the name of his official capacity) were closed by the weibo operators in September 2012, under the administrative order of the Chinese authorities. However, the official weibo accounts of BBCUKChina.com, the educational site from the BBC, are still accessible in China.

Facebook, Twitter and YouTube are all officially blocked in Iran but many people still have access to them through Virtual Private Networks (VPN). Ayatollah Khamenei himself has an official Twitter account and Tehran municipality has a verified Twitter account.

— Sites can be hacked

Our Persian Service reports attempts to hack BBC email and other social media accounts and, in the case of staff personal accounts, some of these have been successful.

— False sites or accounts can be created mirroring the genuine ones

BBC Persian presenters' and other programme Facebook pages have been cloned and altered to include biased stories.

The Persian service has also experienced denial of service attacks on telephone lines serving its interactive programmes.

For further general information on these aspects, the following web links may be of interest:

<http://www.technologyreview.com/news/511011/social-media-censorship-offers-clues-to-chinas-plans/>

This article from the MIT Technology Review explores the increasing efficiency and sophistication of the censorship of social media in China, drawing on research from various academic institutions. Looking at how monitoring which posts are being blocked can reveal insights into the Chinese government's censorship strategy, it also notes how much social media has been embraced by the government itself.

<http://www.dw.de/the-fight-for-and-over-social-media-in-iran/a-16817370>

This article on the Deutsche Welle website considers the use of social media in Iran by both activists and pro-regime supporters. The "social engineering" type cyber-attacks (creation of duplicate false sites or accounts mentioned in the original BBC World Service written evidence) are also highlighted.

<http://www.techweekeurope.co.uk/news/cyber-repression-attack-of-the-fake-activists-123239>

This article looks at how users of Twitter and Facebook can be identified by IP trackers and considers research currently being done for Bahrain Watch and Citizen Lab. It also notes the ease with which fake domains and accounts can be created and references a new report from Access (a human rights organisation focussing on protecting digital freedoms) in the "Global Civil Society at Risk" series.

31 July 2013

**Supplementary written evidence from the Rt Hon Baroness Warsi PC, Senior Minister of State,
Foreign and Commonwealth Office**

I undertook to write to you with further information on some topics that arose during my evidence session on the Foreign & Commonwealth Office 2012 Human Rights Report on 9 July. Taking the issues in the order in which they arose during the session:

1. The Committee asked about the publication of the Interim Report of the Gibson Detainee Inquiry. I thought you might welcome some further clarification. As I explained the Government is carefully considering the contents of the Interim Report. It is important for the Government to be able to publish as full an account of the Inquiry's work as possible, without compromising national security and consistent with our legal obligations. We are undertaking checks to ensure that the report will not prejudice the ongoing police investigation and, although no date has been set, we hope to be in a position to publish as full a version as possible of the report as soon as possible.

2. You asked why there had been a six month delay in writing to the Committee on Deportation with Assurances (DWA) monitoring arrangements. Following the Committee's request in December 2012, the Rt. Hon. Hugo Swire MP wrote on 27 March to confirm our intention to respond fully, and I responded substantively on 3 June. Let me apologise once again for this delay, which resulted from a misunderstanding over whether there would be a further specific request from the Committee. When it became clear in March that a response was outstanding officials worked quickly to provide one. The response was produced in consultation with DWA partners across HMG and I can assure the Committee that it was a comprehensive response, drawing on the most up-to-date and accurate information available.

3. You asked for details on project activity to support women's leadership at a national level in Afghanistan. This support will be provided through the Department for International Development's Women's Political Participation Programme. Through the Asia Foundation, DFID will provide up to £4.5 million to help strengthen women's political participation as candidates, leaders and voters in the run-up to presidential, parliamentary and provincial council elections between now and the end of 2015.

4. The programme will do this in two ways: by building the political capacity of female candidates through training and mentoring; and by facilitating formal and informal community level discussions, to help broaden support for female Afghan political candidates. This work will form part of a wider programme to strengthen political governance institutions and processes in Afghanistan. The women's political participation component is being fast-tracked because of the elections planned for 2014. The programme complements our ongoing assistance to the Independent Electoral Commission (IEC), of which the UK is one of the largest supporters.

5. On the UK's wider project work to support women's rights in Afghanistan, we provide grants to strengthen civil society organisations in Afghanistan through the DFID-led 'Tawanmandi' programme. In the first two rounds of grant selection, 35 grants were awarded to organisations which either focus on women's rights or have women's rights as one of their main components. These include programmes on improving access to justice for women and support for advocacy of women's rights.

6. We have also increased our support for women's economic empowerment. For example, DFID's small-scale training and business initiatives have improved the livelihoods of thousands of Afghan women, including in Helmand. Our support to the Ministry of Interior is placing more emphasis on women's rights in the workplace, and supports the development of the Afghan National Police's policy on promoting human rights and protecting women.

7. In addition, we incorporate gender issues into our national-level programming in the justice and prison sectors, for instance funding training to female defence lawyers on issues that disproportionately affect female clients, such as family law.

8. On Sri Lanka you asked what objections the UK raised about the Commonwealth's decision that Sri Lanka would host the 2013 CHOGM, who raised them and how they were raised. The decision for Sri Lanka to host the 2013 Commonwealth Heads of Government Meeting (CHOGM) was taken at Port of Spain in 2009. The 2009 Port of Spain Communiqué stated that Commonwealth Heads of Government accepted Sri Lanka's offer to host CHOGM in 2013. Heads reaffirmed that decision at the 2011 CHOGM in Perth. The Communiqué is the only record of decisions made at the CHOGM retreat—there is no other record of business. At Perth in 2011, the Prime Minister made clear our concerns directly with the Sri Lankan President. As the Prime Minister was quoted as saying in October 2011,⁵⁰ *"we want [Sri Lanka] to do more in terms of reconciliation after the defeat of the Tamil Tigers. I've had that conversation myself with President Rajapaksa who's here. And I think that you know they should be aware of the fact that they're holding this Commonwealth Summit in 2013 and it's up to them to show further progress, so they can welcome the maximum number of countries when they do"*. The spotlight will be on Sri Lanka during CHOGM and we will lose no opportunity to highlight to Sri Lanka the need for effective commitment to the shared values and human rights for which the Commonwealth stands.

9. On Burma, you asked if the President's committee to review political prisoner cases had been set up. The Burmese government has taken initial steps on its commitment, made during the visit of President

⁵⁰ BBC Andrew Marr 30 October 2011 http://news.bbc.co.uk/1/hi/programmes/andrew_marr_show/9627898.stm

Obama in November 2012, to review the remaining political prisoner cases. The committee formed to start this process had its first meeting on 23 February and it is encouraging that it includes a strong range of independent voices from civil society organisations. This builds on the earlier promising step of granting access to prisoners and prisons by the International Committee for the Red Cross. However, it will be important to ensure that the committee feeds into a mechanism which impartially reviews all remaining cases, that it is independent of government, and operates in a transparent manner. We continue to press the Burmese Government on these points.

10. We also strongly welcome the President's commitment, during his recent visit to the UK in July, to release all political prisoners by the end of 2013. According to the Assistance Association for Political Prisoners Burma (AAPPB) (a NGO focused on political prisoner cases), since Burma's reforms began in 2011, President Thein Sein's government has released 29,449 prisoners, of whom 859 were political prisoners. The releases have taken place under nine separate amnesties, most recently when 23 political prisoners were freed on 17 May. There is no agreed figure for how many political prisoners remain in jail. Several credible local organisations, including the 88 Generation and the AAPPB estimate that around 160 political prisoners now remain in detention. Most of the amnesties over the last two years have been carried out under 'Act 401'. As such, they have mostly been conditional releases, with a provision that if an individual is convicted of a new offence, that individual can be instructed to serve the remainder of his/her original sentence. In response to our expressions of concern on this issue, President Thein Sein made a statement on 4 June in which he committed to ensure the unconditional release of all political prisoners. During his recent visit to the UK, he announced that all detainees found to be political prisoners would be released by the end of this year.

11. You also asked for our view on recommendations in the Rakhine Investigation Commission report and on an international investigation into allegations of violations targeting the Muslim community. We are extremely concerned by allegations of human rights violations in Rakhine State. The Prime Minister and Foreign Secretary raised our concerns about the continuing plight of the Rohingya community with President Thein Sein during his recent visit to London on 15–16 July. We welcomed the President's announcement that the Nasaka security force, accused of widespread human rights violations, will be abolished.

12. We have consistently made clear to the Burmese government that where serious crimes have been committed, including in Rakhine, those who have perpetrated them must be held accountable for their actions. The Rakhine Investigative Commission, set up to investigate the causes of last year's violence, emphasised the importance of ensuring accountability, and President Thein Sein has endorsed this.

13. This accountability needs to be delivered through a clear and transparent investigative and prosecutorial process that meets international standards. Further independent investigative work to establish fully the facts would be required for an informed assessment as to whether ethnic cleansing and crimes against humanity have been committed in Rakhine. We believe that a national process would be more effective in furthering accountability than a UN-mandated Commission of Inquiry into the situation in Rakhine State. The UN has mandated a Special Rapporteur, Tomás Quintana, to monitor and report on human rights issues in Burma, and this should be the primary mechanism for UN engagement on these issues. We will continue to lobby the Burmese government to allow the opening of a country office of the UN High Commissioner for Human Rights, with a strong mandate which allows them to monitor the human rights situation in all parts of the country.

14. On Russia, you asked for details on what was discussed at the most recent UK/Russia Human Rights dialogue. The following issues were raised during the 8 May UK/Russia human rights dialogue: the need for NGOs to be able to operate freely, with specific reference to the pressure on the NGO Golos, as a result of the "Foreign Agent" law; the treatment of the 6 May Bolotnaya protesters and the band 'Pussy Riot'; the treatment of the opposition and the cases against Navalny; LGBT rights and the proposed laws against LGBT people; the need for a thorough and transparent investigation into the deaths of Sergei Magnitsky's and Natalya Estemirova; the release of Mikhail Khodorkovsky; reported concerns about human rights abuses associated with preparations for the Sochi Winter Olympics; and disabled people's rights. As I said during the evidence session, the Government has significant concerns about the pressure being placed on NGOs across Russia. The Minister for Europe, David Lidington released a statement in March highlighting these concerns, urging the Russian government not to place groups advocating the protection of fundamental freedoms under special scrutiny.

15. You also asked what involvement we have had on Russia/Schengen visa arrangements, focusing on what human rights arguments, if any, we had made to other EU Member States. The UK is not part of Schengen, but we view this in terms of the wider EU-Russia relationship. We do not play an active part in formal negotiations, but we do discuss the importance of the visa relationship with Russia with other EU member states, and consider its implications for the UK. During these discussions we frequently highlight with member states where the EU should focus its efforts, including a firm approach on human rights. When the EU's relations with Russia were discussed at the European Council in March, the Prime Minister and other leaders agreed the importance of the EU maintaining a unified approach with one of its key strategic partners.

16. On Colombia, there was a suggestion from ABColombia that certain Colombian NGOs were not seeking funding from the British Embassy in Bogota because they were not prepared to work alongside the Colombian government. We operate an open bidding process, to ensure the full spectrum of Colombia's civil society can apply and this ensures we receive a diverse range of ideas for projects. Funding is allocated

to high quality bids that match our bidding criteria, and in no case have we specified that we will only accept bids from organisations working with the Colombian Government. In our experience projects that can leverage host government support or engagement are more likely to achieve change, but we continue to support work that challenges host country views, and we do not believe that change is impossible without host government support. Overall, we are supportive but not uncritical of President Santos and his Government.

17. **I committed to write on the issue of returns to Sri Lanka, following the recent judgement of the Upper Tribunal of the Immigration and Asylum Chamber.** I have consulted the relevant team in the Home Office, and hope the update below is useful.

18. The Upper Tribunal of the Immigration and Asylum Chamber in the country guidance case of GJ and Others, considered a wide range evidence, including the allegations that returnees from the UK and other countries have faced torture. They concluded that not all Sri Lankans, including Tamils in general, are at risk on return to Sri Lanka.

19. GJ and Others replaces all previous Sri Lanka country case law and provides updated guidance on the “at risk categories” for return to Sri Lanka. This new law is being reflected in an updated Operational Guidance Note, which we aim to publish by the end of July.

20. Caseworkers are also being instructed that all new and existing applications for international protection from Sri Lanka nationals must be assessed in line with the new risk categories identified by the Tribunal. The Home Office monitors the situation in asylum-producing countries, using a wide range of recognised and publicly disclosable governmental (including the FCO), media, and non-governmental and human rights sources, including Amnesty International and Human Rights Watch. Detailed guidance is provided to caseworkers on determining claims from Sri Lankan asylum applicants and this is published on the Home Office website. In addition, decision makers have access to an information request service, which provides rapid responses to specific country-based enquiries. This service ensures that those involved in the decision making process have the most up to date information available to them. In line with UNHCR guidelines caseworkers carefully assess the protection needs of each claim on its individual merits against this background of published country information and operational guidance.

21. May I take this opportunity to thank you and the Committee once again for the valuable role you play in scrutinising the FCO’s Annual Report on Human Rights, and the our wider work in this area.

July 2013

Letter from the Rt Hon William Hague First Secretary of State, Secretary of State for Foreign and Commonwealth Affairs

Thank you for your letter of 14 May about the Commonwealth Heads of Government meeting (CHOGM) in Colombo.

You raise a number of questions on how the decision to hold CHOGM in Colombo was taken and what process existed to challenge this decision.

The Commonwealth is a consensus based organisation. The decision to hold CHOGM in Sri Lanka in 2013 was taken at the 2009 Port of Spain CHOGM, where Sri Lanka’s offer to host CHOGM was discussed by Foreign Ministers before being referred to Commonwealth Heads to decide. All Commonwealth Heads agreed a package that included Australia’s bid to host in 2011 and Mauritius in 2015.

Sri Lanka had originally offered to host in 2011, something the UK and a number of likeminded governments did not support due to concerns over the political and humanitarian situation in Sri Lanka, including lack of access to IDP camps. The UK therefore strongly supported Australia’s offer to host CHOGM in 2011.

When the issue of hosts for 2013 and 2015 was raised in the 2011 CHOGM in Perth there was no consensus amongst member states to revisit the decision made in Port of Spain for Sri Lanka to host CHOGM in 2013. We must now work within the confines of the situation to do the best we can to make a difference at CHOGM.

The Commonwealth Secretariat is responsible for identifying the venue for CHOGM and it is for Commonwealth Heads to agree to either support or oppose the proposals. The UK made clear to the Secretary-General and Sri Lanka prior to and during the 2009 CHOGM in Port of Spain that we would be unable to support Sri Lanka’s bid to host in 2011. We are not aware of the Secretariat receiving any bids from other Commonwealth members to host CHOGM in either 2011 or 2013, with the exception of Australia.

Commonwealth Heads did not make their acceptance of the 2009 decision to hold CHOGM in Sri Lanka in 2013 conditional on specified improvements in standards of human rights in Sri Lanka. However, we have been clear that the host for CHOGM should demonstrably embody our shared Commonwealth values. We continue to urge Sri Lanka to make progress in implementing the Lessons Learnt and Reconciliation Commission (LLRC) recommendations, which Sri Lanka set up in 2010; hold free and fair Northern Provincial Council elections in September; and allow unrestricted freedom of movement for Commonwealth Heads, media and non-governmental organisations attending CHOGM in November.

We will continue to seek opportunities, bilaterally and in other multilateral fora, to urge the Government of Sri Lanka to uphold Commonwealth values, and we will not hesitate to highlight any negative developments or lack of progress against Sri Lanka's commitments both before and during CHOGM. If Sri Lanka does not make demonstrable progress they will clearly face increasing international concern and criticism, as we have already seen through increased support for the 2013 UN Human Rights Council resolution compared to 2012.

I can assure you and members of the Foreign Affairs Committee that this is not a decision that the Prime Minister and I have taken lightly. We have carefully considered the arguments both for and against our attendance. We share the FAC's wish to see substantial and sustainable improvements in human rights in Sri Lanka, but we do not believe this will be achieved through the UK choosing to boycott CHOGM. I see CHOGM as an opportunity to highlight the need for effective commitment to the shared values and human rights for which the Commonwealth stands and the Prime Minister and I fully intend to exploit this opportunity. I also plan to meet with a range of interlocutors in country and see for ourselves the situation on the ground. I will encourage others attendees to do the same and make clear to the Government of Sri Lanka the need for free access and travel for civil society, media and visiting delegations.

The Government is a strong supporter of the Commonwealth and we firmly believe that it can continue to be a force for good around the world, promoting its core values. This should not be overshadowed by the location of CHOGM in Sri Lanka.

30 June 2013

**Supplementary written evidence from the Rt Hon Baroness Warsi PC, Senior Minister of State,
Foreign and Commonwealth Office**

My colleague, the Rt Hon Hugo Swire, wrote to you on 27 March noting that the Foreign and Commonwealth Office (FCO) would provide more information on the arrangements for monitoring bodies in relation to Deportation with Assurances (DWA). I apologise for the delay in replying.

The FCO's response to the Foreign Affairs Committee's recommendations in relation to the 2012 Annual Human Rights Report was that we would provide details of current monitoring bodies and arrangements made for follow-up monitoring separately to the Committee.

The UK has DWA arrangements with Algeria, Morocco, Jordan, Lebanon and Ethiopia. The DWA Memorandum of Understanding (MoU) with Libya is no longer considered operational and no one has ever been returned there under the terms of the DWA MOU. The monitoring provisions for each arrangement vary due to the agreements with each individual country.

The UK's Terms of Reference and DWA MoU with Ethiopia, Jordan and Lebanon allow the nominated monitoring body frequent and unannounced access to individuals detained following their removal from the UK. The monitoring terms of reference for these countries also require that visits are conducted in private, with an interpreter if necessary, by experts trained to detect physical and psychological signs of torture and ill-treatment. Monitors can also arrange for medical examinations to take place at any time if they have concerns over a detainee's physical or mental welfare. An MoU was signed with the Moroccans in 2011 and the monitoring arrangements for the UK's DWA arrangement are being finalised. The UK's DWA arrangement with Algeria consists of an exchange of letters between the UK and Algerian governments. The monitoring arrangements for Algeria are carried out by our Embassy in Algiers, and allows for returned individuals and their families to contact it if they have any concerns about the treatment of the individual on return.

The monitoring bodies currently working with us on DWA are: the Ethiopian Human Rights Commission in Ethiopia, the Adaleh Centre in Jordan and the Institute of Human Rights in Lebanon. A specimen terms of reference of the duties we would ordinarily expect monitoring bodies to carry out is enclosed. When identifying a third party to act as a monitoring body we will consider a number of factors. These can include our existing relationship and knowledge of the third party organisation, open source reporting, independently commissioned reports to establish independence and capacity to fulfil the role, as well as detailed discussions with the third party themselves. A monitoring body must also be able to report to the UK government.

I hope this reassures the Committee that the UK's DWA monitoring mechanisms are effective and ensure the FCO's safety on return responsibilities are fully met.

SPECIMEN: TERMS OF REFERENCE FOR MONITORING BODY

1. Key features of Monitoring Body

- (a) The Monitoring Body must be **independent** of the government of the receiving State, ie:
- the State must have no influence over the mandate of the Body nor over its existence/composition, even on a change of government;
 - the Body's personnel must be independent of the State;
 - the Body must be financially independent⁵¹

⁵¹ This does not exclude state funding as long as there are no conditions attached to that funding.

— the Body must be able to produce frank and honest reports.

- (b) The Monitoring Body must have **capacity** for the task, ie have experts (“Monitors”) trained in detecting physical and psychological signs of torture and ill-treatment. The Body must have, or have access to, sufficient independent lawyers, doctors, forensic specialists, psychologists, and specialists on human rights, humanitarian law, prison systems and the police.

2. *Journey to receiving State*

A Monitor should accompany every person returned under the MOU (“returned person”) throughout their journey from the sending State to the receiving State, and should go with them to their home or, if taken to another place, to that place.

3. *Accessibility to persons not in detention*

- (a) Before leaving a returned person at their home or other destination, the Monitor should obtain his or her contact details, and should obtain the contact details of one other person of the returned person’s choosing (“next of kin”) who generally has knowledge of the returned person’s movements and is willing to participate in the monitoring arrangements. The Monitor should provide both the returned person and the next of kin with the Monitoring Body’s contact details.
- (b) For the first year after the person returns, a Monitor should contact him or her, either by telephone or in person, on a weekly basis. If the returned person is unavailable on any occasion, the Monitor should instead contact the next of kin.
- (c) At all times, the Monitoring Body should be accessible to any returned person or next of kin who wishes to contact it, and should report to the sending State on any concerns raised about the person’s treatment or if the person disappears.

4. *Visits to detainees*

- (a) When the Monitoring Body becomes aware that a returned person has been taken into detention, a Monitor or Monitors should visit that person promptly.
- (b) Thereafter, Monitors should visit all detainees frequently and without notice (at least as frequently as the MOU permits; Monitors should consider requesting more frequent visits where appropriate, particularly in the early stages of detention).
- (c) Monitors should conduct interviews with detainees in private, with an interpreter if necessary.
- (d) Monitoring visits should be conducted by experts trained to detect physical and psychological signs of torture and ill-treatment. The visiting Monitor or Monitors should ascertain whether the detainee is being provided with adequate accommodation, nourishment, and medical treatment, and is being treated in a humane and proper manner, in accordance with internationally accepted standards.
- (e) When interviewing a detainee, a Monitor should both encourage frank discussion and observe the detainee’s condition.
- (f) Monitors should arrange for medical examinations to take place promptly at any time if they have any concerns over a detainee’s physical or mental welfare.
- (g) The Monitoring Body should obtain as much information as possible about the detainee’s circumstances of detention and treatment, including by inspection of detention facilities, and should arrange to be informed promptly if the detainee is moved from one place of detention to another.

5. *Fair trial*

In order to monitor compliance with the right to fair trial, Monitors should have access to all court hearings, subject to the requirements of national security.

6. *Specific assurances*

Monitors should ensure that they are mindful of any specific assurances made by the receiving State in respect of any individual being returned, and should monitor compliance with these assurances.

7. *Reporting*

- (a) The Monitoring Body should provide regular frank reports to the sending State.
- (b) The Monitoring Body should contact the sending State immediately if its observations warrant.

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