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SESSION 2012-13

THE FCO'S HUMAN RIGHTS WORK IN 2011

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

Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty

December 2012

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The FCO's Human Rights Work in 2011

The Government welcomes the attentive scrutiny of its human rights work during 2011 carried out by the Foreign Affairs Committee. The Government agrees with the FAC's assessment that the UK has a strong record in upholding human rights across the world. We welcome the FAC's comment that our Annual Report on Human Rights and Democracy for 2011 provides ample evidence of our work in promoting higher standards of human rights abroad, sometimes in difficult circumstances. We were pleased that the FAC recognise the considerable effort that went into the production of the FCO's Annual Human Rights Report for 2011. We have taken steps to strengthen our human rights reporting over the last two years in response to direction from Ministers and feedback from the FAC and others. We will continue to ensure that our reporting is targeted to meet the needs of Parliament and our national and international readership.

This Command Paper sets out the Government's response to the Foreign Affairs Committee's report of 17 October 2012 into the Foreign and Commonwealth Office's Human Rights Work in 2011. The Committee's recommendations are set out in bold. Unless otherwise indicated, references are to paragraphs in the Foreign Affairs Committee Report (HC116).

The FCO's 2011 Human Rights and Democracy Report

- 1. We congratulate the FCO's Human Rights Department on the considerable effort which has gone into the 2011 Human Rights and Democracy Report. We strongly welcome the FCO's decision to continue publication of the report in printed form. (Paragraph 6)**

The Government is committed to the publication of an annual FCO human rights and democracy report, including in printed form. We believe that it is an important part of the process to enable Parliament, civil society and the wider public to hold the Government to account on the FCO's human rights work. We believe that publishing a limited number of hard copies allows for greater and easier access to the report. We are continually seeking to improve the report and we welcome continued Parliamentary and public scrutiny as an important part of that process.

- 2. We believe that the value of the FCO's annual report on human rights and democracy would be enhanced considerably if it were to provide some form of assessment of the FCO's work. We recommend that the FCO, in next year's report, experiment with accountability measures for some of its human rights programmes, for instance by setting benchmarks, targets and indicators. (Paragraph 7)**

We acknowledge that last year's Annual Report focused more on the UK's progress and achievements in promoting human rights globally, as well as setting out the challenges ahead, and that the Report therefore has more to say on what we actually did, rather than what the outcomes of our activities were. The Government agrees that it is important to evaluate the impact of our work to ensure effective accountability. The FCO has begun to do this in other areas by endeavouring to review the impact of our work against 18 priority foreign policy outcomes with the setting of milestones and targets. We will attempt to reflect this approach in relation to our human rights work where possible in next year's Annual Report. We are also considering how we can improve the measurement of the impact of our Human Rights and Democracy Programme Fund in order better to evaluate the delivery of the projects we fund.

3. We support the approach being taken by the Government in negotiations on EU accession to the European Convention on Human Rights. Paragraph 13)

We note the Committee's comments on the Government's approach to EU accession to the ECHR, and its general endorsement of our approach to date. We will continue to keep the Committee updated on any significant developments as negotiations progress.

Women's human rights

4. We ask the FCO to indicate what steps it is taking to safeguard the rights of women and girls in Afghanistan from 2014. (Paragraph 16)

Responsibility for safeguarding the rights of women and girls in Afghanistan lies with the Afghan government both now and after 2014. However the international community has an important role to play in helping the Afghan government to develop its capacity to safeguard those rights, and in scrutinising and challenging them on their record as appropriate.

At recent international conferences the Afghan government made important commitments to uphold their human rights obligations, as well as recognising the importance of women's participation in the political process. We have made clear, both publicly and privately, that we expect them to keep these commitments and will support them in their efforts to do so.

In particular, at the Tokyo Development Conference of 8 July, the international community and the Afghan government made long-term commitments to address Afghanistan's essential development needs up to transition and beyond. International partners pledged \$16bn in development aid up to 2015 and promised to continue at similar levels to those in the last decade until at least 2017. This support will depend on the Afghan government implementing the reform commitments set out in the Tokyo Mutual Accountability Framework

(TMAF). The Framework sets out a commitment to uphold progress on women's rights and in particular to work towards women's equal participation in the 2014 Presidential elections and implementation of the Elimination of Violence Against Women Law. We welcome these commitments and will continue to push for their implementation. At the request of the Afghan government, the UK agreed to co-chair the first ministerial review of progress against the Tokyo commitments in 2014. We therefore intend to play a major role in holding the Afghan government and partners to account for their commitments to each other.

Bilaterally, the Prime Minister and President Karzai signed the UK-Afghanistan Enduring Strategic Partnership document on 28 January 2012, reaffirming both governments' commitments to a long term partnership and friendship, including "respect for human rights in Afghanistan's institutions, including those of Afghanistan's women and minorities." The Enduring Strategic Partnership Document also included a commitment to establish a Joint Commission to conduct an annual review of the implementation of the partnership.

On 16 October, during her recent visit to Afghanistan, Senior Minister of State Baroness Warsi co-chaired, with Deputy Foreign Minister Jawad Ludin, the first meeting of the UK-Afghan Joint Commission to review the implementation of the Enduring Strategic Partnership. The Ministers reaffirmed the political importance of the Partnership for both governments and reiterated their commitment to the protection of human rights, especially the rights of women. They also underlined the need to fully implement the TMAF.

We support women's rights in Afghanistan through our UK National Action Plan (UK NAP) on United Nations Security Council Resolution 1325 on Women, Peace and Security, which contains a country action plan for Afghanistan. This plan includes activities to support Afghan women's empowerment in areas such as education, economic opportunities and participation in public life.

We will continue to work closely with the Afghan government, Afghan institutions and civil society organisations, and international partners to improve the status of women in Afghanistan, so they can participate as fully as possible in a future, peaceful Afghanistan.

5. We request that the FCO inform the Committee what steps it is taking to encourage the Iraqi government to ban female genital mutilation across Iraq and to have this practice banned world-wide. (Paragraph 17)

Through our role working with British companies active in the Iraqi market, we have this year encouraged Clifford Chance LLP to fund a project to raise awareness of the legal and health issues concerning female genital mutilation (FGM). The funds were used to establish a toll-free hotline located in the Suleimaniya office of the Association for Crisis Assistance and Solidarity Development Cooperation (WADI), a German-Iraqi NGO, on 1 June 2012. The hotline is run by two female staff from WADI, one Project Manager and one

social worker trained in telephone counselling. The project also benefits from some close contacts with leading anti-FGM experts in Egypt who are sharing with WADI's staff their decades-long experiences on how to promote most effectively the abandonment of FGM. The callers (of which there are about 10-15 daily) are put straight through to a lawyer, doctor or psychologist, or where necessary, given time to call back.

Although the Government does not fund any projects to combat FGM outside UN programmes, we recognise the seriousness of the issue and continue to monitor developments in both the Kurdistan Region and Federal Iraq.

We continue to support efforts to improve the position of women in Iraqi society, working closely with the UN, EU and other international partners. We are funding a training project run by the Westminster Foundation for Democracy to increase female parliamentarians' participation in the Kurdistan parliament. Following the success of a similar project in the Kurdistan Region, we are also funding a police training project in Baghdad aimed at developing a more effective police response to incidents involving violence against women.

6. We ask the FCO to indicate what steps it is taking to safeguard the rights of women and girls in Pakistan and world-wide. (Paragraph 18)

Women's rights remain a priority for UK engagement with Pakistan. The UK supports women's rights in Pakistan by working with the government of Pakistan to strengthen and fully implement existing legislation to tackle domestic violence against women. In addition we helping increase the number of female voters in the upcoming elections by working with Pakistani NGOs to provide voter education in those areas where female turnout was zero in 2008.

We encourage the government of Pakistan to implement the human rights instruments that it has ratified, including through the Prevention of Anti-Women Practices Bill and the Acid Crime Prevention Bill. Embracing core international human rights conventions is a pre-condition for Pakistan gaining preferential trade access to the EU through GSP+. We regularly lobby for better legislation and structures in the areas of child and maternal health and women's rights. In the lead up to elections in 2013 we are working with civil society groups to increase female voting turnout in areas where female turnout was particularly low in the previous elections in 2008. Last year at the Commonwealth Heads of Government Meeting in Perth we organised a seminar on women including participation by Pakistan's Foreign Minister. During her visit this month, Baroness Warsi emphasised the importance of women being able to vote freely in the elections in Pakistan. Through the Human Rights and Democracy Programme Fund we are also supporting a £60,000 project that seeks to enhance the capacity of journalists to produce balanced and gender sensitive reporting on women's issues.

7. We commend the Government for signing the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, although we are concerned that the delay in signature—and the failure to explain publicly the reasons for the delay—may have damaged perceptions of the UK's commitment to women's human rights. (Paragraph 20)

The UK is strongly supportive of the principles in the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Tackling violence against women is a priority for this Government. We already have some of the most robust protections in the world, and we already comply with the vast majority of the articles of the Convention. However, the Government needed to ensure that we were able to meet all the articles before a decision to sign could be made.

As part of our consideration, we held a public consultation, from December 2011 to March 2012, on whether to create a new offence of forced marriage. Following assessment of the consultation responses, on 8 June the Government announced our intention to criminalise forced marriage. We signed the Convention on the same day.

The Government is delighted that we have been able to sign the Convention, which reflects our strong commitment to combating violence against women and promoting women's rights more broadly.

Children's human rights

8. We recommend that the FCO undertake urgent work to address negative perceptions among voluntary sector groups of its commitment to children's human rights abroad. (Paragraph 23)

The protection and promotion of children's rights, including those of children in armed conflict and children at risk of abduction, form an integral part of the FCO's wider international human rights agenda, although it is not one of the FCO's six global thematic priorities. The organisation of our work reflects this. We work to advance universal standards on children's rights mainly through the United Nations and other international institutions, although our embassies and high commissions also play an important role in supporting initiatives to improve the situation for children worldwide. In 2012, the FCO has hosted a Wilton Park Conference on Children in Armed Conflict which was attended by civil society organisations, academics and government officials. And in developing our strategy on business and human rights we gave consideration to the state's duty to protect human rights, including those of children, and also to the Children's Rights and Business Principles, recently launched by UNICEF, the Global Compact and Save the Children.

Improving girls' rights, including their security and access to justice, is also an important goal of the work of the Ministerial Champion for tackling violence against women and girls, DFID Parliamentary Under Secretary of State Lynne Featherstone. The Ministerial Champion engages governments overseas and supports local voluntary groups, and works to ensure that all Government Ministers carry consistent messages on the importance of the rights of women and girls when travelling overseas. The Ministerial Champion is supported by DFID resources, including from DFID's violence against women and girls team.

We welcome the Committee's suggestion that we should include details of FCO activities to support child victims of armed conflict in future annual reports. We will do this in our next report. We will also continue to include information on children's rights issues, where relevant, in the Countries of Concern section of our report.

The Foreign Secretary's Advisory Group on Human Rights has played an important role in providing the Foreign Secretary with independent external advice on human rights and foreign policy. We are currently evaluating the effectiveness of the Group, and will consider the Committee's suggestion to extend membership to include a child rights expert as part of this review.

FCO policy development and staffing

- 9. We recommend that the Secretary of State's Advisory Group adopt a more consultative format for its meetings and that specific draft policy proposals be put regularly to the Group for comment and advice. (Paragraph 27)**

We regularly consult with Advisory Group members in advance of, and during meetings on human rights foreign policy, including consulting them on draft policy proposals. The Advisory Group's input has helped us to formulate and develop strategies in a number of areas, in particular on Business and Human Rights, and Freedom of Religion or Belief. In addition to consulting the group during its formal meetings, we also canvass views from members on issues they would like raised at the meetings and key areas of concern to help shape the meeting's agenda and we consult them by e-mail on urgent topical issues.

For example, we engaged the group in a session to consider how we might better influence civil society groups in the emerging powers to hold their respective governments to account on human rights issues, and have subsequently encouraged them to bid for project support in this area. In preparation for the next annual report, we have just consulted the Advisory Group as part of our review of the criteria for the selection of Countries of Concern. In doing so we put a specific policy proposal to them, as envisaged in the Committee's recommendation. We have used their advice to inform the

agreed criteria and questions as part of consultation process we will conduct with our missions overseas and geographical desks in London. We intend to report fully on this process in the 2012 Annual Report.

We are now in the process of evaluating the effectiveness of the Advisory Group and have conducted a survey of its members. Their responses will help inform the future direction of the Group, including how we can improve its effectiveness. We are happy to consider, as part of that process, how we can make further use of the group's expertise on specific policy proposals, subject to practical constraints such as timeframes for decision-making.

In addition, the Senior Minister of State, Baroness Warsi, chairs expert sub-Groups on abolition of death penalty, torture prevention and freedom of expression on the internet. We also regularly involve these sub-Groups in policy development, seeking their views on where we should concentrate our efforts. For example, advice from the death penalty sub-Group has shaped both our overarching strategy on abolition and our operational lobbying, such as which countries to target, in support of the 2012 UNGA Resolution on the death penalty, which was approved by the UN General Assembly in November.

10. We request that the FCO inform us what training on human rights and on relevant strategy documents is provided for FCO staff during their careers, how the FCO's human rights objectives are reflected in staff job descriptions, and how individual performance in pursuit of those objectives is evaluated. (Paragraph 31)

The Human Rights & Democracy Department (HRDD) oversees delivery of the FCO's human rights training. The FCO offers two formal training packages. The structure and content of FCO training courses has been modified over the past 12 months, in response to course evaluations, the FCO's new priorities and the contracting of new training providers.

An introductory awareness level course is delivered over two days, six times per year, by HRDD staff and the University of Nottingham Human Rights Centre under contract. The first day aims to introduce staff to the concept of human rights and the international framework. The second day introduces staff to FCO thematic human rights strategies and action plans, and how the FCO works on human rights in UK foreign policy. It is delivered to about 120 staff annually. The course is recommended for all staff carrying out policy work, both in the UK and overseas.

An advanced practitioner level course is delivered over five days, twice per year, under a contract with Premier Partnership delivered by the University of Nottingham Human Rights Centre and the Centre for Political and Diplomatic Studies. Expanding on the introductory course and using leading external

experts working closely with current and former officials, it focuses on the practical application of the FCO's human rights priorities by diplomats and officials overseas. The course is available to all FCO staff, but targeted at those whose job includes a significant amount of human rights work. It is delivered to about 32 staff annually.

These formal training courses are supported by HRDD's overall Diplomatic Excellence strategy and action plan, which includes flexible human rights training to respond to identified needs, such as human rights case studies and policy workshops for geographical directorates, negotiating UN human rights resolutions, and the UN Universal Periodic Review process.

Two new one-day training courses have also been introduced this year. The first, on Freedom of Religion and/or Belief, will be run by the Woolf Institute from Cambridge and the FCO's Human Rights & Democracy Department. The course will examine the role of religion in shaping foreign policy, drawing on case studies from FCO staff with a particular focus on Middle East, North Africa and South Asia. The second, on the Holocaust, other genocides and contemporary forms of anti-Semitism, is being developed for the FCO by the London Jewish Cultural Centre.

The FCO's performance management system is based on an evaluation of objectives (the significant achievements, outcomes and products a person has delivered) and competences (the behaviours and values they have demonstrated in delivering these objectives). Operational objectives focus on the key elements of a person's work through the year and cascade from their Directorate/Country Business Plan. These plans are based on the FCO's priorities, one of which is "Use soft power as a tool of UK Foreign Policy; promote British values including human rights and contribute to the welfare of developing countries and their citizens".

Human rights issues crop up in the work of almost all posts and most geographical and functional departments. Responsibility for dealing with them is mainstreamed across the FCO. We expect those with bilateral human rights responsibilities in the UK and overseas, and those in the Human Rights and Democracy Department, to have specific measurable objectives focussed on human rights. These will be evaluated throughout the year, with people being assessed annually on their performance against their objectives.

Countries of concern

11. We recommend that, despite the difficulties inherent in the concept, the FCO should continue to designate "countries of concern". (Paragraph 42)

The Government agrees with the Committee's recommendation. We are

committed to improving the process, and making it as transparent as possible.

12. We believe that Bahrain should have been designated as a country of concern in the FCO's 2011 report on human rights and democracy. (Paragraph 43)

As the Committee notes in its report, we introduced “case studies” for the first time in the 2011 report, as a deliberate step to strengthen our reporting process, in light of fast moving events in particular countries, of which Bahrain was one. This process has allowed us to include countries where there were significant human rights concerns, but which we judged did not fully meet our criteria for inclusion as full “Countries of Concern”. In the course of the year we further developed our quarterly online reporting process by adding periodic reports on our case study countries. These additional reports will allow us to measure the trajectory of change in each case study country, which will give us a firmer evidence base when we come to decide which countries should feature in the 2012 report.

Bahrain is, in many ways, has a better record on human rights and social issues than many countries in the region. It gives higher status and greater freedom to women than many other countries: for example more than 25% of representatives in the Shura Council, the appointed upper house, are women. Citizens are allowed to practice their religion freely and there are a number of churches, temples and synagogues within the Kingdom.

That said, long-standing concerns about perceived discrimination, corruption and marginalisation came to a head in February 2011 as the Arab Spring unfolded across the region. The movement quickly spread following the deaths of protestors, and then grew more militant and sectarian as the Bahraini security forces and some protestors responded violently. Following the lifting of the State of Emergency in June, a National Dialogue was announced and further progress was made when the King established an unprecedented Independent Commission of Inquiry the following month. As the Foreign Secretary said in his statement to the House of Commons on 28 November 2011, this was the first time that any government in the region had set up an international investigation into allegations of abuse, and we welcome King Hamad’s pledge to use the report as a “catalyst for change” to overcome the country’s divisions. This was an important step in Bahrain’s path towards reform and reconciliation and we are encouraging the Bahrain government to move faster in implementing the Commission’s recommendations in full.

Clearly the Bahraini Government needs to do much more. The FCO’s new quarterly review system provides an additional means by which we can effectively express our concerns; we will continue to do so until the necessary reforms have been implemented and respect for human rights is firmly embedded.

- 13. It is inevitable that the UK will have interests which have the potential to conflict with its human rights values: these interests might, for instance, be strategic, commercial or security-related. In pursuing these alongside its human rights work overseas, the UK runs the risk of operating double standards, and our view is that it would be in the Government's interest for it to be more transparent in this respect and for Ministers to be bolder in acknowledging that there will be contradictions. Rather than trying to assert that the two can co-exist freely, part of the Government's role should be publicly to set out and explain its judgments on how far to balance them in particular cases, having taken into account the need to adapt policy according to local circumstances and developments. (Paragraph 45)**

The Government does not agree that our strategic, commercial or security interests cannot co-exist with our human rights objectives. Our foreign policy helps create our prosperity and our prosperity underwrites our diplomacy, our security, our defence and our development policy. We firmly believe that in order to inspire confidence as an international trade and investment partner, a country needs to uphold the rule of law and respect the human rights of its people. Instability and insecurity overseas impacts directly and indirectly on the UK, and is exacerbated by lack of respect for human rights and the absence of democracy. We cannot achieve long term security and prosperity unless we uphold our values. Likewise, we raise our concerns about human rights wherever and whenever they arise, including with countries with which we are seeking closer ties in other areas.

Our vision is a distinctive British foreign policy that promotes our national interest and remains true to our values. We will base our choices of action on the facts of each case, and what we judge most likely to influence change for the better. The promotion of human rights and democracy is always central to those considerations. We will continue to take every opportunity to explain this approach to Parliament and the public at large.

- 14. We recommend that the FCO revise its criteria for designating "countries of concern". Decisions on designation, if they are to have maximum credibility, should be based purely upon assessments of human rights standards and should stand up to objective comparison. External factors, such as strategic considerations or the UK's ability to influence developments, should not be allowed to colour those decisions, although they might usefully guide decisions on where to concentrate funding for human rights programmes. If, despite our recommendations, the FCO chooses to continue to use existing criteria, we recommend that the Department uses more flexibility in allocating funds from human rights programme budgets to countries which are not "countries of concern"**

and where human rights failings are less severe, but where the chances of a lasting beneficial impact are reasonably high. (Paragraph 46)

We are committed to the continual strengthening of our human rights reporting process to ensure that it is as timely and effective as possible. We have listened carefully to a wide range of views, including members of the Foreign Secretary's Advisory Group on Human Rights, and have used their comments to refine the criteria we will use for deciding on the list of Countries of Concern in next year's report. We will report fully on the criteria we have used as part of our 2012 report.

We agree that programme funds should be allocated flexibly. In addition to the FCO's dedicated Human Rights & Democracy Programme Fund (£6.5m in 2012-13), other FCO programme funds support human rights and democracy work within their mandates (e.g. the £40m four-year Arab Partnership Participation Fund), as do Embassies and High Commissions through their own bilateral programme funds. The FCO also provides grant-in-aid funding for the Westminster Foundation for Democracy (£3.5m in 2012-13). The result is that human rights and democracy funding is spent worldwide and not exclusively on Countries of Concern. We intend to report more fully on the FCO's global spend on human rights and democracy in the next Annual Report

Torture

15. We strongly welcome the publication by the FCO of the Strategy for the Prevention of Torture 2011-15. We believe that there is merit in keeping a tight focus to the Strategy, and we do not support suggestions that its scope should be widened to cover policy on reparations for victims of torture, as this needs to be considered on a case by case basis (Paragraph 52)

The Government agrees with the Committee on the merits of the FCO Torture Prevention Strategy and the recommendation that it should retain its focus on prevention. We will report more fully on achievements to date under the Strategy in the 2012 Report.

16. We find it unsatisfactory that the Government has not been more forthcoming to Parliament about its efforts—in general and in specific cases—to assess the level of risk to the safety of those who are removed from the UK. (Paragraph 56)

The Government takes its international responsibilities seriously and fully complies with all of its international obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the European Convention on Human Rights (ECHR). The UK Border Agency carefully considers all

asylum and human rights applications in accordance with its international obligations against the background of the latest country information.

The Government believes that the right approach is to consider the needs of individuals in the light of their particular circumstances. Where a decision has been made that a person does not require international protection and there are no remaining rights of appeal or obstacles to their return, individuals are expected to return to their country of origin.

If the UK Border Agency receives any specific allegations that a returnee has experienced ill-treatment on return to their home country, then these are checked, including through the FCO who, where necessary, will make discreet enquiries, often through NGOs or other third parties. However the UK Border Agency does not actively monitor returnees and indeed doing so could, of itself, place the individual at risk.

The UK Border Agency's returns policy is kept constantly under review and decisions as to where to return will be taken in the light of prevailing circumstances. The return of individuals is not enforced unless it is safe to do so.

The concerns raised by the FAC in relation to Sri Lanka have been noted. However, the UK Border Agency has fully considered the allegations of mistreatment, amounting to torture, of returnees to Sri Lanka and published its policy position in a Bulletin in October 2012. This bulletin is available on the UK Border Agency's web site at: <http://www.ukba.homeoffice.gov.uk/>

17. We welcome the new channel of communication established between FCO officials, non-governmental organisations and the UK Border Agency to discuss the assessment of risk to those who are removed from the UK. We encourage the FCO to be energetic in evaluating reports by non-governmental organisations and media sources of torture of deportees from the UK, including in Sri Lanka, and in spelling out the risk to the UK Border Agency. We also request that the Government clarify the division between the roles of the FCO and of the UK Border Agency's Country of Origin Information Service in gathering the intelligence needed to make accurate assessments of the risk to deportees upon their return to their country of origin. (Paragraph 58)

It is the role of the UK Border Agency's Country of Origin Information Service is to research and collate information on countries giving rise to asylum claims in the UK, including the risk on return to those countries. It also informs the removal decision. (It should be noted that this is best referred to as country information and not "intelligence" which sometimes has a more restricted meaning than is intended here). Information is compiled from a wide range of reliable external information sources, including the United Nations High Commission for Refugees, human rights organisations, inter-governmental

organisations, non-government organisations, news media and the Foreign and Commonwealth Office.

Information provided to the FCO comes from a variety of interlocutors in-country. We determine which organisations, groups and media sources within that country are best placed to provide reliable information. The FCO then passes this information on to the UK Border Agency to form part of their assessment. The UK Border Agency's Country of Origin Information Service take the general reporting and seek to substantiate, cross reference and attribute it for the country information reports, using the FCO Migration Delivery Officer at post as necessary.

The UK Border Agency may not always know which interlocutors have been consulted in producing information provided by the FCO, but all sources are recorded at post. In some countries sources may wish to remain anonymous or go under a pseudonym for fear of retribution. This does not mean the information provided is any less reliable than information supplied directly to the UK Border Agency by a NGO within the UK. Indeed, many NGOs in the UK may have limited access to sources within Sri Lanka and therefore be reliant on individual asylum claimants. The FCO is rigorous in its evaluation of sources when offering advice on the human rights risks to the UK Border Agency. This ensures the UK Border Agency has as full a picture as possible to inform their country information reports and risk assessments around returns. All country information reports are published on the UK Border Agency website at: <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/> .

18. We conclude that arrangements for deportation with assurances would command greater confidence if both parties to the agreement were to have signed the Optional Protocol to the UN Convention Against Torture (OPCAT) which would signify that the states concerned permitted regular independent monitoring of places and conditions of detention. We also recommend that the Government should 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. (Paragraph 64)

The Government accepts that signing and ratifying OPCAT is always a positive sign of reform. The UK continues to lobby other countries to sign and ratify OPCAT, including those with whom we have DWA arrangements. However the need for new DWA arrangements is based on national security requirements. Irrespective of whether or not a state has ratified OPCAT, the Government will only seek to remove individuals from the UK where this is consistent with the UK's domestic and international obligations; in particular ECHR Article 3 (prohibition of torture). In certain circumstances the UK will seek public and verifiable assurances from a foreign government to ensure that an individual's human rights will be respected on their removal. The UK

Government seeks specific and tailored assurances for each individual on a case by case basis.

The Government notes the Committee's recommendation to inform Parliament of the names of individual monitoring bodies and terms of reference. Much of this information is already in the public domain; however the Government will provide the details of current monitoring bodies and arrangements made for follow-up monitoring separately to the Committee.

- 19. We acknowledge the efforts made by the Government to keep Parliament informed of new arrangements for deportation with assurances. However, these are matters of such significance within Parliament that we believe that a greater degree of accountability is warranted. We recommend that texts of memoranda of understanding between the UK and foreign states relating to arrangements for deportation with assurances should be laid before Parliament. We further recommend that such memoranda of understanding should not come into force before 14 sitting days have elapsed, during which time Members may signify any objection. (Paragraph 66)**

The Government notes the FAC's recommendation to lay new DWA arrangements before Parliament. Unlike treaties, MoUs are not legally binding instruments under international law. MoUs are not subject to the same statutory obligation that requires some treaties to be laid before Parliament for scrutiny. The Government believes it is appropriate to continue to notify Parliament by tabling a Written Ministerial Statement when new DWA MoUs are signed and to deposit copies in the Library of the House.

- 20. We welcome the forthcoming independent review of deportation with assurances (DWA) arrangements announced in the FCO's 2011 Human Rights and Democracy report. We request that the Government indicate what exactly will be reviewed, by whom, and to whom the results of the review will be made available. (Paragraph 67)**

Further to the commitment in our Annual Report of 2011, Home Office officials have agreed with David Anderson QC, the Independent Reviewer of Terrorism Legislation, that he should conduct a one-off review of the Government's Deportation With Assurances policy in 2013, when he has the capacity to do so. The conclusions of this review will be made public.

- 21. The long drawn-out nature of police investigations into cases of alleged rendition has had an unacceptable impact on the work of the Detainee Inquiry and of this Committee and others. We request that the Government explain to us why the investigations by the Metropolitan Police into claims made by Abdel Hakim Belhaj and Sami al-Saadi are expected to take so long to conclude. (Paragraph 73)**

These are matters for the Metropolitan Police Service. As with all police investigations, the investigation into allegations made by the two former Libyan detainees and their families about UK involvement in their rendition to Tripoli in 2004 and subsequent mistreatment there by the former Qadhafi regime is independent of Government. How the investigation is conducted is for the police to decide, in consultation with the Crown Prosecution Service. The Government is co-operating fully with the investigation, as we have with other investigations on treatment of detainees, but we are unable to comment further on its progress or its expected timeline.

- 22. We recommend 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. However, while we value transparency in principle, we question whether total transparency could be applied to all proceedings of the successor inquiry without hindering, rather than assisting, the inquiry team in getting to the truth of the matter. (Paragraph 74)**

As the former Justice Secretary stated in the House of Commons on 18 January, the Government fully intends to hold an independent, judge-led inquiry to establish the facts and draw a line under these issues once it is possible to do so and all related police investigations have been concluded. Sir Peter Gibson agreed to prepare a report on his Inquiry's preparatory work, identifying themes and issues which may merit further consideration, and the Government is committed to putting as much of it as possible into the public domain. Prior to the announcement in January 2012 about the ending of the Inquiry, Ministers met various human rights groups to try to explain why HMG believes the Gibson model would meet their needs and that they should actively participate and engage in the process. The Government will continue to listen to their views about the nature of any future inquiry, but as the Committee itself has noted, it is hard to see how it would be possible to conduct an entirely open examination of the events in question.

- 23. We make no comment at this stage on developments in allegations of UK complicity in rendition. We reiterate, however, that we would be deeply disturbed if assurances given by Ministers over many years to this Committee's predecessors that the UK had not been involved in rendition were shown to be inaccurate. We expect to return to this issue. (Paragraph 75)**

The Government notes the Committee's comments.

Applying public pressure

- 24. We are satisfied that enough progress towards reform has been made in Burma to justify some relaxation of the EU's sanctions regime, although**

we are in no doubt that Burma's human rights record remains seriously blemished. We believe that the UK can and should build on the current climate of goodwill to press for wider reform, including access to those still held in detention as political prisoners or for political offences or for politically-motivated reasons. We recommend that the UK urge the Burmese authorities to permit independent observers to visit Rakhine State, to gather objective evidence on the extent to which the rights of the Rohingya minority are being respected. (Paragraph 85)

We believe that the reform process in Burma is genuine and have increased our engagement in line with progress. This has allowed us to influence and support the reform process in a more direct way, for instance providing support to the reconciliation process as one of three members of the Peace Donor Support Group. We have seen significant progress in a number of areas, including the release of political prisoners, efforts to put an end to ethnic conflict and steady legislative reforms in areas such as labour rights and the media. However, we have not forgotten the many other issues that remain unresolved in Burma. In his meeting with Foreign Minister Lwin at the UN in September, the Foreign Secretary stressed the need for the Burmese authorities to tackle the root causes of the country's ethnic conflicts, including the issues affecting the Rohingya community and the violence in Rakhine state. He also welcomed the release political prisoners, but urged the Burmese government to release all remaining political detainees.

The situation in Rakhine State remains a serious concern. Since June, the UK has been one of the most vocal members of the international community in calling on all parties to put an end to the violence. The British Ambassador in Rangoon continued to press Burmese Ministers to put in place the necessary security to protect civilians, allow unhindered humanitarian access to the areas affected and put in place a credible solution to address the Rohingya's status. During their visits to Burma, the Foreign Secretary and Prime Minister met members of the Rohingya community to hear their concerns first hand.

The Burmese authorities have allowed access to Rakhine State by a wide variety independent observers from foreign governments and international organisations, including the UN Special Rapporteur for the situation of human rights in Burma, Mr Tomas Ojea Quintana; a delegation of US Senators; Turkey and the OIC, among others. Our Ambassador in Rangoon also led the first independent diplomatic mission to Rakhine in early October [and visited again in November] to see the scenes of devastation wrought by the violence first hand. Ultimately, a solution to the deep seated discrimination of the Rohingya will be found within Burma and involve wide consultation with the affected communities. This will not be easy and we have repeatedly stated our commitment to assisting Burma in this regard.

25. We find it difficult to discern any consistency of logic behind the Government's policy in not taking a public stance on the Bahrain Grand

Prix but implementing at least a partial boycott of the 2012 UEFA European Football Championship matches played in Ukraine. (Paragraph 91)

Many opposition activists supported the Bahrain Grand Prix and, as the report acknowledges, leading human rights NGOs Amnesty International and Human Rights Watch did not call for the race to be boycotted. UK Ministers decided not to attend England's games during the 2012 UEFA European Football Championship in Ukraine because of busy schedules ahead of the Olympics and widespread concerns about selective justice and rule of law in Ukraine. No UK Ministers were invited to attend the Grand Prix and drivers race on behalf of a commercial sponsor rather than their country.

26. We ask the Department to confirm that the presumption against the granting of visas to enter the UK on human rights grounds would only apply to people against whom there was evidence that they had abused human rights. (Paragraph 92)

The Government is happy to so confirm. A decision to deny entry to the UK to an individual is always based on independent, reliable and credible evidence.

27. We conclude that publicising the names of those who are denied visas to enter the UK on human rights grounds could be a valuable tool, when used sparingly, in drawing attention to the UK's determination to uphold high standards of human rights, and we recommend that the Government make use of it. (Paragraph 96)

The Government may disclose that a person has been denied entry to the UK where doing so is in the public interest. Although our starting point is not to comment on individual immigration cases, we will do so where it is justified.

Business and human rights

28. We welcome the FCO's intention to develop a Business and Human Rights Strategy, which may give some unity of form to the various initiatives and resources already in place to promote responsible business practice. However, it appears that the Strategy will be couched exclusively in terms of guidance and voluntary initiatives. While these are undoubtedly worthwhile, we believe that they do not on their own meet the spirit of the UN Guiding Principles on Business and Human Rights, which envisage that states will take "appropriate steps to prevent, investigate, punish and redress abuse through effective policies, legislation, regulations and adjudication". (Paragraph 109)

The Government is grateful for the Committee's endorsement of its intention to develop a strategy based on the UN Guiding Principles. The Guiding Principles include an important focus on the State and its duty to protect human rights. The UK already has a mix of policies, legislation and regulations that help protect human rights and have been developed over many years. But gaps may still exist and the strategy under preparation makes clear that we are committed to having in place all the necessary measures and instruments to require and enable businesses to respect human rights. We also recognize the good work done, over many years, through the use of "soft law" initiatives. For example the UK was a founding member of the Voluntary Principles on Security and Human Rights, set up in 2000, and which has been an important mechanism for spreading best practice among companies and states involved in the extractive industries sector.

- 29. We recommend that the Government should not dismiss out of hand the extension of extra-territorial jurisdiction to cover actions overseas by businesses based in the UK, or by firms operating under contract to the UK Government, which have an impact on human rights. Relying on local administration of justice may not be enough to preserve the international reputation of the UK for upholding high standards of human rights. (Paragraph 110)**

The Government believes that the principle of national sovereignty means it is essential that States have the primary responsibility for securing the prevention, punishment of, and redress for abuses that occur within its own jurisdiction.

We support the recommendation within the UN Guiding Principles that States provide effective domestic judicial mechanisms for remedy and the UK is ready to exchange experience with other States to help improve their human rights legislation and enforcement frameworks so that they can meet their human rights obligations under international human rights law.

- 30. We recommend that the Government should consider linking provision of Government procurement opportunities, investment support and export credit guarantees to UK businesses' human rights records overseas. (Paragraph 111)**

Government procurement rules allow for human rights-related matters to be reflected in the procurement of public goods, works and services. The procurement rules also contain a provision allowing for the discretionary exclusion by individual public bodies conducting procurements of tenderers that have been convicted of an offence concerning professional misconduct, or been found guilty of grave professional misconduct proven by any means that the public body can demonstrate. This may include breaches of human rights law.

The Government will give consideration to the issue of the human rights impacts of business enterprises owned or controlled by the Government, or that receive substantial support and services from State agencies - such as export credit guarantees and official investment insurance - and how to mitigate human rights risks relevant to them.

The new OECD 2012 Common Approaches concluded earlier this year now includes a requirement for Export Credit Agencies to consider any statements or reports made publicly available by their National Contact Points (NCPs) at the conclusion of a specific instance procedure under the OECD Guidelines for Multinational Enterprises. This requirement should ensure that where companies have received negative final statements in respect of their human rights record, these are taken into account when considering a project for export credit.

- 31. We accept the FCO's assurances that its human rights department is consulted on all arms export decisions. We are surprised, however, that the FCO Minister responsible for human rights appears not to have been consulted by the Department for Business, Innovation and Skills on the list of priority markets for forthcoming arms exports, and that the overlap between priority market countries and "countries of concern" was not brought to his attention. We believe that it should have been, and we recommend that BIS and FCO officials take steps to prevent such lapses in the sharing of information on arms exports between ministers, and explain how this will be done. (Paragraph 115)**

The list of priority markets is drawn up by the UK Trade and Investment Defence and Security Organisation (UKTI DSO) to focus its efforts to help UK companies export in the increasingly competitive Defence and Security Sectors. Production of the list will continue to include close consultation with industry organisations and other government departments. UKTI DSO and the FCO will consult extensively before the draft priority list is submitted for approval through FCO Ministers, including the Minister responsible for human rights, to the Secretary of State for Business, Innovation and Skills. The list will take into account human rights concerns, export licensing and other restrictions that may limit export potential.

- 32. We recommend that the Government, in its response to this Report, 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. (Paragraph 117)**

The Government welcomes this recommendation. The UK takes its export licensing responsibilities very seriously. The type of equipment referred to by the FAC may of course already be subject to export control, for example if it contains encryption technology as specified in the EU Dual-Use Regulation,

under which controlled items may not leave the EU customs territory without an export authorisation. All applications for export licences for this equipment will be assessed on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria. Respect for human rights is already a mandatory criterion for all export licence decisions. The EU has also adopted specific additional measures in the context of sanctions against Iran and Syria. Where this type of equipment is not currently subject to control the Government is committed to working with international partners through the mechanism of the Wassenaar Arrangement in order to agree a specific control list of goods, software and technology. In our view an internationally agreed and implemented list is the most effective and efficient means of controlling exports of concern. Given the evolving nature of these technologies and the very technical nature of these discussions we expect that this work will continue next year.

Conclusion

- 33. The UK has a strong record in upholding human rights across the world, and the FCO's 2011 Report on Human Rights and Democracy provides ample evidence of its work in promoting higher standards of human rights abroad, sometimes under difficult circumstances. That work is widely recognised within the sector, and we applaud it. We hope that the constructive criticism in this Report will enable the FCO and indeed the Government, collectively, to improve upon that performance. (Paragraph 118)**

The Government welcomes the Committee's acknowledgement of the UK's strong record in upholding human rights across the world and that the 2011 Human Rights and Democracy Report is widely recognised within the sector. We will continue to take into consideration the recommendations and constructive suggestions put forward to help us improve our human rights work and our reporting of that work, particularly as we work on our next annual report, which we plan to publish in April 2013.



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