



Evidence submitted by UNA-UK for inclusion in the shadow civil society report to the UK's Universal Periodic Review (UPR)

1. What human rights issues are of concern to you and your organisation?

The United Nations Association – UK (UNA-UK)¹ is a charity that exists to promote the values of the United Nations – peace, development and human rights for all – and to call for UK support in realising these ideals. We believe that the UK's own human rights record is not only of great importance to people in this country, but a crucial element of the UK's ability to further international norms and standards – many of which it has been instrumental in developing – and of its global influence.

In more general terms, the more countries strive to meet their international obligations and to engage in a positive fashion with the UN human rights system, the stronger and more effective that system becomes. As a permanent member of the UN Security Council, an active member of the UN Human Rights Council (HRC) and a major aid donor, we believe that the UK has a special responsibility to lead by example on human rights at home and abroad.

In recent months, UNA-UK has become concerned by a number of human rights developments in the UK: the apparent deprioritisation of human rights in foreign policy;² instances where engagement with UN human rights mechanisms has been less than exemplary;³ and the debate over the future of human rights protections in the UK.⁴

Our evidence focuses on the following: strengthening the international human rights system, setting an example at home, and raising international standards.

¹ The United Nations Association – UK (UNA-UK) is the UK's leading source of independent analysis on the UN and a grassroots movement campaigning for an effective UN, supported by an active and progressive UK foreign policy. We are a registered charity (no. 1146016), strictly non-party political and completely independent from the UN system. To find out more, visit www.una.org.uk. This report was authored by Isabelle Younane, UNA-UK Campaigns & Communications Officer.

² Written evidence from the United Nations Association – UK (HUM0012) to the Foreign Affairs Committee, February 2016. Available at: <http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Foreign%20Affairs/The%20Foreign%20and%20Commonwealth%20Offices%20administration%20and%20funding%20of%20its%20human%20rights%20work%20overseas/written/28311.html>

³ UNA-UK news, 'UNA-UK concerned by dismissive comments about UN human rights mechanism', 16 February 2016. Available at: <http://www.una.org.uk/news/16/02/una-uk-concerned-dismissive-comments-about-un-human-rights-mechanism>

⁴ UNA-UK report, 'Human rights in the UK: from international obligations to everyday protections', December 2015. Available at: <http://www.una.org.uk/content/human-rights-uk-international-obligations-everyday-protections>

Strengthening the international human rights system

At present, the international human rights system has few mechanisms for enforcement. Instead, it relies on a combination of domestic laws to effect international ones; on naming and shaming; and – notably through mechanisms such as the UPR – peer scrutiny. The conduct of peers is particularly important. Positive actions, such as the UK’s voluntary production of a mid-term UPR report, can have a beneficial knock-on effect.

So, too, can poor behaviour. Countries with poor human rights records are quick to point to others who have engaged in similar behaviour as justification for their actions. For example, several diplomats reportedly put pressure on Secretary-General Ban Ki-moon to reverse the blacklisting of a Saudi-led coalition, citing the decision not to blacklist Israel in 2015 over child casualties in the Gaza Strip.⁵

Countries also take refuge in numbers. One example is the large number of reservations to the Convention on All Forms of Discrimination Against Women. Another is International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), which several European countries have not ratified. UNA-UK is disappointed that the UK is among them, and that little progress appears to have been made since ratification of the ICMW was recommended during the UK’s UPR. We are concerned that this is part of a general reluctance to subscribe to multilateral obligations on migrants. For example, the UK has not ratified the 1975 ILO Convention No. 143 or the 1977 European Convention on the Legal Status of Migrant Workers.⁶

Similarly, we are disappointed that the UK has not ratified the International Convention for the Protections of All Persons from Enforced Disappearances (ICPED). Despite the UK’s assurance in September 2012 that it was “keen to move towards signature and ratification” of the ICPED in response to UPR recommendation 110.20, no clear timetable has been set out. Whilst recognising that the UK already incorporates some of the protections in the ICPED, such as the prohibition of torture and the right to liberty and security, in its own Human Rights Act 1998, ratification would send an important signal to other states and strengthen the protections conferred by this important treaty which has just 52 ratifications to date.

In addition, we are concerned that the Government has yet to ratify the optional protocols that allow for individual petitions to be made to the relevant UN treaty bodies. This view was recently endorsed by Parliament’s Joint Committee on Human Rights (JCHR) in its inquiry on the UK’s compliance with the UN Convention on the Rights of the Child. The Government is right to point out that the Committees do not have the authority of a court, but they do offer an important avenue for redress, particularly when access elsewhere may be limited.⁷

We are also concerned about the UK’s handling of visits by UN Special Rapporteurs. In 2013, the report of the Special Rapporteur on adequate housing resulted in negative rhetoric,

⁵ Michelle Nichols, ‘U.N. adds Saudi coalition to blacklist for killing children in Yemen’, *Thomson Reuters*, 2 June 2016. Available at: <http://www.reuters.com/article/us-rights-un-saudi-yemen-idUSKCN0YO2RK>

⁶ Ryszard Cholewinski, Paul de Guchteneire and Antoine Pecoud. *Migration and Human Rights: The United Nations Convention on Migrant Workers’ Rights*. Cambridge University Press, 2009. Pg. 287

⁷ House of Lords, House of Commons Joint Committee on Human Rights, ‘The UK’s compliance with the UN Convention on the Rights of the Child’, Eighth Report of Session 2014–15, 18 March 2015, Available at: <http://www.publications.parliament.uk/pa/jt201415/jtselect/jtrights/144/144.pdf>

including personal attacks, from Government officials.⁸ In 2014, the Special Rapporteur on violence against women reported that she had been denied access to an immigration detention centre.⁹ Both these cases set negative examples to other UN member states on how to treat the work of the Special Rapporteurs. Since the Foreign and Commonwealth Office (FCO) regularly raises concerns about other states' responses to Special Rapporteur visits (e.g. Iran¹⁰), we are worried that such behaviour will diminish the legitimacy and moral authority of the UK's work in this area.

Setting an example at home

UNA-UK recognises that the UK performs well in international indices of human rights protections around the world¹¹. Nevertheless, we believe that the UK, with its strong institutions, has the capacity to improve and to strive for an unimpeachable record.

We note that in its mid-term report, the United Kingdom rejected recommendation 110.1 to ratify the optional protocol to the ICCPR on the basis of "[t]he existence in the UK of a very strong legal framework (and effective remedies) for the protection of human rights", notably the Human Rights Act 1998 (HRA)¹². UNA-UK is therefore deeply concerned by the recent uncertainty over the future of the Act, not least a Government proposal to repeal it and replace it with an as yet unspecified British Bill of Rights, which many commentators fear may be narrower in scope than the HRA¹³. Calls by senior ministers for the UK to withdraw from the European Convention on Human Rights (ECHR) have amplified these concerns¹⁴.

This is part of a broader – and increasingly negative – debate on human rights. For example, the Lord Chancellor and Secretary of State for Justice made a disturbing distinction between those who are 'meritorious' of human rights and those who are not:

⁸ Ameila Gentleman and Patrick Butler, "Ministers Savage UN report call for the abolition of UK's bedroom tax", *The Guardian*, 3 February 2014. Available at <http://www.theguardian.com/society/2014/feb/03/ministers-savage-un-report-abolition-bedroom-tax>, accessed 3 February 2016.

⁹ Mark Townsend, 'Yarl's Wood: UN special rapporteur to censure UK government', *The Observer*, 3 January 2015. Available at <http://www.theguardian.com/uk-news/2015/jan/03/yarls-wood-un-special-rapporteur-censure>

¹⁰ See for example, Foreign & Commonwealth Office, Corporate report: Iran – Country of Concern, 21 January 2015. Available at <https://www.gov.uk/government/publications/iran-country-of-concern/iran-country-of-concern#access-to-justice-and-the-rule-of-law>

¹¹ See for example Verisk Maplecroft: Human Rights Risk Atlas 2014. Available at: http://reliefweb.int/sites/reliefweb.int/files/resources/2014_Human_Rights_Risk_Index_Map.pdf

¹² 'United Nations Universal Periodic Review: Mid Term Report of the United Kingdom of Great Britain and Northern Ireland, and the British Overseas Territories, and Crown Dependencies', 2014, Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418272/uk-upr-mid-term-report-2014.pdf

¹³ See for example 'Human rights or citizens' privileges? Liberty's response to the Commission on a Bill of Rights Discussion Paper: Do we need a UK Bill of Rights?', Liberty, December 2011, pg 61. Available at: <https://www.liberty-human-rights.org.uk/sites/default/files/Human%20Rights%20or%20Citizens%27%20Privileges%2C%20Nov%202011.pdf>

¹⁴ Speech of the Home Secretary, Rt Hon Theresa May MP at the Institute of Mechanical Engineers on 25 April 2016. Available at <https://www.gov.uk/government/speeches/home-secretarys-speech-on-the-uk-eu-and-our-place-in-the-world>

...it is nevertheless the case that human rights, which, to a very great extent, are a British or an English creation, have come to be seen as **providing protection for people who are unmeritorious** rather than safeguarding the essential liberties that go to make up the birthright of any resident in these islands.¹⁵

These developments have already had an impact internationally. In a speech denouncing the war crimes charges held against him at the International Criminal Court, President Kenyatta of Kenya stated in October 2014:

The push to defend sovereignty is not unique to Kenya or Africa. Very recently, the Prime Minister of the United Kingdom committed to reasserting the sovereign primacy of his parliament over the decision of the European Human Rights Court.¹⁶

In another example from July 2015, Russian politician Alexander Tarnavsky made a veiled reference to the UK's relationship with Strasbourg.¹⁷ Russia's lower house of parliament, the Duma, has since adopted a law "giving the constitutional court the right to declare international court orders unenforceable in Russia if they contradict the constitution".¹⁸

Raising international standards

The UK does much excellent work to promote human rights internationally, for example, the Department for International Development (DFID) continues to contribute £2.5 million to the Office of the High Commissioner for Human Rights (OHCHR).¹⁹

But UNA-UK is concerned that gains will be lost if the focus on human rights is not maintained – a point that we – and many others – made in our evidence to a Foreign Affairs Committee inquiry into the FCO's apparent deprioritisation of human rights²⁰.

The examples we raised included UK arms exports, notably to Saudi Arabia in the context of that country's actions in Yemen^{21,22} and missed opportunities to advance international regulation of the use of armed unmanned aerial vehicles. For instance, in 2014, the UK voted against a modest resolution at the Human Rights Council (HRC) on ensuring remotely piloted aircraft

¹⁵ House of Lords Constitution Committee, Oral evidence session with the Rt Hon. Michael Gove MP, Lord Chancellor and Secretary of State for Justice, 2 December 2015

¹⁶ See UK Human Rights Blog, at adam1cor.files.wordpress.com/2014/10/hansard-report-monday-6th-october-2014-1.pdf.

¹⁷ 'Russia says it can override European rights court rulings', *Yahoo News*, 14 July 2015, available at news.yahoo.com/russia-says-override-european-rights-court-rulings-183245358.html.

¹⁸ 'Russia passes law to overrule European human rights court', *BBC News*, 4 December 2015. Available at: www.bbc.co.uk/news/world-europe-35007059

¹⁹ FCO Human Rights and Democracy Report 2015, April 2016. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/518658/FCO755_Human_Rights_Report_2015_-_WEB.pdf

²⁰ See n.2

²¹ 'UK arms sales call into question Government's commitment to international law', UNA-UK news, 6 January 2016. Available at: <http://www.una.org.uk/news/16/01/uk-arms-sales-call-question-governments-commitment-international-law>

²² 'Yemen: civilian casualties top 8,100 as airstrikes and shelling continue, UN reports', *UN News Centre*, 5 January 2016, available at <http://www.un.org/apps/news/story.asp?NewsID=52938#.Vq9nrLKLS70>; see also, Ewen McAskill, 'UN report into Saudi-led strikes in Yemen raises questions over UK role', *The Guardian*, 27 January 2016, available at <http://www.theguardian.com/world/2016/jan/27/un-report-into-saudi-led-strikes-in-yemen-raises-questions-over-uk-role>.

used in counter terrorism were operated in accordance with international law.²³ The UK contended that this topic was beyond the scope of the Council's mandate, setting a concerning precedent for other states to vote against resolutions based on procedural objections.

The UK has also not responded to two reports by Ben Emmerson, UN Special Rapporteur on human rights and counter-terrorism, which looked into drone strikes and identified a number of legal ambiguities in relation to their use in covert operations. This issue was brought into focus through the death of Reyaad Khan, a 21-year-old British citizen from Cardiff, who was killed by an RAF drone strike in Raqqa, Syria in August 2015.

According to an inquiry carried out by the Joint Committee on Human Rights (JCHR) following the death of Khan:

...it is the Government's policy to use lethal force abroad, even *outside of armed conflict*, against individuals suspected of planning an imminent terrorist attack against the UK, when there is no other way of preventing the attack.²⁴

This conclusion was supported by the Prime Minister, who affirmed "that the strike was not part of coalition military action against ISIL in Syria", but was "a targeted strike to deal with a clear, credible and specific terrorist threat" to the UK.²⁵

We are concerned that the UK's apparent shift in policy on targeted killing has been preceded by neither a thorough parliamentary debate, nor clarification of the legal basis for the Government's use of lethal force abroad for counter-terrorism purposes²⁶. This leaves unanswered questions about the UK's decision-making process before carrying out a lethal drone strike outside an area of armed conflict. Given the UK's position of leadership at the UN, we are concerned that its ambiguous policy on targeted killing could set a dangerous precedent.

More generally, the benefits of the FCO's move to replace its six specific human rights priorities with three broader categories are, as yet, unclear.²⁷ A report by the Foreign Affairs Committee expresses concerns that while the new structure could enable greater attention to be paid on certain human rights issues, there appears to be "a lack of specific commitments" in the three themes, which could present difficulties for implementation and accountability. Nonetheless, it is too early to measure the impact of the new set of priorities.²⁸

2. What steps have been taken since to improve the situation?

²³ Hayley Richardson, *The UK's role on the UN Human Rights Council: Priorities for the UK's 2014-2016 term*, United Nations Association – UK, December 2014, available at <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2015-10-27/HL3052>.

²⁴ 'The Government's policy on the use of drones for targeted killing', Second Report of Session 2015–16, House of Lords, House of Commons, Joint Committee on Human Rights, 27 April 2016. Available at: <http://www.publications.parliament.uk/pa/jt201516/jtselect/jtrights/574/574.pdf>

²⁵ See n.24

²⁶ See n.24

²⁷ See n.19

²⁸ 'The FCO's administration and funding of its human rights work overseas', Fourth Report of Session 2015–16, House of Commons Foreign Affairs Committee, 22 March 2016. Available at: <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmfaaff/860/860.pdf>

The areas identified above are ones where we feel the UK has not made sufficient progress. However, there have also been positive developments in the past four years, not least the UK's decision to stand for election to the Human Rights Council, where it is – for the most part – a positive actor.

The UK has voted in favour of, or joined consensus on, the vast majority of HRC resolutions. Specifically, the UK only voted against 14 out of 95 resolutions in 2015, and 12 out of 113 resolutions in 2014. It has also been the leader or principal sponsor of resolutions pertaining to the situation in South Sudan; the situation in Sri Lanka; the situation in Syria; child, early and forced marriage; contemporary forms of slavery; and the role of prevention.²⁹

It has also shown a strong record of general engagement with the Council, having participated in 40 per cent of panels, 56 per cent of interactive dialogues and 54 per cent of general debates. We also welcome the UK's standing invitation to UN special procedures and its completion of 93 per cent of requested visits.³⁰ This sets an important example to other UN member states

The doubling of the FCO's annual funding for its dedicated human rights and democracy programme (renamed the Magna Carta Fund for Human Rights and Democracy) to £10.6 million is also a welcome development.³¹ This dedicated strategic programme to promote and protect human rights overseas has funded over 300 projects in more than 60 countries worldwide since 2011. According to the FCO, these projects have helped local and international civil society organisations “to build capacity” and “engage in constructive dialogue on human rights with host governments”.³²

The UK has also shown leadership in becoming the first G7 country to meet the target to spend 0.7 per cent of Gross National Income on overseas development assistance, agreed by the UN in 1970. About 30 per cent of DFID's budget goes to conflict-affected states, and the 2015 National Security Strategy and Strategic Defence and Security Review (NSS/SDSR) commits to investing “at least 50 per cent” of the budget in fragile states and regions.³³ UNA-UK is optimistic that the UK's increased commitment towards development aid will contribute to the greater realisation of human rights – particularly economic and social rights – in fragile and developing countries.

The NSS/SDSR also makes specific mention of the Human Rights Council, as a mechanism for driving global change³⁴.

²⁹Human Rights Council record of the United Kingdom, YourHRC.org. Available at:

http://yourhrc.org/country-detail/?country=United_Kingdom

³⁰ See n.29

³¹ 'Launch of £10m Magna Carta Fund for Human Rights and Democracy', press release, Foreign and Commonwealth Office, 19 January 2016. Available at: <https://www.gov.uk/government/news/launch-of-10m-magna-carta-fund-for-human-rights-and-democracy>

³² FCO Human Rights and Democracy Report 2015, April 2016. Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/518658/FCO755_Human_Rights_Report_2015_-_WEB.pdf

³³ UNA-UK Briefing for members of the UN All-Party Parliamentary Group: UK aid commitments, 9 June 2016. Available at:

<http://www.una.org.uk/sites/default/files/Briefing%20for%2013%20June%20debate%20on%20UK%20aid.pdf>

³⁴ 'National Security Strategy and Strategic Defence and Security Review 2015: A Secure and Prosperous United Kingdom', HM Government, November 2016, pg 63. Available at:

3. What do you think the government should be doing on this issue?

A summary of UNA-UK's recommendations:

Strengthening the institutional framework on human rights

UNA-UK recommends that:

- The UK sets out clear timetables to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention for the Protections of All Persons from Enforced Disappearances
- The UK ratifies the optional protocols that allow for individual petitions to be made to the relevant UN treaty bodies
- The UK engages constructively with UN human rights mechanisms, including UN Special Procedures, and thereby serves as an example to other states

Setting an example at home

UNA-UK recommends that:

- The UK ensures that any changes to domestic human rights law serve to strengthen, not weaken, human rights protections in the United Kingdom
- The UK ensures that the provisions of all ratified human rights instruments are incorporated into domestic law as soon as possible

Raising international standards

UNA-UK recommends that:

- The UK Government retains human rights as a priority in its foreign policy; any perceived devaluation of human rights would set a poor example to other UN member states
- The UK suspends arms exports licences to any country with poor human rights records
- The UK works constructively on Human Rights Council resolutions which seek to strengthen the international regulation of the use of armed drones
- The UK develops a clear and coherent policy on its use of armed drones for counter-terrorism purposes, both within and outside the context of armed conflict – with mechanisms for parliamentary scrutiny and accountability

4. If you could tell the government one thing about human rights, what would it be?

The UK's reputation as a leader in human rights and international affairs is at risk of being undermined by a perception that human rights are steadily becoming a lower UK priority. If allowed to continue unchecked, this perceived shift in priorities has the potential to set a poor example to other UN member states and to weaken the rules-based international system that Britain did so much to create, and from which it has benefitted considerably.