



Human Rights Watch
Concerns and Recommendations on the United Kingdom
Submitted to the UN Human Rights Committee
in advance of its Pre-Sessional Review of the United Kingdom
July 2014

Human Rights Watch welcomes the upcoming review of the United Kingdom (UK) by the Human Rights Committee. This briefing provides an overview of our main concerns with regard to the UK's compliance with the International Covenant on Civil and Political Rights (ICCPR). We hope it will inform the Committee's pre-sessional review of the UK and that the areas of concern highlighted here will be reflected in the list of issues submitted to the UK government ahead of the review.

Attacks against human rights (Article 2)

Since coming into office in 2010, several leading Conservative ministers and Prime Minister David Cameron have publicly [attacked](#) the concept and application of human rights both in general terms and specifically the European Convention on Human Rights (ECHR) and the Human Rights Act (HRA) which incorporates it into domestic law. In September 2013, the Home Secretary [announced](#) that the Conservative party manifesto for the 2015 general election would promise to scrap the HRA. Plans by the Conservative party to replace the HRA with a British bill of Rights appear to be aimed at weakening, not strengthening, human rights protections. Cameron has [made it clear](#) that his party is prepared to withdraw from the ECHR if it makes it easier to deport foreign nationals considered by the government to be dangerous. By [undermining](#), instead of promoting, human rights the UK, the government is breaching its duty under Article 2 to give effect to the rights recognized in the ICCPR.

Deportations with assurances (Article 7)

The UK continues to rely on “diplomatic assurances” against torture as a means of deporting foreign nationals suspected of terrorism-related offenses to countries where they face a real risk of torture and or other ill-treatment. The UK has agreed “memoranda of understanding” (MoUs) with [Jordan](#), [Lebanon](#), [Ethiopia](#), and [Morocco](#), which provide “diplomatic assurances” that the person deported on national security grounds will receive humane

treatment in the country to which he or she has been transferred as well as post-return monitoring. A similar agreement with Libya is now deemed inactive by the UK government. The UK has also exchanged letters to that end with [Algeria](#).

Diplomatic assurances are an ineffective safeguard against the risk of torture and other ill-treatment in countries where torture and ill-treatment are practised routinely, whether or not they are formalized in a memorandum of understanding and irrespective of any post-return monitoring mechanisms that may be in place. The use of such assurances to remove a person to a country where he or she is at real risk of torture constitutes [a breach of Article 7 of the ICCPR](#).

Following a 10-year legal battle in the UK and before the European Court of Human Rights to avoid deportation from the UK, the Jordanian preacher Omar Othman, often known as Abu Qatada, returned to Jordan in July 2013. Abu Qatada agreed to return after the UK ratified a [treaty](#) with Jordan promising that Jordanian courts would not admit evidence obtained through torture or other ill-treatment in the trial of a person returned from the UK. In January 2012, the European Court of Human Rights [ruled against his deportation](#) from the UK due to the risk that testimony from another suspect that had been obtained under torture would be admitted in the trial against him.

In July 2014, Jordan's State Security Court [acquitted](#) Abu Qatada of involvement in a 1998 terrorism plot; Abu Qatada faces separate charges of involvement in a bomb plot in 2000 in another retrial. However, the Jordanian court admitted as evidence a 1998 confession by a former co-defendant implicating Abu Qatada in the terrorism plot. The confession was later recanted by the co-defendant, who said that Jordanian intelligence officers tortured him prior to his confession, and the European Court of Human Rights held that there was a real risk that the confession had been obtained by torture. Abu Qatada was only acquitted because the torture-tainted evidence was not supported by other statements or evidence. The case shows the ineffectiveness and inappropriateness of diplomatic assurances from countries with poor records on torture.

Accountability for complicity in overseas torture (Article 7)

Despite having previously promised to establish an independent judicial inquiry into the UK's involvement in [renditions and complicity in overseas torture](#), in December 2013, the UK government [announced](#) that the matter would instead be investigated by the Intelligence and Security Committee (ISC). The ISC is a parliamentary body that has repeatedly failed to hold the government to account for failings of the security services. It was also criticized by the UK Parliament Human Rights Committee for a previous 2007 investigation into UK involvement in renditions, which had exonerated the UK government.

The UK government launched a first inquiry, led by retired judge Sir Peter Gibson, in 2010. The inquiry was shelved by the government in January 2012 before it had concluded its work or questioned any witnesses, after nongovernmental organizations (NGOs) [strongly criticised](#) its inadequate powers and lack of independence, and because of concerns that it could not pursue its work until new criminal investigations into UK complicity in torture had been concluded.

The inquiry presented its preliminary report to the government in June 2012, but the report was not published until December 19, 2013. The Gibson report contains many questions that the inquiry believes must be answered, but was unable to, and relate to the interrogation and treatment of detainees, rendition, training, and guidance for UK personnel. While the report does not reach any firm conclusions, it strongly suggests that UK security services, at least in some cases, were aware that detainees were being tortured by foreign governments yet continued to engage with them.

Significant evidence that UK authorities were complicit in torture and rendition to torture is already available. In 2009, Human Rights Watch documented complicity by the UK security services in torture in [Pakistan](#). In September 2011, our research also revealed that the UK security services were complicit in the rendition of two prominent opponents of the Gaddafi regime, Sami al-Saadi and Abdul Hakim Belhaj, to [Libya](#) under Muammar Gaddafi, despite knowledge that they were likely to be tortured. Criminal investigations into both cases have been ongoing for several years with no public statements as to when they will be concluded and if anyone will be prosecuted. The UK government has opposed Belhaj's civil claim for compensation. In December 2013, a court of first instance [ruled](#) he had no right to compensation on the grounds that the court could not rule on the conduct of US officials outside the US, under the principle of 'act of state'. Belhaj and his wife [appealed](#) against that ruling and their case was being heard by the Court of Appeal at the time of writing. The UN Special Rapporteur on torture and the UN Chair Rapporteur on Arbitrary Detention are interveners in the case.

Accountability for abuses by UK forces in Iraq (Article 7)

Allegations of torture and cruel, inhuman, and degrading treatment by UK forces in Iraq from 2003 to 2009 have continued to increase, particularly since the departure of UK armed forces. Over 180 allegations of abuse have been submitted to the UK courts. Successive UK governments have continued to resist a full public inquiry and have failed to take steps to ensure genuine independent criminal investigations and prosecutions into torture and ill-treatment by UK forces, including possible command responsibility for senior political and military figures. The “Iraq Historic Allegations Team” was set up to investigate all allegations

of abuse, but has been criticized by a UK court as lacking independence because it included military police. It now includes naval police, who are still subject to the military chain of command. It is striking that this process has not led to a single prosecution. There is no indication that senior military and political figures have been investigated under command responsibility, let alone faced prosecution. Following a submission of evidence to the International Criminal Court's Office of the Prosecutor in May 2014, the prosecutor [announced](#) she was opening a preliminary examination into the allegations of war crimes.

One public inquiry was forced on the government following a court ruling into the death of an Iraqi hotel receptionist in British custody, Baha Mousa. The inquiry found that his death in UK military detention in 2003 occurred after serious abuse by members of the UK armed forces. Yet only one soldier, Corporal Donald Payne, was convicted of crimes related to this abuse and sentenced to just one year in prison. No prosecutions took place after the public inquiry had documented the criminal abuse that led to the killing of Baha Mousa. A second inquiry has been established to investigate the so-called “Danny Boy” incident in Iraq in 2004, in which witnesses alleged that British soldiers tortured and executed up to 20 Iraqis following a fierce gunfight between British troops and fighters for the Mahdi Army. This inquiry opened in early 2013, again after the government had been ordered to do it by a UK court.

Most recently, British soldiers have come forward with information that “[p]ersonnel from two RAF [Royal Air Force] squadrons and one Army Air Corps squadron were given guard and transport duties” at Camp Nama, a secret prison at Baghdad International airport, where US military and civilian interrogators subjected detainees to electric shocks, hooding, and other physical abuse, according to a [report](#) in the Guardian published in April 2013.

In 2006, Human Rights Watch documented extensive abuse against detainees at Camp Nama, where they were regularly stripped naked, subjected to sleep deprivation and extreme cold, placed in painful stress positions, and beaten. The UK Ministry of Defence has refused to acknowledge whether ministers knew of human rights abuses taking place at the prison or to reveal how British airmen and soldiers were helping to operate the secret prisons.

Following the report of the inquiry into the death of Baha Mousa, the UK government announced it would accept all the inquiry's recommendations, bar one. One recommendation it did accept would be that military detention centres overseas (i.e. in Afghanistan) would receive independent inspections by HM Inspector of Prisons, the UK's national preventative mechanism. However, in March 2014, the UK minister for the armed forces [told parliament](#) that such inspections would not take place.

Abuses against migrant domestic workers (Articles 2 and 8)

[Research by Human Rights Watch](#) and others has shown serious abuse against many migrant domestic workers by their employers in the UK. Workers described being made to work extremely long hours without breaks, not being fed properly, being confined to their employer's home, having their passport confiscated by their employer, physical and psychological abuse, and being paid very little wages or not at all.

Those who are subject to abuse face the difficult choice of leaving their employer and becoming undocumented migrants; returning to their home country, where they are often under pressure from their families to provide for them by working abroad; or remaining with their employer. The UK removed the right for migrant domestic workers to change employer in April 2012 as part of a broader effort to limit migration into the UK.

By denying migrant domestic workers entering the UK on “Overseas domestic worker” visas the possibility of changing employer, the UK is failing to protect them from forced labour under Article 8 and other abuses.

Those who leave their employer and are victims of trafficking can make an application under the UK's National Referral Mechanism (NRM). The scope and operation of the NRM are under review at the time of writing. In June 2014, the government presented to parliament a [new bill on combatting modern slavery](#)—which covers the existing criminal offenses of slavery, servitude, forced labour and human trafficking—with the aim of increasing prosecutions for modern slavery offenses and punishing perpetrators. However, the bill [does not address](#) the dilemma faced by migrant domestic workers who experience abuse.

Since leaving their employer makes them undocumented and liable to deportation, migrant domestic workers are unlikely to pursue criminal charges against their employer. The UK is failing in its obligation to provide migrant domestic workers who suffer abuse with an effective remedy under Article 2 and to respect their right to a fair hearing under Article 14. Should they wish to file a complaint with the police or pursue a civil case against their employer, their lack of immigration status means that they cannot work legally in the UK and support themselves while the case goes forward. Cuts in legal aid since April 2013 for employment and immigration cases limit such aid to trafficking victims, excluding migrant domestic workers who face abuse such as unpaid wages or excessive working hours. While the government [announced](#) in June 2014 that victims of modern slavery offenses would be entitled to civil legal aid, they would have to qualify as victims of one of those offenses.

Women in the detained fast track asylum procedure (Articles 2, 7, and 9)

The UK's "detained fast track" is an accelerated procedure for assessing asylum claims, intended for claims by men or women that, according to the UK Border Agency—replaced by the Home Office Visas and Immigration in April 2013—can be decided "quickly." Human Rights Watch found in research in 2009 that at the time, asylum seekers in the detained fast track were denied adequate legal representation and access to medical or other experts to help them build their case. Complex asylum cases require time for lawyers to build the asylum case and gather the necessary evidence, and Human Rights Watch research showed that such cases are being processed through the fast track system, even though it was designed for much simpler claims. On July 9, 2014, the UK High Court [ruled](#) that the fast track asylum system did not provide applicants with adequate and timely legal representation to prepare their case. Unable to put their claims forward effectively, the system puts people at risk of being removed from the UK to countries where they may face persecution under the refugee convention, torture, or other ill-treatment, in breach of Article 7. The lack of an effective remedy available to them under the detained fast track constitutes a breach of Article 2.

[Human Rights Watch research](#) has also found that asylum claims of women who suffered sexual violence, domestic abuse, female genital mutilation, or were victims of trafficking were in effect denied a fair hearing through the detained fast track, which constitutes a breach of Article 14.

We also documented cases where women whose asylum claim had been rejected, but could not be returned to their country, were detained for several months, in breach of their right to liberty under Article 9.

Mass surveillance (Articles 17 and 19)

[Revelations](#) by former United States National Security Agency (NSA) contractor Edward Snowden included credible evidence that the UK's Government Communications Headquarters (GCHQ) is engaged in cooperation with the NSA in [mass surveillance](#) of people in the UK and overseas and breaching the rights of millions of people to privacy and to freedom of expression under Articles 17 and 19 respectively. Yet the UK government has [failed to engage in a debate](#) on its involvement in mass surveillance, asserting that the intelligence agencies complied with the law and acted to protect public safety. On July 16, 2014, the UN High Commissioner for Human Rights published a [report](#) that is [highly critical](#) of mass surveillance and calls on states to review their laws and bring them into line with international human rights standards. The report specifically states that the mere collection

of metadata, or data about communications, can interfere with the right to privacy, even if it is not subsequently viewed or used.

In July 2014, the government announced [emergency legislation](#) enabling it to require telephone and internet companies in the UK and abroad to collect metadata on their customers' communications and store it for up to 12 months. The legislation, entitled the Data Retention and Investigatory Powers Act, was presented to parliament over three months after the Court of Justice of the European Union (CJEU) ruled that blanket data retention [breaches the right to privacy](#). Parliament was only given three days to review the legislation.

The new law fails to address the concerns raised by the CJEU in its ruling, and goes further than the regulations it is purported to replace by expanding the government's surveillance powers extraterritorially. The new law would subject a range of internet and telecommunications companies outside the UK to orders for intercepting the content of communications. While the Act is to expire in December 2016, by giving parliament such a short timeframe to review the bill the government undermined public and parliamentary scrutiny over legislation that has wide implications for human rights.

The Act provides for an independent review of the UK's law governing surveillance, the Regulation of Investigatory Powers Act (RIPA) of 2000, by May 1, 2015. However, the Prime Minister may exclude from the public version of the independent reviewer's report matters that he or she considers to be "contrary to the public interest or prejudicial to national security." Human Rights Watch considers that such a review should have been completed before the entry into force of the bill, not after.

In July 2013, UK officials forced the Guardian newspaper, which had published articles based on Snowden's revelations, to [destroy hard drives](#) containing copies of some of the files leaked by Snowden—even after being told by the Guardian that it kept copies of the data outside the UK. In August 2013, David Miranda, the partner of the former Guardian journalist Glenn Greenwald who reported on the material disclosed by Snowden, was held for nine hours at Heathrow airport without charge, the maximum time allowed under the UK Terrorism Act of 2000 Schedule 7, and his laptop, mobile phone, DVDs, and camera were confiscated. His treatment appeared to be aimed at [intimidating](#) journalists reporting on surveillance in the UK and was [criticised](#) by the UN Special Rapporteurs on freedom of opinion and expression and on human rights and counter-terrorism. Forcing the Guardian to destroy their hard drives and the detention of David Miranda raise serious concerns about the UK's respect of the right to freedom of expression under Article 19 and we would welcome their inclusion in the Committee's list of issues.