

# Submission by English PEN to the UN Human Rights Committee regarding the seventh periodic report of United Kingdom, British Overseas Territories and Crown Dependencies, 114<sup>th</sup> Session, 29 June-24 July 2015

1. English PEN<sup>1</sup> is the founding centre of PEN International, the world-wide writers' association campaigning for free speech and the promotion of literature.
2. Together with Sense About Science<sup>2</sup>, English PEN is an executive member of the Libel Reform Campaign, seeking to reform defamation laws throughout the United Kingdom in order to expand the space for public interest debate.
3. Together with ARTICLE 19<sup>3</sup>, English PEN made a submission to the committee ahead of the publication of its 'List of issues'. The ARTICLE 19/English PEN submission asked:
  - **What steps are the UK Government and the devolved administrations taking to ensure that reforms and the new statutory defences are extended to the jurisdictions of Scotland and Northern Ireland?**
  - **What action is the UK Government taking to ensure that local government funded libel actions do not undermine the *Derbyshire* principle as well as international law?**
  - **What steps is the UK Government taking to help people and organisations of modest means to be able to bring and defend defamation and privacy claims without the fear of having to pay unaffordable legal costs to the other side if they lose?**
4. The Committee's List of Issues, published on 20 November 2014<sup>4</sup> included a question (para 29) on the reformation of the libel laws in Northern Ireland and Scotland.
5. The United Kingdom Government has submitted an initial reply to the Committee<sup>5</sup>, received 25 March 2015, ahead of the 114th Session. At paras 248 and 249 the UK Government notes the reviews of the defamation law being conducted by the devolved administrations in Northern Ireland and Scotland.
6. Correcting the discrepancy between the defamation law in Northern Ireland and in England & Wales is an urgent task. The differences between the two jurisdictions has already been cited by one major broadcaster (Sky) as the reason why it could not broadcast a documentary film with clear public interest aspects.<sup>6</sup>
7. At the 114th Session, and in its concluding remarks, we ask that the Committee highlights the urgency of the reviews of the defamation law in both Northern Ireland and Scotland. We ask that it recommends that the devolved Governments move swiftly to act on the conclusions of the two Law Commission reviews, including the bringing forth of legislation at the earliest possible opportunity.
8. We note that in its initial reply to the committee, the UK Government does not give any response to the concern that defamation and privacy claims remain unaffordable to people of modest resources. In September 2013 the UK Government (Ministry of Justice) conducted a consultation on costs protection in defamation and privacy claims,<sup>7</sup> *but has yet to publish a formal response*. The issue of the high cost of defamation claims was noted by the Committee's previous concluding observations.<sup>8</sup> The Government of the United Kingdom must give an account for why it has not completed its reform in this area.

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<sup>1</sup> [www.englishpen.org](http://www.englishpen.org)

<sup>2</sup> [www.senseaboutscience.org](http://www.senseaboutscience.org)

<sup>3</sup> [www.article19.org](http://www.article19.org)

<sup>4</sup> CCPR/C/GBR/Q/7

<sup>5</sup> CCPR-C-GBR-Q-7-Add.1\_E

<sup>6</sup> TV 'exposure' of Scientology halted by UK libel law split, *The Guardian* 18 April 2015

<http://www.theguardian.com/world/2015/apr/18/scientology-tv-exposure-halted-uk-libel-law-split-going-clear>

<sup>7</sup> <https://consult.justice.gov.uk/digital-communications/costs-protection-in-defamation-and-privacy-claims>

<sup>8</sup> CCPR/C/GBR/CO/6, para. 25