



## WRITTEN SUBMISSIONS TO THE HUMAN RIGHTS COUNCIL FOR THE UNITED KINGDOM'S UNIVERSAL PERIODIC REVIEW (UPR) IN THE THIRD CYCLE (27<sup>th</sup> SESSION)

### WRITTEN SUBMISSIONS ON BEHALF OF RIGHTS WATCH (UK)

22 SEPTEMBER 2016

#### Introduction

1. Rights Watch (UK) (hereafter 'RWUK') is a non-governmental organisation based in the United Kingdom (UK).
2. RWUK works to promote just and accountable security. We do this by ensuring that the measures taken by the UK Government in pursuit of national security are compliant with human rights and international law. We have over twenty-five years of experience of working in the field of national security: initially in Northern Ireland, and, since 9/11, in Great Britain and abroad.
3. RWUK has three programmes of work: (1) the securitisation of suspect communities; (2) global warfare and; (3) post conflict justice.

#### Recommendation 110.20

4. This recommendation has not been met. No progress has been demonstrated despite the Government committing to do so in 2012 and 2014. The 'existing framework' that the Government cites as holding national security organisations to account are inadequate and ineffective. The Investigatory Powers Tribunal, the body with jurisdiction to hear complaints about the security services, lacks a number of due process and procedural guarantees,<sup>1</sup> and the Parliamentary body tasked with overseeing the conduct of the UK security agencies, the Intelligence and Security Committee (ISC), is heavily controlled by the Executive<sup>2</sup> and thus limited in its ability to fulfil its mandate.<sup>3</sup> RWUK recommends that the UK demonstrates what concrete steps it has taken towards signing and ratifying the CPED, and takes action to improve the independence and transparency of current national security oversight mechanisms.

#### Recommendation 110.33

5. In accordance with the jurisprudence of the European Court of Human Rights (ECtHR),<sup>4</sup> UK domestic courts,<sup>5</sup> and relevant UN Committees,<sup>6</sup> any person detained by UK forces abroad (both military and security) are within the jurisdiction of the UK and are therefore afforded human rights protections as a matter of international and domestic law. The British Government has confirmed that during the occupation period in the Iraq War, the UK was exercising public powers which would normally be exercised by the government

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Patrons: Baroness Helen Kennedy of the Shaws QC, Michael Mansfield QC and Bill Shipsey SC

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of Iraq.<sup>7</sup> RWUK recommends that the UK Government confirm that one of the exceptional basis of extraterritorial jurisdiction of the European Convention on Human Rights is when persons are detained by UK personnel, and if it does not agree with this statement, what it's understanding of the relevant ECtHR jurisprudence is.

#### **Recommendations 110.54-110.58**

6. Statistics and other research reveal that ethnic minorities continue to be disproportionately impacted by counter terrorism powers including those relating to stop and search,<sup>8</sup> counter-extremism,<sup>9</sup> and stop and detention at ports of entry and exit.<sup>10</sup> RWUK recommends that the UK Government undertake an independent review of these counter-terrorism laws and policies to assess their compliance with human rights standards including non-discrimination.

#### **Recommendation 110.67**

7. It is not clear that all the recommendations of the Baha Mousa Inquiry have been implemented despite the Government committing to do so in 2012 and 2014.<sup>11</sup> RWUK recommends that that Government demonstrates how it has implemented the recommendations of the Baha Mousa Inquiry, and commits to making systemic reforms in light of the findings of the Iraq Fatality Investigations,<sup>12</sup> including the recently released report into the death of Ahmed Jabbar Kareem Ali,<sup>13</sup> which found a manifest failure of British soldiers who forced a 15-year-old boy into a canal and left him to drown.

#### **Recommendation 110.83**

8. RWUK recommends that the UK collate and disseminate data showing how many applications are made, and granted, for closed material procedures (CMP) for all types of proceedings.<sup>14</sup> It should also be noted that contrary to what the Government has claimed, the fact that any party can make an application for a CMP does not act as a judicial safeguard as claimants have little or no knowledge of what sensitive evidence exists, and in any event will be excluded from the closed proceedings if the CMP declaration is granted.

#### **Recommendation 110.84**

9. Despite the Government committing to hold an independent judicial inquiry into allegations that the UK was implicated in the improper treatment of detainees held by other countries in the aftermath of 9/11,<sup>15</sup> the Government established an inquiry<sup>16</sup> that fell far short of satisfying the Government's human rights obligations of holding an independent and effective inquiry.<sup>17</sup> Notwithstanding these criticisms, the interim report of the Detainee Inquiry highlighted that the evidence it received indicated that UK agents were aware of abuse of some detainees by other governments, and that the UK may have been involved in rendition, outlining 27 separate issues that should be subject to further investigation. The Government has now transferred the inquiry to the ISC, which as noted in paragraph 4 above suffers from a number of fundamental shortcomings. RWUK recommends that the Government immediately establish an independent judge-led inquiry and publish responses to the issues raised by the Detainee Inquiry.

#### **Recommendation 110.92**

10. In December 2014, the UK Government committed to establishing a human rights complaint framework for dealing with the legacy of the Northern Ireland conflict.<sup>18</sup> As part of the Stormont House Agreement (the SHA), the Government committed to improving the legacy inquest system,<sup>19</sup> and to establish an independent body to conduct investigations into conflict related deaths.<sup>20</sup> Notwithstanding this Agreement, and a comprehensive plan produced by the Chief Justice of Northern Ireland in February 2016 to deal with all 57 outstanding legacy inquests within five years,<sup>21</sup> these commitments remain unmet.

11. Despite repeated requests from the Chief Justice, the UK Government continues to be in breach of its investigative obligations by failing to provide the necessary financial resources to the Coroner to carry out the legacy inquests. The Government has also insisted on having a blanket national security veto on information passed from the independent body conducting investigations into conflict related deaths, to the victims' families.<sup>22</sup> This coupled with the fact that the Government is envisaging a definition of national security that is unjustifiably broad and vague,<sup>23</sup> means that the right of the victims' families to the truth and a remedy is unacceptably frustrated.
12. We recommend that the UK Government is asked to commit to (1) providing the necessary resources to the Coroner to carry out the remaining legacy inquests; (2) ensuring that any restrictions on disclosure of information from any of the legacy mechanisms are human rights compliant, clearly defined in legislation, and there is a right of review by a competent body and; (3) publically consult on any proposed legislation with respect to the legacy mechanisms, and promptly introduce legislation to establish the legacy mechanisms.<sup>24</sup> These measures will ensure, that after many decades, the UK Government acts in compliance with its investigative obligations into conflict related deaths in Northern Ireland.
13. The UK is obliged under international law to ensure that any judicial and non-judicial mechanisms established pursuant to the SHA are gender sensitive, promote women's rights (including the right to a remedy), and ensure women's equal participation in accordance with the principle of non-discrimination.<sup>25</sup> RWUK is concerned, however, that the new mechanisms established pursuant to the SHA will replicate the marginalisation of women and gender-related harms seen in previous processes.<sup>26</sup> Whilst the SHA expressly states that the approach taken in respect of legacy must be human rights compliant and must acknowledge and address the suffering of victims and survivors,<sup>27</sup> the SHA is silent on the issue of gender and does not expressly reference the need to ensure a gender-focussed and gender-sensitive approach. As such, there is a risk that the new mechanisms, like others in the past, will be gender blind, and will thus ignore the voices and experiences of women.
14. RWUK recommends that the UK Government ensures that the mechanisms established pursuant to the SHA adopt a gender-focussed and gender-sensitive approach as outlined in the Gender Principles for Dealing with the Legacy of the Past.<sup>28</sup> RWUK submits that the Gender Principles should be used to inform and underpin the design and implementation of the SHA. Utilising the Gender Principles as guidance in this context will increase the effectiveness, quality and scope of what the SHA can deliver.

### **Recommendation 110.118**

15. The UK Government's use of armed drones to kill three individuals in Syria in August 2015 represented a 'new departure' in Government policy,<sup>29</sup> and a major shift in the UK Government's approach to warfare and the use of lethal force. RWUK is concerned that the use of lethal force by armed drones outside of a traditional battlefield represents a major challenge to the traditional constraints on the use of force under international law and traditional right to life protections under human rights law.<sup>30</sup>
16. We are concerned that this practice is being carried out without respect for accepted parliamentary procedures for the use of force abroad,<sup>31</sup> with minimal transparency or disclosure of relevant information against which the reason/s for the strike, the legality of it, and its implications can be properly assessed, and, finally, without any procedures for effective oversight and post-strike accountability.<sup>32</sup> In the wake of the atrocities in Belgium, France and elsewhere, it is reasonable to suppose that the deployment of such a tactic is at the forefront of the Government's current strategy for dealing with the threat from 'Daesh', or 'Islamic State'/'ISIL', whether in Iraq, Syria or elsewhere.<sup>33</sup> It is also of concern that the UK's conduct will influence measures taken by other European states, a trend we have already seen in Germany and Belgium.<sup>34</sup>

17. We recommend that the UK Government clarifies the legal framework, and policy basis, upon which the Government is relying in its use of targeted drone strikes, the decision making process and safeguards relating to such a strike, and the mechanisms to ensure accountability.

### **Recommendations 110.119-110.121**

18. Review: Despite the Government pledging to ‘continue to review all counter-terrorism legislation and ensure that it complies with the highest human rights standards’,<sup>35</sup> it is unclear whether any such review will be undertaken in an open and transparent manner. The Government has indicated that it is currently reviewing the general counter-terrorism strategy, CONTEST,<sup>36</sup> with a view to providing an updated Strategy in late 2016, but it has provided no details of the scope or nature of the review, and who it will be consulting.<sup>37</sup> Furthermore, there have been repeated calls for the Government to carry out an independent review of the Government’s counter-radicalisation policy, Prevent. Those calling for such a review include the current and former Independent Reviewers of Terrorism Legislation,<sup>38</sup> the Joint Committee on Human Rights,<sup>39</sup> House of Commons Home Affairs Select Committee,<sup>40</sup> and the UN Committee on the Rights of the Child.<sup>41</sup> RWUK recommends that the Government commits to establishing a full and independent review of the CONTEST Strategy by an independent reviewer.

19. Prevent Strategy: Although the current version of the Government’s counter-radicalisation strategy, Prevent<sup>42</sup> and the corresponding statutory duty<sup>43</sup> do not explicitly target Muslims (para. 19), in reality almost all reported cases involve Muslims. The UK Government publishes very little statistical information (disaggregated or otherwise) to aid in assessing this; however based on personal experiences and public discourse,<sup>44</sup> it is the perception among Muslim communities that they are targeted and that there is a stigmatising effect on Muslims in the UK. Many Muslim parents report that they are afraid to appear ‘too Muslim’ and to discuss certain topics at home for fear that their children will be targeted by Prevent. The Independent Reviewer of Terrorism Legislation has raised concerns that ‘aspects of the programme are ineffective or being applied in an insensitive or discriminatory manner’.<sup>45</sup>

20. This fear is surely justified given the series of reported incidents where Muslim children have been referred to Prevent for legitimately exercising their right to freedom of expression in situations where they pose no threat to society whatsoever.<sup>46</sup> These children are being referred on the basis of arbitrary decisions by teachers and other education professionals who receive inadequate training and guidance,<sup>47</sup> but are anxious to be seen to be complying with the statutory duty. In addition to the impact on freedom of expression and the right to education, the Strategy is also infringing the right to privacy. There is evidence that under Prevent, information on children is being collected and retained without their consent and with no apparent regulation and safeguards.<sup>48</sup> In addition to the calls for an independent review of the Prevent Strategy, as noted above, there are a number of calls for the Strategy to be abandoned.<sup>49</sup> We recommend that the UK Government immediately abolishes the Prevent Strategy in schools and establishes an audit of the operation of the Prevent Strategy and Channel programme by an independent reviewer, with the results made public.

21. Counter Extremism and Safeguarding Bill: There are also concerns with the measures proposed in the Counter Extremism and Safeguarding Bill which will introduce further counter extremism measures, including the ‘civil order regime’ which will ‘restrict extremist activity’.<sup>50</sup> This regime is likely to remove protections that are inherent in the criminal law from those accused of extremist activity (in circumstances where the definition of extremist activity is not intelligible, clear or predictable), including the higher standard of proof that is required under criminal law and the possibility of a jury trial. Furthermore, while they are framed as ‘civil orders’ there are likely to be criminal law consequences of breaching the order. There are concerns that the types of penalties of breaching order will be

proportionate in view of the types of conduct being restrained. Concerns about the proposed legislation have been raised by the House of Commons Home Affairs Select Committee,<sup>51</sup> the Joint Committee on Human Rights,<sup>52</sup> as well as current and former law enforcement officials.<sup>53</sup> RWUK recommends that the UK Government ensures that any measures introduced to counter extremism are subject to public consultation, are compliant with the Government's human rights obligations and do not undermine core criminal law protections.

22. Schedule 7 to the Terrorism Act 2000: While some improvements were made to Schedule 7 to the Terrorism Act 2000,<sup>54</sup> the power is still overly broad and allows for the stop and detention of persons at ports of entry to and exit from the UK without any need for reasonable suspicion. Under Schedule 7, officers can detain the person and question them for up to six hours; search them, or any of their belongings, and may retain those belongings for up to seven days, and take fingerprints and intimate and non-intimate samples. It is an offence if the person fails to answer questions, or obstructs the exercise of the functions under the Act and the right to consult a solicitor or to inform a friend or relative of the detention is subject to the discretion of the examining officer who if they believe the time it would take to consult a solicitor/friend or relative would be likely to prejudice determination of the relevant matters can deny such a request.
23. Whether this exceptionally broad power which temporarily deprives individuals passing through international terminals of their right to liberty is proportionate,<sup>55</sup> whether the interference with an individual's right to privacy is proportionate, and whether individuals enjoy the privilege against self-incrimination, especially as there is no express guarantee that answers given by individuals would be inadmissible in criminal proceedings,<sup>56</sup> can be seriously doubted. Particularly in light of the Court of Appeal judgment in the Miranda case,<sup>57</sup> RWUK recommends that the UK continues to review the application of Schedule 7.
24. In recent years there has been an increasing use of powers to deprive people of their British citizenship and to withdraw British passport facilities.<sup>58</sup> The Home Secretary has the power to do so even when this would make an individual stateless.<sup>59</sup> The Home Secretary also has powers to issue, withdraw and refuse to issue British passports under the Royal Prerogative (an executive power which does not require legislation).<sup>60</sup> The Counter-Terrorism and Security (CTS) Act 2015 strengthens powers to seize passports and exclude British nationals from the UK. This introduced powers to seize the passports of individuals suspected of leaving the UK in connection with terrorism-related activity,<sup>61</sup> and the possibility to impose a 'Temporary Exclusion Order' upon individuals abroad who are suspected of terrorism-related activity.<sup>62</sup> The UK may also be failing in its obligations to other States, and such powers may risk other States engaging in reciprocal behaviour by refusing terror suspects residing in the UK to return to their territory, thereby forcing terror suspects to continue to reside in the UK.<sup>63</sup>
25. RWUK recommends that these powers are subject to immediate and continued review, and that particular attention is shown to how these powers impact on the rights of persons to be protected from inhumane or degrading treatment, arbitrary deprivation of life, private and family life and to adequately challenge or review the decision of the Secretary of State.

#### **Recommendation 110.124**

26. In addition to the criticisms already noted at paras. 19-20, the UN Special Rapporteur on assembly and association,<sup>64</sup> and the UN Special Rapporteur on counter-terrorism and human rights,<sup>65</sup> have both raised serious concerns about the Prevent Strategy.
27. In addition to the concerns already raised in these submissions, RWUK recommends that the UK is urged to engage with and to respond to the concerns of the two UN Special Rapporteurs.

#### **Recommendation 110.126**

28. See para. 7 and 9 above.

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1 For example, the applicants have no right to disclosure of evidence relied on by the opposing party or to know the case against them, to cross examine witnesses, to a reasoned judgment or to an oral hearing.

2 The ISC is heavily controlled by the executive with the Prime Minister nominating members, having the ability to restrict the operational matters that the ISC can review and controlling onward disclosure from the ISC to Parliament. The Secretary of State also has the ability to veto information from being passed to the ISC from Government bodies and agencies. Such limitations were laid bare when the UK Government was forced to publically acknowledged involvement in extraordinary rendition despite the ISC having earlier found no evidence of wrongdoing and more recently, when the Prime Minister refused to provide the ISC with access to intelligence or defence information relating to the lethal drone strikes carried out by the UK Government in Syria in August 2015.

3 Such limitations were laid bare when the UK Government was forced to publically acknowledged involvement in extraordinary rendition despite the ISC having earlier found no evidence of wrongdoing and more recently, when the Prime Minister refused to provide the ISC with access to intelligence or defence information relating to the lethal drone strikes carried out by the UK Government in Syria in August 2015.

4 *Hassan v. United Kingdom* (App. no. 29750/09) ECtHR [GC], 16 September 2014; *Jaloud v. The Netherlands* (App. no. 47708/08) ECtHR [GC], 20 November 2014; *Al Skeini v. United Kingdom* (App. no. 55721/07) ECtHR [GC], 7 July 2011; *Al-Jedda v. United Kingdom* (App. no. 27021/08) ECtHR [GC], 7 July 2011; *Al-Saadoon & Mufdhi v. United Kingdom* (App. no. 61498/08) ECtHR, 2 March 2010. See also *Medvedyev v. France* (App. No. 3394/03) ECtHR [GC], 29 March 2010; *Hirsi v. Italy* (App. no. 27765/09) ECtHR [GC], 23 February 2012.

5 For example, see *Al Saadoon and others v. Secretary of State for Defence* [2016] EWCA Civ 811 para. 72.

6 Human Rights Committee, *Alzery v. Sweden* (Com. no. 1416/2005) UN Doc. CCPR/C/88/D/1416/2005 (2006). Additionally, in General Comment 31, the Human Rights Committee noted that 'a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party'. See Human Rights Committee, *General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant* (80<sup>th</sup> session, 26 May 2004) UN Doc. CCPR/C/21/Rev.1/Add.13, para. 10. See also Conclusions and Recommendations of the Committee Against Torture, United Kingdom of Great Britain and Northern Ireland, UN Doc. CAT/C/GBR/CO/5 (24 June 2013) para. 9.

7 *Al Saadoon and others v. Secretary of State for Defence* [2015] EWHC 715 (Admin) para. 76; *Al Saadoon and others v. Secretary of State for Defence* [2016] EWCA Civ 811 para. 25.

8 Between December 2014 and April 2015, in 36 of the 39 English and Welsh police forces, black people were more likely to be subject to stop and search powers than white people. At its most extreme, a black person in Dorset was 17.5 times more likely to be stopped than a white person. See N. Morris, 'Black people still far more likely to be stopped and searched by police than other ethnic groups', *The Independent* (6 August 2015).

9 Rights Watch (UK), 'Preventing Education? Human Rights and UK Counter-Terrorism Policy in Schools' (July 2016) at <http://www.rwuk.org/prevent-report/>. Evidence in 2009 suggested that the allocation of funding to local authorities for Prevent-related work was based upon the population of Muslims in those areas see A Kundnani, 'Spooked! How not to prevent violent extremism' (Institute of Race Relations 2009) ps. 12-17.

10 In 2014, 25% of all stops made pursuant to schedule 7 of the Terrorism Act were against Asian people, whilst 20% of all stops were against 'Chinese or other' people. According to the coalition 'Stop Watch', despite comprising roughly 14% of the population, ethnic minorities account for 87% of those stopped for over an hour under Schedule 7. See Stop Watch, 'Schedule 7 stops under the Terrorism Act 2000', Factsheet (2013-14) at <http://www.stop-watch.org/uploads/documents/Schedule7-201314.pdf>.

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11 In March 2014 the Minister for the Armed Forces informed Parliament that the Ministry of Defence had 'taken action to consider and address all the accepted recommendations in the report'. HC Deb 27 March 2014, vol 578, col 32WS per M. Francois MP.

12 Website of the Iraq Fatality Investigations at <http://www.iraq-judicial-investigations.org/>.

13 See the Report at [http://www.iraq-judicial-investigations.org/linkedfiles/reports/iraqfatalitiesinvestigationsreportintothedeathofahmedjabbarkareemali\(web-optimisedpdf\).pdf](http://www.iraq-judicial-investigations.org/linkedfiles/reports/iraqfatalitiesinvestigationsreportintothedeathofahmedjabbarkareemali(web-optimisedpdf).pdf).

14 Currently this only applies with respect to CMPs applied for pursuant to the Justice and Security Act 2013.

15 See, for example, the UK's acceptance of UPR recommendation 110.84, where it reiterated its intention to hold an independent judge-led inquiry; the replies of the UK to the CAT list of issues (UN Doc CAT/C/GBR/Q/5/Add. 1) para. 23.4. and the oral statement by Prime Minister David Cameron, 6 July 2010.

16 The Detainee Inquiry chaired by Sir Peter Gibson <http://www.detaineeinquiry.org.uk/>.

17 For details of how the Inquiry could be established so as to comply with the UK's international human rights obligations, and the failings of the Detainee Inquiry in this regard see the following correspondence, 7 April 2014 <http://www.amnesty.org/en/library/info/EUR45/005/2014/en>, August 2011 <http://www.amnesty.org/en/library/info/EUR45/010/2011/en>, 25 February 2011 <http://www.amnesty.org/en/library/info/EUR45/003/2011/en>, 25 February 2011 <http://www.amnesty.org/en/library/info/EUR45/002/2011/en>, 14 September 2010 <http://www.amnesty.org/en/library/info/EUR45/016/2010/en>.

18 The UK and Irish Governments and the political parties in Northern Ireland signed the Stormont House Agreement in December 2014. The Agreement provides for a new set of institutions to deal with the legacy of the conflict in Northern Ireland [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/390672/Stormont\\_House\\_Agreement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/390672/Stormont_House_Agreement.pdf).

19 Para. 31 of the December 2014 Stormont House Agreement acknowledges that recent domestic and European judgments have demonstrated that the legacy inquest system in Northern Ireland does not currently comply with the States human rights obligations to provide an effective and prompt investigation into conflict related deaths.

20 The Agreement establishes four institutions. The Historical Inquiries Unit (HIU) to investigate outstanding conflict related deaths in a human rights complaint manner; the Independent Commission on Information Retrieval which will enable victims and survivors to seek and privately receive information about the deaths of their next of kin; the Oral History Archive; and the Implementation and Reconciliation Group which will oversee themes, archives and information recovery.

21 The Lord Chief Justice gave speeches on 22 October 2015 (Annex 1), 12 February 2016 (Annex 2) and 5 September 2016 (Annex 3) setting out detailed plans for dealing with legacy inquests and the resources required. In the last of these speeches he expresses extreme disappointment that the Government has failed to provide the necessary resources to carry out Article 2 complaint inquests despite a commitment to doing so and that the pressing need to make progress has been recognised by the Committee of Ministers at the Council of Europe which in its last report in June 2016 said it was critical that such resources were provided. These 57 legacy inquests involve just fewer than 100 killings and include a mixture of inquest into killings from the 1990's yet to be heard; and other inquest from the 1970's and 1980's reopened by the Attorney General as a result of new evidence uncovered or deliberately withheld at the time of the original inquest.

22 In September 2015 the UK Government published a 'position paper' on the legislation [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/462888/Policy\\_Paper\\_-\\_Summary\\_of\\_Measures\\_23\\_Sept\\_2015\\_Final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/462888/Policy_Paper_-_Summary_of_Measures_23_Sept_2015_Final.pdf) and after this a draft copy of the UK's proposed legislation was leaked which essentially provides for the Government to be the ultimate decision maker, without any judicial or other oversight, of what information goes to the victim's families from the investigative body (the HIU).

23 See above Position Paper and draft copy of UK proposed legislation which uses the concept of sensitive information, rather than national security information, and which is deemed to include any

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information which was supplied by the security and intelligence services, or any intelligence information from the police or military.

<sup>24</sup> In addition to the other bodies envisaged in the Agreement.

<sup>25</sup> Articles 2 and 7 of the Convention on the Elimination of all Forms of Discrimination Against Women 1979; Articles 13 and 14 ECHR. The importance of developing a gender sensitive approach and of ensuring women's participation in post-conflict structures has been emphasised by the UN Security Council (UNSC) Resolutions on Women, Peace and Security from UNSC Resolution 1325 (2000) onwards (available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1325\(2000\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1325(2000))) with these Resolutions encouraging states to design concrete strategies to address women and girls' needs in post-conflict settings (see UNSC Resolution 1889 (2009), para. 10, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1889\(2009\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1889(2009))). See also CEDAW Committee General Recommendation No. 30 (2013), paras. 17(d) and 81(a), available at <http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf>) and to alleviate any obstacles to women's access to justice through ensuring gender-responsive mechanisms (UNSC Resolution 2122 (2013), para. 10, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2122\(2013\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2122(2013))).

<sup>26</sup> Workshops Report - Developing Gender Principles for Dealing with the Legacy of the Past (Workshop Report), p.1, available at <https://humanrightscommission.house.gov/sites/tlhr.house.gov/files/documents/Workshops%20Report%20by%20Gender%20Legacy%20Integration%20Group%2011-18-2015.pdf>.

<sup>27</sup> Stormont House Agreement para. 21.

<sup>28</sup> Gender Principles for Dealing with the Legacy of the Past, available at [http://www.caj.org.uk/files/2015/09/16/Gender\\_Principle\\_Report\\_Sept\\_2015\\_Final\\_Version1.pdf](http://www.caj.org.uk/files/2015/09/16/Gender_Principle_Report_Sept_2015_Final_Version1.pdf). The Gender Principles were developed in September 2015 by the Legacy Gender Integration Group an informal network of individuals with gender expertise from civil society and academia following widespread and extensive consultation in Northern Ireland, including with women who have been bereaved by the conflict, in order to respond to the absence of a gendered lens and the sustained exclusion of women from previous mechanisms established to deal with the past (see above mentioned workshop report). The Gender Principles set out a framework for ensuring that gender is integrated holistically throughout all of the new mechanisms established pursuant to the Stormont House Agreement.

<sup>29</sup> HC Deb 7 September 2015, vol 599, col 30, per D. Cameron.

<sup>30</sup> Please refer to Rights Watch (UK) submissions to the UK Parliament's House of Commons Joint Committee on Human Rights for more information <http://rwuk.org/wp-content/uploads/2016/02/RWUK-Drones-Subs-Final-2-1.pdf> and the Committee's subsequent report: Joint Committee on Human Rights, 'The Government's policy on the use of drones for targeted killings' (2015-16, HL 141, HC 574) at <http://www.publications.parliament.uk/pa/jt201516/jtselect/jtrights/574/574.pdf>.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Notably in a speech made at the Lord Mayor's banquet on 16 November 2015, only days after the Paris attack, the Prime Minister made clear that there was to be renewed focus on using drones in the fight against 'Islamic State', with an intended doubling of the UK drones fleet: <https://www.politicshome.com/foreign-and-defence/articles/news/david-camerons-speech-lord-mayors-banquet>.

<sup>34</sup> See Belgium and Germany's letter to the UN Security Council justifying their use of lethal force against the Islamic state where they use the same legal basis that was used by the United Kingdom Government to justify its use of lethal force by armed drones in Syria [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2016/523](http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/523) and [http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2015\\_946.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_946.pdf).

<sup>35</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, UN Doc A/HRC/WG.6/13/GBR/1 (8 March 2012) para. 63.

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<sup>36</sup> HM Government, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism' (Cm 8123, July 2011).

<sup>37</sup> HM Government, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism: Annual Report for 2015' p. 5.

<sup>38</sup> Joint Committee on Human Rights, 'Legislative Scrutiny: Extremism Bill' Oral evidence presented by David Anderson QC and Lord Carlile (9 March 2016) Q. 6.

<sup>39</sup> Joint Committee on Human Rights, *Counter-Extremism* (2016-17, HC 39, HL 105).

<sup>40</sup> House of Commons Home Affairs Committee, *Radicalisation: the counter-narrative and identifying the tipping point* (2016-17, HC 135).

<sup>41</sup> Committee on the Rights of the Child, *Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* UN doc CRC/C/GBR/CO/5 (3 June 2016) para. 21(b).

<sup>42</sup> HM Government, Prevent Strategy (Cm 8092, June 2011) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/97976/prevent-strategy-review.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf).

<sup>43</sup> Counter-Terrorism and Security Act 2015 s. 26.

<sup>44</sup> See statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the United Kingdom at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19854&LangID=E>.

<sup>45</sup> David Anderson QC, supplemental written evidence to The Home Affairs Committee on Countering Extremism (29 January 2016) at <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/counteringextremism/written/27920.pdf>.

<sup>46</sup> See a recent report published on 13 July 2016 by Rights Watch (UK) 'Preventing Education: Human Rights and UK Counter-Terrorism Policy in Schools' <http://rwuk.org/wp-content/uploads/2016/07/preventing-education-final-to-print-3.compressed-1.pdf> which documents the underlying flaws with the policy and the impact that it is having on the human rights of children in the United Kingdom, including a number of case studies.

<sup>47</sup> The Prevent Strategy fails to provide a clear an intelligible, clear or predictable definition of extremism or the indicators of extremism are ambiguous and unsubstantiated.

<sup>48</sup> In one case, a 17 year old who was referred to Prevent for expression solidarity with the Palestinian people discovered the police had collected information on him without his or his parent's knowledge or consent, and was told that this information would be held indefinitely by the police and may be used against him in the future.

<sup>49</sup> Rights Watch (UK) 'Preventing Education: Human Rights and UK Counter-Terrorism Policy in Schools' at <http://rwuk.org/wp-content/uploads/2016/07/preventing-education-final-to-print-3.compressed-1.pdf>.

<sup>50</sup> Prime Minister's Office. The Queen's Speech 2016 (18 May 2016) paras. 49-50 [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524040/Queen\\_s\\_Speech\\_2016\\_background\\_notes\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524040/Queen_s_Speech_2016_background_notes_.pdf).

<sup>51</sup> House of Commons Home Affairs Committee, *Radicalisation: the counter-narrative and identifying the tipping point* (2016-17, HC 135).

<sup>52</sup> Joint Committee on Human Rights, *Counter-Extremism* (2016-17, HC 39, HL 105).

<sup>53</sup> See 'Britain's police could become 'thought police' under plans to clamp down on extremism' accessed on 20 September 2016 <http://www.telegraph.co.uk/news/uknews/law-and-order/12066981/Britains-police-could-become-a-thought-police-under-plans-to-clamp-down-on-extremism.html> and Anti-radicalisation chief says ministers' plans risk creating 'thought police' accessed on 20 September 2016 at <https://www.theguardian.com/uk-news/2016/may/24/anti-radicalisation-chief-says-ministers-plans-risk-creating-thought-police>.

<sup>54</sup> The Anti-social Behaviour, Crime and Policing Act 2014 brought in a new code of practice that reduced maximum detention time from 9 to 6 hours, increased the distinction between examination and

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detention, banned intimate searches, restricted use of strip searches and made clear the right of person detained under Schedule 7 to have someone informed and to consult a solicitor.

<sup>55</sup> In *Beghal v. Director of Public Prosecutions* [2015] UKSC 49, Lord Hughes held that ‘if detention beyond what is necessary to complete the process is to be undertaken it ought to be justified by objectively demonstrated suspicion’. (para. 55).

<sup>56</sup> Lord Kerr, dissenting, made these observations in *Beghal v. Director of Public Prosecutions* [2015] UKSC 49 (para. 118). See also D. Anderson ‘The Terrorism Acts in 2014: Report of the Independent Reviewer on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006’ (September 2015) para. 6.38.

<sup>57</sup> *R(Miranda) v. Secretary of State for the Home Department* [2016] EWCA Civ 6.

<sup>58</sup> See the British Nationality Act 1981 s. 40 (as amended) and the Immigration Act 2014 s. 66.

<sup>59</sup> *Ibid.* See also D. Anderson, ‘Citizenship Removal Resulting in Statelessness: First Report on the Operation of the Independent Reviewer on the Operation of the Power to Remove Citizenship Obtained by Naturalisation from Persons who have no other Citizenship’ (April 2016) at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/518120/David\\_Anderson\\_QC\\_-\\_CITIZENSHIP\\_REMOVAL\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/518120/David_Anderson_QC_-_CITIZENSHIP_REMOVAL_web.pdf).

<sup>60</sup> See generally M. Gower, ‘Deprivation of British citizenship and withdrawal of passport facilities’, House of Commons library, SN/HA/6820 (30 January 2015) at <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06820>.

<sup>61</sup> Counter-Terrorism and Security Act 2015, Part 1 Chapter 1.

<sup>62</sup> *Ibid.*, Part 1 Chapter 2.

<sup>63</sup> See G. Goodwin-Gill, ‘Temporary Exclusion Orders’ and their Implications for the United Kingdom’s International Legal Obligations’ Part I (8 December 2014) & Part II (9 December 2014), *EJIL: Talk* at <http://www.ejiltalk.org/temporary-exclusion-orders-and-their-implications-for-the-united-kingdoms-international-legal-obligations-part-i/> & <http://www.ejiltalk.org/temporary-exclusion-orders-and-their-implications-for-the-united-kingdoms-international-legal-obligations-part-ii/>.

<sup>64</sup> The Special Rapporteur stated that ‘by dividing, stigmatising and alienating segments of the population, Prevent could end up promoting extremism, rather than countering it’. See Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the United Kingdom (21 April 2016).

<sup>65</sup> The Special Rapporteur stated that ‘educators should not be required to act as watchdogs or intelligence officers, nor should they be obliged to act in ways that might impinge the right to education, academic freedom or freedom of expression, thought, religion or belief’. See ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’ UN Doc A/HRC/31/65 (22 February 2016) para. 45.