

## Introduction

- Good morning. I am Tom McNally, Minister of State for Justice in the United Kingdom and a member of the UK's Coalition Government that was formed in May 2010. I am leading the UK's delegation and am ably supported by other departments in the UK Government and colleagues in the Devolved Administrations of Scotland, Wales and Northern Ireland.
- I am very pleased to be here today to speak on behalf of the United Kingdom and to discuss the progress we have made in implementing the recommendations from our first review in 2008. I would like to highlight a number of achievements that have been made over the last four years but also to be frank with you about some of the challenges we face.
- I look forward to hearing the perspectives, views and recommendations of other states. The UK is proud of its record on human rights, but there is always room for improvement. One of the strengths of Universal Periodic Review is that we can learn from a wide variety of perspectives and experiences so we can make enjoyment of human rights a reality in people's everyday lives throughout the world.
- None of us can, or should, approach this process with complete equanimity. For the UK, as for most other western countries, our review comes in the midst of the world's worst financial crisis for over half a century. In order to reduce the deficit and restore economic stability we have had to make some very

difficult decisions in regards to public spending. But in doing so we have tried to protect the most vulnerable in society where and when possible.

### **Human Rights and the UPR**

- The United Kingdom has a long-standing commitment to advancing human rights both at home and internationally and is deeply committed to the success of the Universal Periodic Review. UPR is an important mechanism for sharing best practice on human rights around the world and promoting continual improvement of human rights on the ground.
- Our wider aim is that the second cycle of the UPR serves further to strengthen this unique mechanism, preserving its universality and constructive spirit. We believe it is for states to lead the way in establishing best practice and hope to work with others and play our role in achieving this.
- In preparing for our review, we have consulted broadly with civil society – holding engagement events in all four nations of the United Kingdom. They have been open in telling us where they disagree with the Government and where they think we need to improve. And in many cases they have appreciated our readiness to seek their views and to engage them in a frank and constructive discussion.

## **Human Rights Debate in the United Kingdom**

- The UK Government is firmly committed to promoting and protecting human rights. In its Programme for Government, the UK Coalition reaffirmed its commitment to the European Convention on Human Rights. The UK was instrumental in the creation of the Convention and much of its substance reflects the rights and freedoms hard won in the United Kingdom over the centuries. These include the right to a fair trial, freedom from torture and freedom of speech: rights still not recognised in many parts of the world.
- The government has further committed to improving understanding of the Convention, to respond to the existing debate in the United Kingdom about how it works in practice. We have established a Commission on a Bill of Rights. This provides an opportunity to review how best to enshrine the Convention into Domestic law, protecting and extending British liberties – a principle we remain committed to. The Commission will report at the end of the year.
- We are also committed to the effective operation of the European Court of Human Rights. We are therefore proud of the substantial package of reform we achieved last month in the Brighton Declaration, as part of the UK Chairmanship of the Council of Europe. We expect these measures to ensure more cases are resolved at the national level, enabling the Court to

focus more quickly on more important cases. This will help the Court to better address the abuse of human rights in Europe.

### **Human Rights developments in the UK since 2008**

- The United Kingdom's national report sets out in detail the progress made against the recommendations we received at our last review in 2008. I don't therefore intend on covering the same ground again here today as I want to leave plenty of time to respond to questions. I am also keen to address some of the issues member States have raised with us in advance of this session.

### ***Human Rights and Security***

- The first duty of any Government is to protect life and secure prosperity for all its people. In the 21st century, threats come in many different forms and from many different sources. It is essential that the various arms of the state have the powers and ability to meet such threats. It is equally necessary for our justice system to be able to administer justice in a way that safeguards civil liberties and human rights.
- We see the promotion of respect for human rights as vital in tackling the roots of terrorism. In tackling terrorism itself, we see it as vital that we never lose sight of the importance of human rights.

- Reconciling the demands of these two fundamentally important objectives is one of our greatest challenges and I am grateful for questions on this subject.
- Last year the United Kingdom Government undertook a review of six of its counter-terrorism and security powers to ensure there is the correct balance between the state's security powers and civil liberties.
- The review of counter terrorism and security powers concluded that the maximum pre-charge detention period for terrorist suspects should be reduced from 28 to 14 days. To deal with exceptional circumstances, the review recommended publication of draft fast-track legislation which could be introduced where more than 14 days might be necessary. It would only be introduced to Parliament in order deal with urgent and exceptional situations and then it would be a matter for parliament to agree whether the maximum period should be extended to 28 days. It would be a matter for a Court to decide whether it was necessary in respect to each individual case.
- The review also concluded that control orders should be replaced by a system of terrorism prevention and investigation measures. This was achieved by the TPIM Act 2011. The review further stated that there may be exceptional circumstances where more stringent measures are necessary to protect the public. The Government has published draft

emergency fast track legislation which could be introduced in such circumstances.

- The TPIM system, like the control order system, contains extensive safeguards to protect the rights of individuals subject to the measures. A TPIM notice can only be imposed if the statutory tests for its imposition have been met – including that the individual is reasonably believed to be involved in terrorism-related activity, and that a notice and its constituent measures are necessary to protect the public from a risk of terrorism.
- There is automatic, in depth review of Secretary of State's decision to impose the TPIM notice and each of its measures by the High Court. The court considers the necessity and proportionality of each measure and its compliance with the ECHR. The court also ensures that the individual's right to a fair hearing in accordance with Article 6 is protected. The court would never uphold a TPIM notice if it was improperly imposed on a discriminatory basis including as a result of an individual's nationality, race or religion. No TPIM notice or control order before that has ever been quashed by the courts on the basis that it did so discriminate. The legislation is fully compatible with the ECHR.
- Where we seek to deport terrorist suspects, and concerns are raised about their safety on return to their home country, we believe that diplomatic assurances are a valid way of achieving our aim of protecting the public in accordance with our international obligations.

- We will not deport an individual where there are substantial grounds for believing that there is a real risk the individual will face torture or inhuman or degrading treatment or punishment. We ensure that arrangements are in place to verify that these assurances are respected.
- The UK courts have upheld the principle of relying on government-to-government assurances and in its ruling on Abu Qatada the European Court of Human Rights has found that our policy is compatible with Article 3, the prohibition of torture.

### ***The Right to Protest and the use of containment***

- The UK Government fully supports the right to peaceful protest. The Government supports the targeted and proportionate use of containment and its use by the police as a key tactic to manage risks of violence and disorder at protests and the policing efforts to use containment in a way that minimises the impact on those protesting peacefully. The European Court of Human Rights in the recent Austin judgment found that the use of containment as a police tactic is lawful if used proportionately.

### ***Children's Rights***

- Keeping children safe is a top priority for the Government. We are clear that no child should be subjected to violence or abuse.

- Any punishment that constitutes violence or abuse is unlawful. Corporal punishment has been prohibited in regulated settings outside the home such as schools, children's homes and secure establishments. And in 2004 the law for England and Wales was amended so that parents can no longer use the 'reasonable punishment' defence if prosecuted for assaults on their children which involve cruelty, or cause actual or grievous bodily harm. Similar measures have been taken in Scotland and Northern Ireland to restrict the use of physical punishment.
- Research shows that fewer parents now use physical punishment, and we hope that trend continues. We strongly encourage the provision of parenting programmes to manage children's behaviour as they promote alternatives to physical punishment.
- The Government is committed to ending child poverty. We are taking the long-term action and decisions needed to create a fairer society. Poverty is a complex and wide ranging problem - income is important but so are addressing barriers to employment and ensuring that every child has the skills and opportunities to succeed.
- That is the focus of the Government's first ever Child Poverty Strategy, which sets out actions to tackle the causes of poverty head on. These include unemployment and welfare



dependency, family breakdown, low educational achievement, poor health and disability and financial insecurity. Each of the devolved administrations is responsible for producing its own child poverty strategy, and we have worked together to ensure that these complemented each other.

- The Children Act 2004 provides a statutory framework in both England and Wales, requiring public bodies to make arrangements to safeguard and promote the welfare of children. This recognises the importance of supporting the children of offenders, both for their own sake and to prevent intergenerational crime. Many of these are associated with either the child's right to contact with parents who are held in custody or with safeguarding the wellbeing of children with whom they have contact.

## **Devolved Administrations**

### ***The Scottish Government***

- The Scottish Government is committed to creating a modern, inclusive Scotland which respects and realises human rights.
- Scotland has a separate legal jurisdiction and a devolved Parliament that legislates in a number of areas including justice, health and education. Scotland's devolved institutions must observe and implement obligations entered into by the United

Kingdom under the European Convention on Human Rights and other international treaties.

- Within the overall framework of the UK's international commitments, Scotland frequently takes its own distinctive approach in many policy areas, something which has been reflected within the UK's state report.
- The Scottish Government has been positively engaged in the UPR process, seeking to reflect Scottish best practise in particular areas. Work is ongoing which, as a consequence, will improve the realisation of human rights in Scotland.
- Internationally, the Scottish Government has been at the forefront of championing climate justice, which links environmental rights, low carbon growth in the developing world and climate change.
- As I said earlier, Scotland benefits from having its own, statutorily-independent and internationally respected, National Human Rights Institution - the Scottish Human Rights Commission - which currently chairs the European Group of National Human Rights Institutions.

### ***The Welsh Government***

- Human Rights, equality and inclusion are principles at the very heart of the Welsh Government. It is committed to making Wales a fairer and more inclusive society, where all of its diverse communities can thrive.

- The Welsh Government welcomes meeting its international obligations. The Universal Periodic Review provides an opportunity to demonstrate the unique approach that has been developed in Wales to not only meet these obligations, but also the needs of the Welsh people.
- The Welsh Government has engaged with the UK Government and its stakeholders in Wales to ensure that this position is reflected in the UK State Report for this Review.
- Since the 2008 Review, there have been a number of real successes in Wales such as embedding the United Nations Convention on the Rights of the Child into Welsh Law and development of the first strategic national policy to ensure equality of opportunity for the Gypsy Traveller community.
- Wales is a country that continues to be built upon principles of fairness and equality. The Welsh Government is committed to the continuation of this approach and the further development of human rights in Wales.

### ***Northern Ireland***

- Human rights and equality have been central to the political settlement in Northern Ireland. The parties to the Good Friday Agreement affirmed their commitment to mutual respect, civil rights and religious liberties. The Agreement also made provision for a Northern Ireland Human Rights Commission and an Equality Commission for Northern Ireland, both of which

continue to play an important role in upholding and promoting human rights and equality there.

- I am pleased to report that, since the UK's last Periodic Review, Northern Ireland has enjoyed a period of political stability not seen in a generation.
- But, as in any society undergoing the transition from conflict, there remain difficult issues to resolve, particularly relating to transitional justice and rights protections.
- The UK Government will continue to play a role here, but we believe the best way to resolve such issues is through solutions found from within Northern Ireland.
- Thank you for this opportunity to speak about the importance we attach to human rights in the United Kingdom and about some of the ways we are seeking to put our commitment to human rights into effect in a way that benefits the lives of everybody in our country. I look forward to hearing your views on these and other matters.