

ALTERNATIVE THE HUMAN RIGHTS REPORT

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CONTENTS

INTRODUCTION P 03

CHAPTER 01 P 04

BURMA

by Burma Campaign UK

CHAPTER 02 P10

CHAGOS ARCHIPELAGO

by UK Chagos Support Association

CHAPTER 03 P16

COLOMBIA

by Justice for Colombia

CHAPTER 04 p22

TIBET

by Free Tibet Campaign

CHAPTER 05 p28

WEST PAPUA

by Free West Papua

CHAPTER 06 p34

WESTERN SAHARA

by Western Sahara Campaign

FURTHER INFORMATION p40

THE ALTERNATIVE HUMAN RIGHTS REPORT

INTRODUCTION

When the Labour government came to power in 1997, the then Foreign Secretary Robin Cook promised an 'ethical dimension' to foreign policy. The move was widely welcomed by human rights organisations, and expectations of a change in approach were high. In 1998 the government published the first of its annual human rights reports. It stated; "The government has placed human rights at the heart of foreign and international development policy."

Nine years later, this 'alternative' human rights report paints a different picture. There does not appear to be a consistent approach to human rights issues from the government. Its human rights agenda appears to be driven more by media coverage and Parliamentary pressure than by an assessment of human rights concerns in individual countries. The six countries covered by this report - Burma, Chagos Archipelago, Colombia, Tibet, West Papua and Western Sahara – highlight the lack of priority given to human rights in general, and the disparity in approach.

The government's human rights agenda should be driven by need, not media attention. Most of the countries covered in this report are rarely if ever in the media, and are not prioritised by the government, despite appalling human rights abuses on a mass scale. The government cannot claim to be ignorant of what is going on, it reports the abuses in detail in its own annual human rights report. Why then does it do so little when it has the power to do so much? In addressing problems in some of these countries the British government could – and should - take the decision to put human rights before other commercial and diplomatic priorities, but in others it seems the problem is simply lack of interest.

The lack of priority given to human rights is highlighted by the government's own list of international priorities. Human rights does not even get its own ranking in those priorities, but instead comes under a general heading of sustainable development, which is ranked at number seven.

Human rights and democracy are issues that are moving up the international and domestic agenda. In 1997 the British government was spearheading that effort, but it seems to have lost its way. Producing an annual report that highlights human rights abuses around the world is a welcome step, but human rights are still not a driving force in decision-making. As far as the British government's foreign policy priorities are concerned, human rights have not just taken a back seat, but have been locked away in the boot. This has to change.



CHAPTER 01

BURMA

by The Burma Campaign UK

OVERVIEW OF THE POLITICAL AND HUMAN RIGHTS SITUATION



Once one of Asia's healthiest economies, Burma now hovers on the brink of bankruptcy, ruled by one of the most brutal dictatorships in the world.

Burma gained independence from British colonial rule in 1948 and there followed a brief period of parliamentary democracy, which ended abruptly with an army coup in 1962. The dictatorship which followed lasted for 26 years until the country's current military rulers, the State Peace and Development Council (SPDC), seized power in 1988. The coup took place in the wake of nationwide peaceful uprisings aimed at bringing an end to authoritarian rule. **The demonstrations were crushed by the military; thousands of people were killed and thousands more arrested in one of Southeast Asia's most bloody episodes in recent history.**

Worried that they could not hold on to power, the ruling generals held democratic elections in 1990. The National League for Democracy, led by Nobel Peace Prize winner Aung San Suu Kyi, won 82% of seats in parliament. However, the regime refused to hand over power, and instead unleashed a new wave of oppression. That repression continues to this day.

Democracy activists are treated as criminals, under constant surveillance, subjected to harassment, intimidation and arrest for peaceful activities. **There are at least 1,100 political prisoners in Burma, many of whom routinely face physical, mental and sexual torture.**

Across Burma thousands of men, women and children have been forced to work for the regime without pay and under threat of beatings, torture, rape and murder. Such systematic and widespread use of forced labour has been called a 'crime against humanity' by the International Labour Organisation (ILO).

The regime continues to wage war against ethnic minorities, such as the Karen, Karenni and Shan, driving hundreds of thousands of people from their homes. More than 2,800 villages have been destroyed, countless civilians killed and rape is systematically used as a weapon of war against ethnic women and children.

RECENT DEVELOPMENTS

THOUSANDS FORCED TO FLEE THEIR HOMES IN MILITARY OFFENSIVE IN KAREN STATE

This year the regime intensified its military offensive in Karen State, eastern Burma. In the worst offensive since 1997, more than 16,000 ethnic Karen civilians have been forced to flee their homes and hide in the jungle with no food, shelter or medical supplies. Villages have been turned into 'free-fire' zones, with the army kidnapping people for forced labour, shooting and killing indiscriminately, raping, torturing, burning and stealing food stocks and laying landmines. According to Human Rights Watch, the Burmese army laid more than 2,000 landmines, allegedly in order to block escape routes and deny the civilian population access to food supplies and other humanitarian assistance.

Those fleeing the new offensive have given eyewitness accounts of horrific human rights abuses being committed by the Burmese army, including the shooting of children and women, sexual violence, torture, mutilations such as cutting off people's hands, feet, ears and noses, and even the beheading of villagers.

CRACKDOWN ON DEMOCRACY ACTIVISTS

The regime continues to ban virtually all opposition political activity and to persecute democracy and human rights activists. Offices of the NLD and ethnic nationality political parties remain closed. Aung San

Suu Kyi continues to be held under house arrest in Rangoon. She is allowed no visitors, her post is intercepted and her phone line cut. Her term of house arrest was extended for another year on 27 May 2006. Over the past year, the military regime has intensified its attacks on the NLD, harassing and intimidating NLD members throughout the country to resign. The regime is increasingly using the Union Solidarity and Development Association (USDA) in the surveillance and arrest of political dissidents. The USDA is a militia group, headed by Senior General Than Shwe. The USDA has instigated violent attacks on members of the pro-democracy movement, including the Depayin Massacre, a brutal attack on Aung San Suu Kyi and members of her convoy in 2003. The USDA has also sought to infiltrate or eliminate civil society organisations and has also tried to co-opt the humanitarian work of international agencies.

TORTURE

Burma has at least 1,100 political prisoners, who routinely face physical, mental and sexual torture. Torture is particularly used against individuals who protest their conditions of detention or are suspected of political dissent. Individuals are arrested without warrant; held incommunicado and tortured in pre-trial detention. Prosecutors often rely on confessions extracted through torture and interrogation techniques designed to intimidate and disorient. Seven democracy activists are reported to have died in detention in 2005, and one in January 2006 as a consequence of torture, ill-treatment or inadequate medical attention.



Naw Eh Ywa Paw, a nine year-old Karen girl who was shot after seeing her father and grandmother killed



Protesters on the bank of the Salween River

DAM PROJECT THREATENS 30,000 VILLAGERS

In a joint project with Thailand, the regime is planning to build five dams along the Salween River on the Thailand-Burma border. Under an agreement signed in December 2005 between Thailand and Burma's regime, construction on the Salween dams is due to begin in 2007. The dams will provide electricity for Thailand and revenue for the ruling military regime.

Just one of the four dams planned for the Salween, the Weigyi Dam will flood over 640 square kilometers in Karenni State, inundating 28 towns and villages and impacting approximately 30,000 people. An entire tribe – the Yintalai, who now number a mere 1,000 – will permanently lose all their homelands. Irreversible environmental damage will be caused by the flooding of forests internationally recognised for their outstanding biodiversity.

FOREIGN INVESTMENT CONTINUES TO SUSTAIN REGIME

Foreign trade and investment has enabled the regime to double the size of the army, while at the same time Burma spends less on its health service than any other country. Burma's democracy movement is calling for targeted economic sanctions against the regime in Burma, but so far there is currently no legal barrier preventing European or Asian companies from fuelling this dictatorship through investment and trade.

French oil giant TOTAL Oil is the largest European investor in Burma and its Yadana gas project is believed to earn the regime between \$200m to \$450m a year. In addition to the huge revenues Total's project provides the regime, the company's presence in Burma is influencing French, European Union and British foreign policy on Burma, as France vetoes effective EU sanctions in order to protect TOTAL. This year, TOTAL sponsored a survey in western Arakan State which found new oil and gas deposits off the coast, raising the prospect of further foreign investment.

In another gas development project, the Shwe Gas project in western Burma is predicted to earn Burma's military regime between US\$12-17 billion dollars. These Shwe fields could well become the Burmese military government's largest single source of foreign income and lead to extensive human rights abuses in Arakan and Chin States.



AN ASSESSMENT OF UK GOVERNMENT POLICY - 7 out of 10

The British government is one of the strongest critics of Burma's military dictatorship. It has taken the lead within the European Union pushing for stronger measures against the regime, including sanctions, and has played a vital role in supporting initiatives by the United States of America to bring Burma before the United Nations Security Council. The past year has seen Burma move up the government's agenda, with renewed energy and creativity from the Foreign Office in finding ways to increase pressure on the regime, following a recent period during which the Foreign Office seemed happy to 'tread water' and wait for someone else to take the initiative. However, there is still more that the government could be doing, in particular with regards to investment in Burma. The UK is the second largest source of approved investment in Burma.

"The EU is split between countries putting human rights first and countries prioritizing trade."

The British government, as a prominent member of many international organisations, addresses Burma in many different multilateral forum, as well as having options for unilateral action. Much of the government's foreign policy on Burma is governed by the EU Common Position on Burma.

EU members are committed to a common foreign policy on Burma. In theory, this could be highly effective, with all 25 EU members working together to

help bring democratic reform in Burma. In fact, we are left with the lowest common denominator, and a weak and ineffective response that has had no impact on the regime. As all 25 EU members have to agree on sanctions or any issue, it only takes one country to say no, and then nothing happens. The EU is split between countries putting human rights first and countries prioritizing trade. The Common Position is a fudge consisting of measures that have no impact of the regime in Burma.

Current EU measures against Burma include:

- A visa ban for senior regime officials and their families (otherwise known as the shopping ban, as exemptions in the visa ban allow regime officials to attend many international meetings in Europe. As the Foreign Office has admitted, regime officials rarely came to Europe anyway.)
- An arms embargo.
- A freeze of assets held in Europe by people on the visa ban list (less than £4,000 has been frozen in all 25 EU member states)
- A limited investment ban. European companies are banned from investing in a small number of named state-owned enterprises. These companies are largely insignificant. None of the companies listed are involved in the areas that earn the regime any significant revenue. The timber, mining, oil and gas sectors are not included. However, European companies are banned from investing in a pineapple juice factory and a tailor shop. In addition, it is already impossible to invest in state-owned enterprises under Burmese law, so the EU banned something that couldn't happen anyway.

CASE STUDY : SU SU NWAY : JAILED FOR SEEKING JUSTICE

Forced labour is used throughout Burma, affecting thousands of people. The International Labour Organisation (ILO) describes how men, women, children and the elderly are forced to labour on roads, railways and other construction projects and face punishments which include money demands, physical abuse, beatings, torture, rape and murder.

In April 2004 Su Su Nway and others in her village near Rangoon were forced to take part in unpaid labour on a road construction project. In January 2005, in a landmark legal case, she and fellow villagers successfully prosecuted their village administration for forced labour. However, after winning her case, she was threatened and harassed by officials. Nine months later she was arrested and sentenced to 18 months' imprisonment on politically motivated charges.

Su Su Nway was released on 6 June 2006 after serving nearly 8 months of her sentence and she has vowed to continue to fight against injustice. Following her release, she went straight to the headquarters of the National League for Democracy. "As long as there is no democracy, we will have to return to prison." she said.



In April the EU rolled over the Common Position for a further year. Despite the fact that the regime was engaged in a major military offensive against the Karen people in eastern Burma, the EU did nothing to strengthen the Common Position. It is astonishing that the EU was in effect saying that it needed to do nothing more, at a time when the regime had stepped up attacks on its own population. At the same time the EU weakened one aspect of the common position, reinterpreting the visa ban to allow regime officials to visit Europe to attend Asia-Europe Meeting (ASEM) events.

“Despite the fact that the regime was engaged in a major military offensive against the Karen people in eastern Burma, the EU did nothing to strengthen the Common Position.”

Not one of the measures taken by the EU has had any significant economic or political impact on the regime. The European Union is divided over what to do about Burma, and as a result does not have any clear political strategy. The government of France is one of the biggest obstacles to a stronger European position on Burma. In large part this is because they are worried that economic sanctions will damage the interests of TOTAL Oil. In effect, the interests of one French oil company help to dictate the foreign policy of all 25 EU member states, including the UK. While the EU is divided and seemingly incapable of taking action, this does not mean that the UK is unable to take unilateral action or action in other forums.

“In effect, the interests of one French oil company help to dictate the foreign policy of all 25 member states, including the UK.”

Britain is ranked by the regime as the second largest source of approved investment in Burma. This is because of past British investment in Burma, and the fact that investors from the US, Asia and Europe have used British dependent territories to channel investment in Burma. All the main political parties in the UK support a unilateral investment ban, but the

government still refuses to legislate to stop new investment, despite having a policy of discouraging trade and investment in Burma. The government has also taken no recent action to discourage imports from Burma. While imports fell to around £30 million in 2005, they are still almost double the £17.8m of imports in 1998.

Burma’s democracy movement has long called on the United Nations Security Council to take action on Burma. Until Autumn 2005 the British government opposed bringing Burma to the UNSC, claiming that it was not worthwhile given China’s opposition. However, following a major new campaign, and significant Parliamentary pressure, the government reviewed its policy, and gradually began supporting moves to bring Burma before the Council. By December 2005 the UK was working hard alongside the USA to get the first discussion on Burma at the UNSC, which was held on 16 December. This was a major step forward. In Summer 2006 the UK also supported efforts by the USA to get Burma onto the formal agenda of the UNSC.

“All the main political parties in the UK support a unilateral investment ban, but the government still refuses to legislate to stop new investment, despite having a policy of discouraging trade and investment in Burma.”

The UK has also played positive roles at the International Labour Organisation, the United Nations General Assembly, and in unilateral lobbying of ASEAN members. In a welcome recent move, Ian McCartney MP, Foreign Office Minister with responsibility for Burma, called on the Burmese ambassador to the UK to demand political reform. In June 2006 the Prime Minister and Foreign Secretary both made public statements about Burma. Burma has rarely been publicly discussed by the Prime Minister or Foreign Secretary, and more such statements would be very welcome. In another sign of senior government ministers showing more interest in Burma, in April Foreign Secretary Jack Straw met with Burmese democracy activist Charm Tong, the first such meeting in many years.

RECOMMENDATIONS

Given the scale of the crisis in Burma, the government does not give the issue the priority it deserves. We warmly welcome the government's stronger stance on Burma in the past year, and hope that Burma will continue to move up the government agenda. Despite the scale of the crisis in Burma equalling many other international crisis, Burma often seems to take second place to other crises simply because they appear on the evening news.

Given the difficulties in persuading Security Council members to pass a binding resolution, we need to see much higher level of government involvement in working for a resolution. The Foreign Secretary and Prime Minister need to be actively involved in this effort.

We would also like to see the government address Burma at a higher level more generally. While the issue of Burma is regularly raised at meetings with Asian governments, including China and India, at official and minister of state level, the Prime Minister and Foreign Secretary need to be more active in engaging Asian governments on Burma.

As a priority the government needs to act now to stop new investment in Burma, both by British companies and foreign companies using British dependent territories. The government's failure to act to ban new investment is inexplicable, especially given that its own policy is to discourage trade and investment. Labour is the only mainstream political party in the UK that does not support a unilateral investment ban. The regime in Burma is dependent on trade and investment to finance the army it needs to keep itself in power. British companies and British dependent territories have played a critical role in facilitating that investment. It has to be stopped.

Other areas we would like to see the government take more action on include:

- **working to get official EU backing for UNSC action on Burma,**
- **more steps to reduce imports from Burma and**
- **releasing the names of companies importing from Burma so that consumers have the option of avoiding certain imports from Burma.**

FOOTNOTES

1 ILO report on forced labour in Myanmar (Burma) 1998

<http://www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanmar5.htm>

2 Free Burma Rangers report 9 June 2006 <http://www.freeburmarangers.org/Reports/20060609.html>

3 Human Rights Watch press release 'Army Uses Landmines to Prevent Civilians from Fleeing Conflict'

<http://hrw.org/english/docs/2006/05/03/burma13301.htm>

4 'The Darkness we See' A report by the Assistance Association for Political Prisoners

http://www.aappb.org/tortour_report.pdf

5 'Dammed by Burma's Generals' A report by the Karenni Development Research Group (KDRG) March 2006

<http://www.salweenwatch.org/downloads/Dammed.pdf>

6 'Supply and Command' A report by the Shwe Gas Movement, July 2006 <http://www.shwe.org/about/>



CHAPTER 02

CHAGOS ARCHIPELAGO

by UK Chagos Support Association

OVERVIEW OF THE POLITICAL AND HUMAN RIGHTS SITUATION



All the people of this British Overseas Territory live in exile. They were secretly and illegally evicted by their own government in the 1960s and 1970s to make way for a massive US airbase. The High Court has upheld their right to return, but the UK Government continues to fight to deny it, along with proper compensation, or even an apology.

Until the 1960s, these small coral islands in the Indian Ocean were inhabited by around 1,500 to 2,000 British subjects, descended from African slaves and workers from India, Mauritius and the Seychelles. The islanders fished and farmed copra. They can trace their ancestry on the islands back for several generations, and have their own Creole language and culture.

Then the UK Government decided to lease the archipelago to the United States, which wanted to build a new military base on the main island, Diego Garcia.

The Chagos islanders were evicted through deception, coercion and finally force, crammed into the hold of a ship with one bag each, abandoning their homes and most of their possessions.

The original Immigration Ordinance used to legitimise the eviction was said by Lord Justice Laws in 2000 to have “no colour of lawful authority”.¹ The Foreign Office claimed the Chagossians were simply itinerant workers and that no native population existed. But documents reveal that officials knew their actions were “fraudulent”, and that they were creating a “fiction” to keep the eviction secret.²

Most of the Chagossians were dumped on the docks in Mauritius and the Seychelles, where they were offered no help by British representatives. Two derisory compensation payments were made in the 1970s and 1980s but most Chagossians still live in poverty.

Successive UK Governments have failed to bring justice to the Chagos islanders, and the current Labour administration has gone to great lengths to avoid implementing two recent High Court rulings which confirmed the Chagossians had been illegally removed from their homeland and upheld their right to live there.

This shocking forty-year-old human rights violation will continue until the islanders are allowed to return home, with adequate compensation, funding for resettlement and an unconditional apology.

RECENT DEVELOPMENTS

THE VISIT TO THE ISLANDS

A long-awaited visit to the Chagos islands, organised by the Foreign and Commonwealth Office, finally took place in March and April 2006. This trip was the first time any of the Chagossians had been allowed to see their homeland since they were evicted, and they welcomed it.

The Foreign Office had been promising to organise a visit after announcing in 2002 that it would not support long-term resettlement. The trip was originally scheduled for October that year, but was postponed. After several delays it was rescheduled for October or November 2005, but was postponed once again.

In the intervening period, scientific, environmental and yachting trips were all granted approval – yachtsmen are even allowed to visit the islands if they buy a permit. But the Chagossians watched in frustration as the Government struggled to fulfil its promise, and were relieved when the visit was finally confirmed this year.

One hundred Chagossians, mostly from Mauritius and accompanied by two priests, were able to take part in the ten day trip, which briefly visited islands including Diego Garcia, Salomon and Peros Banhos. They tended to their ancestors' graves, visited their old homes and even held a service in a ruined church. They reported being deeply saddened by the state of their houses. Monuments were erected on each island

to commemorate their visit and tribute paid to family members buried there.

The Commonwealth Secretary-General Don McKinnon welcomed the visit, calling it "a sign of goodwill and hope". But he stressed it shouldn't be a one-off, saying Britain should arrange regular visits, so that Chagossians can "stay in contact with their homes and identities".³

This visit is indeed a major step forward. But it is very difficult for Chagossians to accept that they were not even allowed to spend a night on their islands – supposedly because of mosquitoes – while hundreds of American servicemen and support workers of other nationalities live full-time on Diego Garcia. It was only this year that the US base deigned to employ any Chagossian workers – all applications from Chagossians to work in their homeland had previously been turned down.

It is also difficult for them to accept that settlement on the other islands, some over 100 kilometres away, would pose a security risk to the base on Diego Garcia, as the American government contends.

So the visit served to make even clearer the injustice of the eviction and the flimsy nature of the excuses put forward by the Foreign Office for standing in the way of resettlement. Olivier Bancoult, chair of the Chagos Refugees Group representing Chagossians in Mauritius, released a statement after the trip that said: "We maintain our objective of returning to live in our birthplace. We think justice must be done but this first visit was very successful."



Aerial view of Diego Garcia and its large natural lagoon - one of the reasons it's prized as a military base



Chagossian housing in Cassis: most of the homes are built of corrugated iron, which rusts in the wet

THE JUDICIAL REVIEW OF THE ORDERS IN COUNCIL

Last December, the High Court began a judicial review of the Orders in Council, which the Government passed in June 2004 to ban anyone from setting foot on the Chagos islands without permission – effectively reinstating the eviction order that had been deemed illegal in 2000.

These royal orders were drafted in private by the Foreign Office and approved by the Queen. Parliament was only informed later, showing the Government's disregard for the democratic process, the rule of law and Robin Cook's acceptance of the 2000 High Court ruling when he was Foreign Secretary.

The court hearings finished in January, and the verdict was announced on May 11. The High Court quashed the Orders in Council, ruling that using such measures to exile a population was invalid. Lord Justice Hooper said the orders were irrational and unlawful. He said: "The suggestion that a minister can, through the means of an Order in Council, exile a whole population from a British Overseas Territory

and claim that he is doing so for the 'peace, order and good government' of the Territory is, to us, repugnant."⁴

This marked the second time that the High Court has had to reinstate the right of the Chagossians to go home – the 2004 Orders were passed to avoid having to implement the earlier High Court ruling, apparently because the U.S. refused to countenance it.

THE DECISION TO APPEAL AGAINST THE JUDICIAL REVIEW VERDICT

Following the outcome of the judicial review, Chagossians and their supporters urged the Foreign Office not to appeal. They argued that, having exiled the islanders illegally in the 60s and 70s, and having then attempted unlawfully to perpetuate that exile in 2004, it was time for the Government to abide by the court's ruling.

After first applying for more time to prepare its submissions, the Government lodged its appeal on June 30 - the latest possible date. This decision delays justice for the Chagossian people even further.

A protest outside the US Embassy in Port Louis, March 2004



OBSTRUCTING RETURN : THE FEASIBILITY STUDY AND ORDERS IN COUNCIL

Following the 2000 ruling, the Government commissioned feasibility studies into resettlement of the outer islands of the archipelago, carried out by Royal Haskoning. Incredibly, no Chagossian was consulted to approve the author, or terms of reference, or indeed to play any part in the research process whatsoever.

The studies, published in 2002, concluded that the risk of flooding made the islands too precarious to resettle, and that “the costs of maintaining long-term

inhabitation are likely to be prohibitive”.⁵ The Government used the studies as grounds for not supporting plans for resettlement, but outside the Foreign Office they were widely derided, and rejected by the Chagossian community. The risk of flooding does not seem to have deterred the Americans, who have massively expanded their base. Diego Garcia also appears to have been among the least affected places in the Indian Ocean during the 2004 tsunami.

In 2004 the Government went as far as using archaic Orders in Council (in effect a royal decree) to ban anyone from returning to the islands. Junior Foreign Office Minister Bill Rammell told the House of

CASE STUDY : SELMOUR CHERY

Selmour Chery, now aged 65, was forced to leave Diego Garcia with his wife and one-year-old child and move to Mauritius. Here he reflects on his homeland:

“I remember that everywhere there was harmony. If somebody had a particular problem then the neighbours would help, even if that person was not a relative. There were no worries about what are we going to cook today, we would just make a decision on the spot. We could have fish, eggs, crabs, there was plenty of everything. We did not need money to buy this food, it was free, or if you wanted something there was a barter system or you went out to fish. We grew our own vegetables and we had chickens.

“After the removal to Mauritius it was different. If there was a death on Diego Garcia, then the whole of the population would mourn and would support the family. But in Mauritius the neighbour would say not to worry and would play music as usual. Many old people could not bear the consequences. Families were separated from each other. For some of those, this was the first time they had gone to another country. Many of them died because of their age and just thinking about the memories and the sadness.

“My house in Diego Garcia was like a bungalow with a grass roof. Once a child was 18 years old he was given two rooms and a lounge so he became independent. You had an area around your house where you could rear your animals and grow your vegetables.

“In Mauritius somebody might find a room but it would be overcrowded with seven people in a room. And then you do not have a job and you can’t pay your rent so you had to borrow money.

“All my children’s memories of Diego are from me. They all appreciate and support if we are doing anything leading to us going back to Diego. Three of my children are now in England, two are in Switzerland and one in Portugal.”

Interview by Phil Chamberlain



Commons: "...the Government consider that there would be no purpose in commissioning any further study into the feasibility of resettlement; and that it would be impossible for the Government to promote or even permit resettlement to take place. After long and careful consideration, we have therefore decided to legislate to prevent it".⁶ This "long and careful consideration" took place behind closed doors, with no involvement from Parliament, the Chagossians or the public.

"The Government used the studies as grounds for not supporting plans for resettlement, but outside the Foreign Office they were widely derided, and rejected by the Chagossian community."

When these orders were quashed by the High Court earlier this year, the Government chose to prolong its prevention of return by appealing. Six years after the original ruling in the islanders' favour, the Government's policy of preventing a return is still succeeding. Various tactics have had to be used, but the result is the same: the Chagossians remain in exile and resettlement is still a long way off.

More recently, the Foreign Office has even suggested that the fact that no Chagossians tried to return between 2000 and 2004 means they squandered their opportunity – in full knowledge that their levels of poverty mean resettlement without Government support is impossible.

"Six years after the original ruling in the islanders' favour, the Government's policy of preventing a return is still succeeding."

LACK OF COMPENSATION

The Government has resisted calls for further compensation to the Chagossians by pointing to two previous payments, in the 1970s and 1980s, and noting that an attempt to obtain adequate compensation through the courts in 2003 failed

because too much time had elapsed.

What the Government does not mention when citing earlier payments, is that both did very little to alleviate the Chagossians' suffering. In 1973, £650,000 was given to the Mauritian government for the aid of the Chagossians – amounting to a few hundred pounds each. It left most of the exiles no better off, with the money not even covering their debts. It was not until 1982 that any more money came from the British government: £4 million was allotted as a "full and final settlement" – but in order to obtain a share of this, the exiles had to sign away their right to return home at any point in the future, before the courts reinstated it. So, as recompense for being thrown off their islands, seeing their animals killed, enduring years in exile, losing their homes and their livelihoods, the Chagossians have been given a few thousand pounds each – with strings attached.

"They have not gone without compensation, but what they have received has done little to repair the wrecking of their families and communities, to restore their self-respect or to make amends for the underhand official conduct now publicly revealed."

The Chagossians' latest attempt to obtain financial redress through the courts failed in 2003 because it came too late, but Mr Justice Ouseley did say the islanders could show they had been treated "shamefully" by successive British Governments.⁷ When the islanders appealed, Lord Justice Sedley said: "They have not gone without compensation, but what they have received has done little to repair the wrecking of their families and communities, to restore their self-respect or to make amends for the underhand official conduct now publicly revealed."⁸

RECOMMENDATIONS

- **The Government should immediately abandon its appeal against the High Court’s judgment quashing the Orders in Council.** By appealing, the Government is for the second time refusing to accept the court’s decision, and prolonging the Chagossians suffering by delaying the justice they are due.
- **The Government should enter into talks in good faith with representatives of the Chagossian community to arrange for appropriate compensation for their ordeal.** The Government must acknowledge that the payments made in the 1970s and 1980s were in no way sufficient to make up for what the Chagossians have suffered, or to offer most of them a realistic prospect of escaping poverty.
- **The Government should support and fund plans for resettlement of the outer islands of the Chagos Archipelago.** This must begin with studies on resettlement and the drafting of a plan to bring it about. The Government needs to acknowledge that the feasibility studies of 2002 have been discredited and meet representatives of the Chagossian people to jointly commission new studies. Since the UK Government exiled the islanders and created the need for resettlement, it must be the UK Government that funds and facilitates resettlement.
- **The Government should offer a formal apology to the Chagossians for their treatment over the years.** The Government needs to recognise that the exile of the Chagos islanders is not an event from history but an ongoing human rights violation – one that it perpetuates with every day that its current policies continue.

FOOTNOTES

- 1 High Court judgement, 2000
- 2 Foreign Office minute, 24 May 1965, in Chagos islands group litigation, claimants chronology, p. 7; Foreign Office legal adviser, 16 January 1970, in Chagos islands group litigation, claimants chronology, p.25
- 3 Letter from Don McKinnon to Olivier Bancoult, 2006
- 4 High Court judgment, May 11, 2006
- 5 Feasibility Study for the Resettlement of the Chagos Archipelago Phase 2B: Volume 1: Executive Summary, 2002
- 6 Hansard, 2004
- 7 High Court judgment, 2003
- 8 Court of Appeal judgment, 2004



CHAPTER 03

COLOMBIA

by Justice for Colombia

OVERVIEW OF THE POLITICAL AND HUMAN RIGHTS SITUATION



Colombia is experiencing a human rights catastrophe. The frequency and the range of the abuses perpetrated, coupled with the impunity enjoyed by those who commit them, make it clear that Colombia needs to be singled out by the international community for urgent attention.

No other country in the Western Hemisphere is currently facing a human rights crisis on the scale of Colombia.

Assassinations, kidnappings and forced disappearances are a daily reality, massacres and cases of torture are regularly documented and the numbers of people being forced to flee their homes is in the hundreds of thousands each year.

No improvement is in sight and, according to a wide variety of observers, the past twelve months have seen a worsening of the situation .¹

The internal armed conflict in Colombia has been waged for over 50 years and shows no signs of abating. Armed opposition groups, most notably the leftwing FARC guerrilla insurgency, still control vast tracks of the country² whilst rightwing state-backed paramilitaries dominate many areas that are nominally under government control.

The Colombian state has long played an active role in the conflict and is responsible for some of the gravest abuses. Indeed, the vast majority of human rights violations, some 70-80%, can be attributed either directly to state agents or indirectly to the state-backed paramilitary forces.³ These paramilitary forces operate with the tolerance and acquiescence of state entities, most notably the army and police, and have been described by Human Rights Watch as simply an extension of the official security forces.⁴

The May 2006 re-election of Alvaro Uribe Velez is of great concern. President Uribe has repeatedly and publicly made clear his disdain for human rights organisations⁵ and, throughout his first term, proposed and/or implemented legislation that severely weakened human rights protections.⁶ His documented ties to known drugs traffickers⁷ and his promotion of military officers implicated in human rights abuses⁸ are also disturbing. Additionally, his administration has been harshly criticised for its continual failure to implement the recommendations of the Office of the UN High Commissioner for Human Rights, despite regular promises to do so.

RECENT DEVELOPMENTS

The key and ongoing concern in Colombia is impunity. As the Colombian Government continues to allow those who perpetrate human rights abuses to escape without punishment, the abuses will persist. The Uribe Government has been notably reluctant to pursue claims of human rights abuses committed by members of the security. Though a small number of cases where the perpetrator has been penalised do exist, the impunity rate in Colombia is generally accepted to be in the region of 90%. This is the crucial issue and unless the Colombian Government acts to change this, and to date there is no evidence that they are doing so, the human rights situation will remain critical.

Aside from impunity, which obviously relates heavily to all of the below themes, Justice for Colombia currently has five major concerns vis-à-vis the human rights situation in Colombia:

1 EXTRA-JUDICIAL EXECUTIONS OF CIVILIANS

The most recent report of the Bogotá Office of the UN High Commissioner for Human Rights observed “an increase in allegations of extra-judicial executions attributed to members of the security forces”. The UN said that many of the deaths were presented by the authorities as guerrillas who were killed in combat and that sometimes the “[army] commanders themselves had allegedly supported the act of dressing the victims in guerrilla garments to cover up facts and stimulate combat.” The same UN report stated that in other cases “victims were handed over by paramilitaries, subsequently executed by members of the military, and then presented as members of armed groups killed in combat”.

The Colombian security forces extra-judicially executed at least 108 civilians during 2005⁹ and the murders continue. On August 16th 2006, for example, members of the ‘Gabriel Reveiz Pizarro’ Battalion of the 18th Brigade murdered Anival Florez Becerra near the town of Saravena and then claimed he was a guerrilla killed in combat. In another case on August 5th 2006 paramilitaries took away indigenous leader Douglas Antonio Perez from the village of Las Heliconias in Putumayo department. Two days later his body was found, dressed in camouflage, at the regional morgue in the city of

Puerto Asis. He had been brought in by the army and reported as a guerrilla member killed in combat.

The vast majority of cases, including the well-documented massacre of eight civilians by soldiers in the peace community of San Jose de Apartado in February 2005, remain in complete impunity and the large number of them demonstrates that the security forces in many regions of Colombia are now systematically practicing extra-judicial executions.

2 CONTINUING ATTACKS AGAINST TRADE UNIONISTS

The situation faced by trade union members in Colombia continues to be critical and it remains the most dangerous place in the world to be a member of a trade union. According to the ICFTU over 70% of all trade unionists killed in the world each year are killed in Colombia.¹⁰ Since President Uribe took power in 2002 over 500 trade union members have been assassinated and the killings continue.¹¹ Over 90% of the assassinations are the work of state forces or state-backed paramilitary groups.¹²

The violence against Colombian trade unionists is systematic and is perpetrated with almost complete impunity. Of approximately 3,600 documented cases of assassinations of trade union members in the past 15 years the Colombian government has been able to provide details of only six convictions. In addition, many murder cases are not investigated at all and the Colombian government continues to claim, in the face of overwhelming evidence to the contrary (and despite the existence of a poorly implemented protection programme for trade unionists), that violence against trade unionists is a result of the general conflict in Colombia, rather than a form of selective and systematic violence directed against workers and their organisations.

The Colombian government provides international organisations (such as the ILO) as well as trade union organisations (such as the British TUC) with statistics and figures that are patently false.¹³ These include figures showing that less trade union members have been murdered than is really the case. As a consequence of disquiet about the veracity of evidence and the incontrovertible persistent impunity, the ILO Conference in June 2005 decided that a high-level tripartite mission should visit Colombia.



3 MASSIVE LEVELS OF FORCED DISPLACEMENT

Since President Uribe came to power in 2002 over one million Colombians have been forced to leave their homes and relocate bringing the total number of internally displaced to at least 3.6 million.¹⁴ According to the UN High Commissioner for Refugees, Colombia now ranks number two in internal displacement population after the Sudan.¹⁵ It is a massive problem, and it is getting worse:

Year	Number of people displaced ¹⁶
2003	207,607
2004	287,500
2005	318,387

Those responsible for much of the displacement are state-backed paramilitaries and Colombian groups testifying at the Inter-American Commission on Human Rights in March of 2006 recommended that the Organisation of American States produce a special report on the land question since paramilitaries have amassed so much land that they have effectively instituted a land reform in reverse.

The response of the Colombian Government to this situation has been inadequate. According to the Washington Office on Latin America “the lack of political will to fully address the problem translates into limited tangible results... being seen on the ground. Most of the internally displaced are woefully neglected by the state and suffer from multiple violations of their rights.” In January 2004, the Colombian Constitutional Court found that “due to action or omission by the authorities in providing displaced population with optimum and effective protection, thousands of people suffer multiple and continuous violations of their human rights.” In late August 2005, the Court declared that actions taken since the ruling were insufficient.

4 ONGOING ARBITRARY AND MASS DETENTION

Recent years have seen a dramatic increase in the numbers of people being arbitrarily detained. In the first year of the Uribe presidency (July 2002-June 2003) some 4,362 people were rounded up without probable cause. In the previous six years combined only 2,869 people were victims of such detentions.¹⁷ More worryingly is that these detentions appear to be targeted against political opponents of the government such as the detentions of numerous opposition candidates in the week preceding municipal elections in the department of Arauca and the large number of trade unionists being detained.

Many of those detained have been rounded up in so-called mass detentions and a study by a consortium of human rights organisations of some 6,000 cases of arbitrary detentions carried out during Uribe’s first two years in power found that in 5,535 cases the victims were detained in round-ups of ten people or more. According to the study “in the framework of the struggle against terrorism, entire populations are being classified as dangerous, and as a result are exposed to the risk of administrative detention.”¹⁸

The detention process is similar in the vast majority of cases: the victim is seized by the army or police who then charge them with aiding ‘terrorists’ and parade them in front of reporters’ cameras as a captured ‘terrorist’. The victim is then held in jail for a period of weeks, months or years before being released for lack of evidence. In general the detention is based on the evidence of anonymous informants whom the victim cannot question or confront.

A consequence of this is that those who are released are then stigmatised, which, in a country where hundreds of civilians are killed each year because someone suspects them of being guerrilla supporters, places them in grave danger. The case of university professor Alfredo Correa, one of the thousands of academics, trade union leaders, human-rights activists and other left-of-centre figures that have been detained since Uribe took power, is emblematic. In July 2003 police in the city of Barranquilla detained Correa and accused him of being a FARC supporter. He was subsequently found innocent and released from jail but was then assassinated, in September 2003, by agents from the DAS secret police.¹⁹

In their 2005 report on Colombia Amnesty International reported that “As part of the

government's 'war on terror', hundreds of civilians, especially peasant farmers, human rights defenders, community leaders and trade unionists, were subjected to mass and often irregular detentions by the security forces. Many of these detentions were carried out solely on the basis of information provided by paid informants. The use of mass detentions was questioned by the Office of the Procurator General, the Human Rights Ombudsman, and the Office in Colombia of the UN High Commissioner for Human Rights."

The report went on to explain how "judicial officials who released those detained in mass arrests were themselves investigated. In May, the Office of the Attorney General ordered the arrest of Judge Orlando Pacheco. In November 2003 he had released over 120 people detained in Sucre Department on conflict-related charges due to lack of evidence. In June, the Office of the Attorney General ordered the recapture of those freed by Judge Pacheco."

5 THE PARAMILITARY 'PEACE PROCESS'

The negotiation process that President Uribe opened with the AUC paramilitary organisation during his first term in office, and which continues today, has been widely criticised. According to the Colombian government, the talks with the AUC were only begun after the paramilitaries declared a ceasefire yet, according to Colombian human rights organisations, many thousands of people have been killed by the paramilitaries whilst this official 'ceasefire' was in place.²⁰

The paramilitary process, which Justice for Colombia believes is effectively an attempt to legalise the paramilitaries, has been criticised for the following three key reasons:

a) It does not comply with the international norms for truth, justice and reparation.

For example, the deeply flawed 'Justice and Peace Law', which gives the process its legislative framework, has ensured that the vast majority of demobilised paramilitaries will not face any charges or jail time for the human rights crimes committed that they have committed – effectively giving them complete impunity.²¹ The tiny proportion who are sentenced will face a maximum of eight years, whatever their crime, which can again be reduced for good behaviour. In addition, the 'Justice and Peace'

legislation takes no account of any crimes committed by paramilitaries where state agents were involved – a large number of the crimes by most accounts. With regards to reparation the legislation governing the process is even more deeply flawed and it appears that the paramilitaries will in fact be able to keep hold of the huge amounts of land that they have stolen, through forced displacement, in recent years.

b) No mechanisms have been provided to guarantee the dismantling of illegal structures.

For example, the most recent report of the UN Office of the High Commissioner for Human Rights found that paramilitaries continue to have a strong political, social and economic influence in various regions and that they continue to control many activities (illegal and legal) and own land/properties "held by front men". Paramilitary commanders have also publicly boasted that they control some 40% of the members of the Colombian Congress.

c) In many cases paramilitaries are either not demobilising, not handing in all of their weapons or are reconstituting themselves under different names.

For example, large AUC units such as the Elmer Cardenas Bloc, the Cacique Pipinta Bloc and the paramilitary structure in Casanare department have not even taken part in the demobilisation and those units that have so far demobilised have only turned in an average of one weapon for every two combatants.²² In addition the UN Office of the High Commissioner for Human Rights reports "the recruitment of new members or creation of new groups" in areas such as Catatumbo, Valle del Cauca, Nariño and Córdoba, and the Organisation of American States monitoring mission for the process has stated that the emergence of new paramilitary forces is widespread and that they have "discovered the existence of illegal armed structures, located in key narco-trafficking corridors, that are operating along the lines of the former AUC".



AN ASSESSMENT OF UK GOVERNMENT POLICY - 1 out of 10

In view of the severity of the human rights crisis in Colombia, the response of the UK Government has been poor. Currently virtually all bilateral UK assistance to Colombia is provided directly to the Colombian army – one of the very entities responsible for the massive level of human rights abuses. Confronted with abundant evidence that the Colombian military's human rights performance is not improving, the Government has increasingly made reference to human rights although the aid continues to flow even as, according to the UN, abuses perpetrated by the security forces increase year on year.

“Virtually all bilateral UK assistance to Colombia is provided directly to the Colombian army.”

The Colombian military ends up benefiting the most from this situation: it is able to continue violating human rights without being penalised and still receive UK assistance without, as far as is known, any strings attached.

One of the most worrying aspects of UK policy on Colombia is the almost complete secrecy surrounding it. The Government refuses to reveal how much aid is sent to the Colombian security forces, refuses to reveal which Colombian military units benefit from UK assistance and refuses to reveal what, if any, human rights monitoring mechanisms are in place.

“One of the most worrying aspect of UK policy on Colombia is the almost complete secrecy surrounding it.”

Despite this veil of secrecy, it is known that certain units of the Colombian security forces that have appalling human rights records (for example, the High Mountain Battalions of the Colombian army) have benefited from UK assistance. This situation has damaged the standing of the UK Government among sectors of Colombian civil society who now see the UK, along with the US (the only other country to give substantial aid to the Colombian security forces) as complicit in human rights violations. In May 2006 over 150 Colombian civil society organisations wrote

to Tony Blair outlining their concerns that UK aid was aiding human rights abusing military units and calling on him to freeze the aid. To date the Prime Minister has not responded.

Perhaps as a result of the disquiet surrounding UK military aid to Colombia the Government has increasingly argued that their aid is to assist the Colombian armed forces to fight the ‘war on drugs’. Yet in Colombia there is a blurring between counter-narcotics and counter-insurgency operations. When asked if UK aid was being used to fight the FARC insurgency the British Embassy in Bogotá told a recent delegation of British trade unionists that this was definitely not the case. The diplomats then went on to explain that the aid was used to fight drugs traffickers and gave the example of the FARC as a drugs trafficking organisation. This is all the more worrying as it is during counter-insurgency operations that the vast majority of human rights abuses committed by the Colombian military take place.

“The Colombian military (...) is able to continue violating human rights without being penalised and still receive UK assistance without, as far as is known, any strings attached.”

The UK Government has given strong political support to President Uribe despite his appalling human rights record. Uribe has visited Downing Street on two occasions and, despite the widespread international concern, the Government has also been particularly forthright in its support for the paramilitary ‘peace process’ and the controversial ‘Justice and Peace Law’. In a parliamentary answer on 5th June 2006 the Government went as far as to claim that the ‘Justice and Peace Law’ “will have a positive impact on peace-building in Colombia”.

To sum up, although the UK Government does have two or three very small projects funded by the Foreign Office in Colombia, virtually all bilateral UK assistance (well over 90%) is directed towards the Colombian security forces. This assistance indicates where the policy priorities of the Government lie.

RECOMMENDATIONS

To ensure that the UK Government's overall policy towards Colombia genuinely represents a positive engagement on human rights, there should be an immediate freeze on all UK assistance to the Colombian armed forces. The Government needs to make it clear to the Colombian government that under no circumstances will the UK aid an army that so regularly and blatantly violates fundamental human rights.

- **The Government should provide an incentive for compliance with basic human rights norms by assuring recommencement of military assistance upon the Colombian government's successful implementation of the United Nations' human rights recommendations.**
- **The money saved from military assistance should be redirected into social and economic development aid administered by the Department for International Development.** This aid should aim to further build the capacity of Colombian civil society and projects should be designed and implemented in partnership with Colombian civil society organisations such as trade unions, human rights groups, environmental organisations, etc. One area where assistance is urgently required is the internally displaced population.
- **The Government should also make clear its opposition to the deeply flawed paramilitary 'peace process' and endorse the United Nations' recommendation for a serious modification of this process.**
- **Serious consideration should also be given to joining the so-called "group of friendly nations" that is working with the Colombian government and the FARC insurgency towards finding a peaceful solution to the armed conflict.** This group includes some of the UK's EU partners that recognise that a negotiation process with the insurgency is the only viable solution to the Colombian conflict. Pressure on the Colombian government to recognise this, and participation in facilitating dialogue between the two sides would be a very positive position for the Government to adopt.
- **Finally the Government needs to toughen its representations on human rights themes, making clear public statements on issues such as extra-judicial executions by the armed forces, collusion between the armed forces and the paramilitaries, impunity for human rights abusers and mass and arbitrary detentions.**

FOOTNOTES

- 1 The Colombian Commission of Jurists and the CUT trade union federation contend that the human rights situation has deteriorated in the past year. An August 2006 report (www.ciponline.org) also notes an increase in abuses.
- 2 30-50% of Colombian territory is under FARC control. The ELN insurgents no longer effectively control any territory.
- 3 Statistics provided in December 2005 by the Colombian Commission of Jurists. Testimony presented by Human Rights Watch to the 57th Session of the United Nations Commission on Human Rights placed the figure at 80%.
- 4 According to Human Rights Watch "the paramilitaries are so fully integrated into the army's battle strategy, coordinated with its soldiers in the field, and linked to government units via intelligence, supplies, radios, weapons, cash, and common purpose that they effectively constitute a sixth division of the army."
- 5 In June 2005 Uribe said that by "not having the courage to denounce Amnesty International, we have allowed it to legitimise terrorism". He describes Colombian human rights groups as "spokesmen of terrorism".
- 6 Through both executive decree and anti-terrorist legislation, Uribe has gradually granted the military a range of judicial powers limiting civil liberties, with neither the approval nor oversight of the courts.
- 7 A declassified US Defence Intelligence Agency report describes Uribe as a "close personal friend of Pablo Escobar" who was "dedicated to collaboration with the Medellín cartel at high government levels".
- 8 In August 2006 Uribe appointed General Freddy Padilla as commander of the armed forces despite the fact that the General has been formally charged with at least one massacre of civilians.
- 9 Cases collected by Justice for Colombia and available on our website (www.justiceforcolombia.org).
- 10 ICFTU annual survey of trade union rights (www.icftu.org).
- 11 Cases collected by Justice for Colombia and available on our website (www.justiceforcolombia.org).
- 12 Statistic provided by Domingo Tovar, head of human rights at the CUT trade union federation.
- 13 In 2004 the Colombian Vice-President provided the British TUC with a bogus list of people convicted of attacks against trade unionists.
- 14 According to a May 2006 report by the Consultancy for Human Rights and Development (CODHES).
- 15 "The State of the World's Refugees: Human Displacement in the New Millennium", UNHCR, April 2006.
- 16 According to a May 2006 report by the Consultancy for Human Rights and Development (CODHES).
- 17 Colombian Commission of Jurists.
- 18 "Liberty: Hostage to Democratic Security", a 2005 study by Colombia human rights groups in coordination with the Colombia-Europe-United States Coordination (CCEEU).
- 19 See www.ciponline.org for a detailed account of the assassination of Professor Correa.
- 20 These killings are documented by the Colombian Commission of Jurists and the Catholic human rights group CINEP.
- 21 Human Rights Watch says "The Justice & Peace Law makes a mockery of the basic principles of human rights and accountability".
- 22 OAS monitoring mission.



CHAPTER 04

TIBET

by Free Tibet Campaign

Free Tibet Campaign uses the term 'Tibet' to refer to the three original provinces of U'tsang, Kham and Amdo (sometimes called Greater Tibet).

OVERVIEW OF THE POLITICAL AND HUMAN RIGHTS SITUATION



China's invasion of Tibet in 1950 was unprovoked with no accepted legal basis for claims of sovereignty. China maintained that the People's Liberation Army's (PLA) task was to 'liberate' Tibet.

In March 1959, growing Tibetan resistance exploded in an uprising against the Chinese occupation. The 14th Dalai Lama, Tibetans' spiritual and temporal leader, fled into exile in northern India, and the subsequent Chinese crackdown in Tibet was brutal. Monasteries

were targeted as the backbone of Tibetan society and 80% of central Tibet's 2,700 monasteries were destroyed before 1966 and the beginning of the Cultural Revolution.

China has reorganised two of Tibet's three provinces, Amdo and Kham, as parts of the Chinese provinces of Qinghai, Gansu, Sichuan and Yunnan. U'Tsang was renamed 'Tibet Autonomous Region', TAR. However, the TAR's local legislation and government affairs are subject to approval of the central government in Beijing.

Since 1950, hundreds of thousands Tibetans have died as a direct result of the Chinese occupation. Violations of human rights are systematic: lack of an independent judiciary, widespread use of torture in the detention system and restriction of freedom of thought, expression and association. Freedom of religion is severely restricted, while China actively attempts to discredit the religious authority of the Dalai Lama.

In 1995 the child recognised as the reincarnation of the Panchen Lama, Tibet's second most prominent religious leader, Gedhun Choekyi Nyima, was abducted by the Chinese authorities, who installed their own candidate. China refuses access to the Panchen Lama. His whereabouts remains unknown.

In public institutions and schools Chinese has replaced Tibetan as the official language and young Tibetans are being re-educated about their cultural past, with references to an independent Tibet being omitted.

China's predominant interest in Tibet is no longer ideological, but is based on resource extraction and land for Chinese colonists. Mining and mineral extraction is the largest economic activity in both U'Tsang and Amdo and at least one-half of Tibet's natural forest has disappeared since the Chinese occupation. Long-term Chinese settlement in Tibet has been deliberately encouraged, with the result that Tibetans are in the minority in many areas. Chinese traders are favoured by lower tax assessments and the dominant position of Chinese in government administration.

Formal contact between Beijing and representatives of the Dalai Lama was re-established in September 2002 after a decade of stalemate. Tibetan envoys and their aides visited Beijing and Tibetan areas in 2003 and June 2004. A fourth round of dialogue took place in Berne, Switzerland at the beginning of July 2005 and a fifth meeting took place 15-23 February 2006 in China.

KEY ISSUES

- There are an estimated 150 Tibetan political prisoners
- The UN Special Rapporteur on Torture concluded that torture remains widespread in China and Tibet
- China celebrated the 40th anniversary of the establishment of TAR
- The Committee on the Rights on the Child (CRC) urged China to grant religious freedom to all children and to eliminate discriminatory practices against Tibetan children
- China re-launched its 'patriotic education' campaign in Tibet's main monasteries earlier in 2005
- The whereabouts and welfare of Gedhun Choekyi Nyima, the 11th Panchen Lama is still unknown
- The fifth round of talks between the envoys of the Dalai Lama and Chinese officials took place in February 2006
- China was elected to the UN Human Rights Council
- In July 2006 China launched the Golmud-Lhasa railway

RECENT DEVELOPMENTS

POLITICAL PRISONERS

There are an estimated 150 Tibetan political prisoners, the majority of which are monks and nuns. In several incidents monks and nuns were arrested following leaflet distribution and poster pasting. In an incident in Sangchu County, Ganan Tibet Autonomous Prefecture ("TAP"), Gansu Province, four Tibetan monks, Jamyang Dhondup, Dhargay Gyatso and two other unidentified monks, from Labrang Tashikyil Monastery were arrested on 23 May 2005 on suspicion of pasting bills calling for "freedom in Tibet".¹

The UN Special Rapporteur on Torture concluded, following his 2005 visit, that "torture remains widespread in China".² The Rapporteur managed an on-site inspection of Drapchi Prison and the recently opened Chushur (Chinese: Qushui) Prison near Lhasa, and noted his particular concern with sanctions placed on Tibetan monks, including prohibition on prayers and religious worship. He expressed concern that some prisoners are only "allowed outside of their cells for 20 minutes per day" and noted complaints about "the food, the extreme temperatures experienced in the cells during the summer and winter months and a general feeling of weakness due to lack of exercise".

Political prisoners are subjected to further abuse on their release. The authorities deprive them of political rights, restrict their movements while monks and nuns cannot return to their monastery or nunnery. Unemployed and in poor physical and mental condition they are condemned to a life of extreme poverty. Nun Phuntsog Nyidrol (34), the second longest serving (17 years) female political prisoner in Tibet and the last of the 'Drapchi 14' was released in February 2004. Since then she has been under close surveillance at her parents' home in Lhasa and has suffered from constant harassment and restrictions of her movements by the Chinese authorities. Her political rights were denied for five years, so she could neither rejoin her nunnery, nor receive adequate medical treatment. She was allowed to leave Tibet for the USA to receive medical treatment in March 2006.

TORTURE

At the end of 2005, the UN Special Rapporteur on Torture, Dr Manfred Nowak, visited China, Tibet and Xinjiang. Dr Nowak stated that "he was struck by the strictness of prison discipline and a palpable level of fear and self-censorship when talking to detainees". He also confirmed that a variety of torture methods are still widely and systematically used. These include beatings, use of electric shock batons, submersion in pits of sewage, exposure to conditions of extreme heat or cold, deprivation of sleep, food or water, prolonged solitary confinement, hard labour and denial of medical treatment. His report highlighted the incentives for the police and security officials to obtain confessions through torture and noted the lack of independent, fair and accessible courts and prosecutors, as well as the ambiguity of the domestic law regarding political crimes, policies of re-education and sanctions on freedom of religion, expression and association.

Ex-political prisoner, nun Phuntsog Nyidrol



China concealed information about the opening of Chushur Prison, to which many Tibetan political prisoners had been transferred months before the visit; thus, he was able to meet only three political prisoners: Lama Jigme Tenzin (Bangri Tsamtrul Rinpoche), monk Lobsang Tsuitrim and Jigme Gyatsu. The report noted that they are still subject to mental and physical torture and called for their release.

40th ANNIVERSARY OF THE TAR

On 1 September 2005 China celebrated the 40th anniversary of the establishment of the TAR. Beforehand it undertook a pre-emptive crackdown in Lhasa with the arrest of former political prisoners, the removal of certain Tibetans to rural areas and a heightened security presence in the capital. A massive propaganda campaign highlighted the 'progress' of the region and criticised the Dalai Lama.

RIGHTS OF THE CHILD

During its 40th session in September 2005, the UN Committee on the Rights of the Child (CRC) rejected China's claim that it "protected the freedom of religious belief" for all its citizens. In its robust set of concluding recommendations, the Committee urged China to grant religious freedom to all children and to eliminate discriminatory practices against Tibetan children by "ensuring equal access to basic services... including health, education and other social services, and that services used by these children are allocated sufficient financial and human resources".³

People's Liberation Army's soldiers in front of the Potala Palace, Lhasa



FREEDOM OF RELIGION

China re-launched its "patriotic education" campaign in Tibet's main monasteries earlier in 2005. Originally designed to inculcate loyalty to the state and the Chinese Communist Party as a pre-requisite to being a good monk or nun, patriotic education 'work teams' attempt to undermine the influence of the Dalai Lama. In Drepung Monastery in Lhasa a young monk was found dead in mysterious circumstances a day after he had a heated argument with 'work team' officials. In November, a major incident took place in the monastery at the time during which a number of monks were expelled.

Earlier that month, the authorities expelled the disciplinarian at Sera Monastery and ordered him to stay under surveillance, after they snatched a "request for prayer" from him. The disciplinarian monk who read the request aloud was expelled from Sera Monastery. In an attempt to determine the long-term future of Tibetan Buddhism, young Gyaltsen Norbu has been promoted as Tibet's Panchen Lama.

He made rare visits to Tibet, participated in religious ceremonies and made statements of loyalty to the Chinese Communist Party and Chinese 'motherland'. Under Beijing's control he was presented as the figurehead of the "World Buddhist Forum" held in Hangzhou in April 2006, to which the Dalai Lama was not invited. The young Norbu, who is being educated under Beijing's guidance, remote from his country and people, is seen by most Tibetans as "Beijing's puppet".

THE PANCHEN LAMA

The whereabouts and welfare of Gedhun Choekyi Nyima are still unknown more than eleven years since he was abducted by the Chinese Authorities. China has defied numerous calls on the case, including one from the CRC to "allow an independent expert to visit and confirm the well-being of Gedhun Choekyi Nyima while respecting his right to privacy, and that of his parents".

Despite additional calls from the UN High Commissioner for Human Rights, Louise Arbour⁴ and the UK through the EU-China and the UK-China Human Rights Dialogues, China maintains that "the so-called Panchen Lama was a normal child, leading a healthy and happy life."

FIFTH ROUND OF TALKS

Envoys of the Dalai Lama met with Chinese officials in February 2006, for the fifth time since talks resumed in 2002. No substantial progress was made. While the Tibetan Government in exile is placing great emphasis on the dialogue as the best means to achieve a peaceful resolution to the Tibet issue, and exercising great diplomacy in its communication about the dialogue, there has been no reciprocal effort on China's part. China still maintains its preconditions to a negotiation process and abuses the process by launching personal attacks against the Dalai Lama.

UN HUMAN RIGHTS COUNCIL

The UN General Assembly elected China as one of the first 47 state members of the inaugural UN Human Rights Council. The results were widely predicted as they reflect the reality of China's increasing power and rise on the world stage despite its human rights record and disregard for its

obligations under international human rights law. In a letter to Dave Anderson MP, the Prime Minister Tony Blair declared that "[The British Government] will expect every member of the Human Rights Council including China, to act fully in accordance with these standards, and to take very seriously the responsibility that they will have for the promotion and protection of human rights worldwide."

QINGHAI-TIBET (GOLMUD-LHASA) RAILWAY

In July 2006 China launched the Golmud-Lhasa railway. The railway, linking Tibet for the first time by rail into the main Chinese rail network, has been a longstanding objective of the Party; it will assimilate Tibet more extensively into China. The project is strongly opposed by Tibetans who fear an increase of Han Chinese settlers' migration into Tibet thus further diluting the Tibetan population. There are grave concerns of further Chinese militarisation of the Tibetan plateau, exploitation of Tibetan natural resources and environmental destruction.

CASE STUDY :

BANGRI TSAMTRUL RIPOCHE (JIGME TENZIN)

Bangri Rinpoche was arrested with his wife, former nun Nyima Choedron, in August 1999. The couple founded and began to run an orphanage for some of Lhasa's most deprived children. At its peak, the orphanage was home to 60 children. They were well respected by the Tibetan community in the capital.

The exact circumstances leading to Bangri and Nyima's arrest in 1999 remain unclear. However, it is believed that they relate to a business relationship with a Tibetan who attempted to blow himself up in the Potala Square in 1999. The orphanage itself was declared an "illegal organisation" and the children were forced to leave, facing a life trying to survive on the streets of Lhasa.

Rinpoche was severely tortured and later sentenced to 18 years imprisonment for inciting splittism. Nyima Choedron, was released in February 2006, a year before her prison term would have expired. She is now reunited with her seven year old daughter who was born just before her arrest.

Rinpoche is in poor health. In a testimony given to the UN Special Rapporteur on Torture, Rinpoche describes the torture he suffered. The Rapporteur concluded: "Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released."



Before the arrest: Bangri Rinpoche playing with an orphan

AN ASSESSMENT OF UK GOVERNMENT POLICY - 4 out of 10

While current British foreign policy on Tibet includes pressing the Chinese Government on human rights abuses, Britain takes a soft approach overall due to the strong desire for profitable trade with China. The British Government refuses to address the question of Tibet's status or to discuss the issue of Tibetan independence, claiming this is "not a realistic option" - an expedient approach based on realpolitik rather than one of principle or consistency.

The British Government now believes there is a pressing need for dialogue without preconditions between the Chinese authorities and the Tibetan people. However, Britain has done little to encourage the Chinese to negotiate sincerely, beyond "reminding" them of the British position. Furthermore, pressing for talks without preconditions while at the same time declaring "independence is not a realistic option" is surely self-defeating.

“While current British foreign policy on Tibet includes pressing the Chinese Government on human rights abuses, Britain takes a soft approach overall due to the strong desire for profitable trade with China.”

The Government does not feel that the Dalai Lama has a political role, and his visits to Britain are held to have been purely of a "private and religious" nature. In recent months the British Government appears increasingly disinclined to raise Tibet and human rights with China, instead giving precedence to trade and commercial interests: Tony Blair failed to raise the issue during President Hu Jintao's State Visit in November 2005.

The current British position on Tibet is described in the following policy statement “Successive British Governments have regarded Tibet as autonomous while recognising the special position of the Chinese there. Tibet has never been internationally recognised as an independent state. We welcomed the visit to Beijing and Lhasa in September 2002 by representatives of the Dalai Lama and continue to encourage the Chinese Government to enter into meaningful dialogue with the Dalai Lama to resolve the Tibetan issue”.⁵

Protesters in front of Parliament during Hu's State Visit



“2007 will be the tenth anniversary of the EU's and UK's own dialogues with China, and this important yardstick offers an opportunity for a substantive review.”

The UK-China and EU-China Human Rights Dialogues became the main biannual mechanism for exchange of views on human rights between officials from both sides. However, these fail to make sufficient progress in key areas - particularly Tibet - and exclude other strategies (for example, since commencing its dialogue the EU has refused to co-sponsor resolutions tabled on China at the Commission for Human Rights). 2007 will be the tenth anniversary of the EU's and UK's own dialogues with China, and this important yardstick offers an opportunity for a substantive review. However, no sensible review is possible unless timeframes are placed against the EU's benchmarks.

In fact, Britain did officially regard Tibet as being de facto independent for much of the first half of the 20th century - from a Tibetan declaration of independence in 1912 until the Chinese invasion and occupation of 1949-50.

RECOMMENDATIONS

Free Tibet Campaign believes the current British position on Tibet is self-contradictory, weakening the possible impact and effectiveness of British pressure. It also refutes the UK Government's position and redefines the nature of Britain's historical relations with Tibet. Free Tibet Campaign therefore recommends the British Government:

- **Confirms its past recognition of Tibet as being a de facto independent state.**
- **Agrees that it is for the Tibetan people to decide whether or not independence for Tibet is a 'realistic option.'**
- **Begins formal and open relations with the democratically elected Tibetan Government-in-Exile.**

Furthermore, Free Tibet Campaign recommends the UK Government acts on:

1. Negotiation

- Press China for unconditional negotiations between the Chinese Government and Tibetan Government-in-Exile during all of its bilateral contacts with China.
- The UK and EU should aim to secure from China an undertaking to drop all pre-conditions to negotiating a settlement on Tibet, and should promote the inclusion of all areas with Tibetan autonomous status, as designated by China, in any negotiations.
- Develop a set of criteria that will allow formal evaluation of the progress of formal contact between China and the Tibetan Government in exile.
- Urge the EU to appoint a Special Representative for Tibetan Affairs to facilitate dialogue to resolve the long-standing issue of Tibet.

2. Eradication of torture and protection of human rights

- Press China in its new position as a member of the UN Human Rights Council to stand up to its obligations under international human rights law including: full implementation of the recommendations of the UN Special Rapporteur on Torture; implementation of the Convention against Torture (CAT) including the Optional Protocol and withdrawal of reservations to the CAT; ratification and implementation of the International Covenant on Civil and Political Rights (ICCPR).

3. Panchen Lama

- Reinvigorate efforts to gain access to the 11th Panchen Lama of Tibet, who has been in "protective custody" for eleven years.

4. Human Rights Dialogues

- Timelines must be introduced against the benchmarks for the Human Rights Dialogues.
- Objectives for the Dialogue should be publicly linked to a timeframe for compliance by China. Objectives should be specific and relate to action by China, instead of mere agreements to talk about an issue, provide information and accept visits from partners.
- Specific criteria should be identified for the circumstances under which dialogue be suspended or terminated. The continuation of dialogue at any cost should be abandoned as an operating principle.
- Dialogue sessions should include independent social groups, experts, scholars, lawyers and other individuals. NGOs should be self-selecting and be guaranteed the right of free expression. Dialogue partners should try to encourage the Chinese government to engage in dialogue domestically, rather than only internationally. The dialogue should strengthen the authority of UN human rights standards and mechanisms rather than undermining them.

FOOTNOTES

1 Tibetan Centre for Human Rights and Democracy

2 E/CN.4/2006/6/Add.6, 10 March 2006, UN Commission on Human Rights 62nd session, report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, mission to China

3 CRC/C/15/Add.271, 30 September 2005, UN COMMITTEE ON THE RIGHTS OF THE CHILD, 40th session.

4 During a visit to China between 29 August and 2 September 2005

5 <http://www.fco.gov.uk/servlet/Servlet?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1018965313021>



CHAPTER 05

WEST PAPUA

by Free West Papua Campaign

OVERVIEW OF THE POLITICAL AND HUMAN RIGHTS SITUATION



West Papua, the western half of the island of New Guinea, has been occupied by neighbouring Indonesia since 1969. Previously part of the Dutch East Indies, West Papua was granted independence by the departing Dutch on 1st December 1961. In 1962, Indonesian troops occupied West Papua, claiming it for themselves. An international crisis was provoked in which the UN intervened. Under pressure from the US and other western powers, it was agreed that Indonesia should govern

West Papua until a referendum could be held in which the Papuans could decide between independence and integration into Indonesia.

That referendum, known as the ‘Act of Free Choice’ was held in 1969, under the aegis of the UN, and is widely acknowledged to have been a sham.¹ The Indonesians refused to allow a one-person-one-vote referendum, instead selecting 1,026 ‘representative’ Papuans – out of a population of 800,000 – to carry the vote. There is clear evidence that these 1,026 people were violently coerced by the Indonesian military into voting the ‘correct’ way.² The vote to join Indonesia was unanimous, and in 1969 West Papua – renamed ‘Irian Jaya’ – became Indonesia’s 26th province.

The Act of Free Choice was a clear denial of the right of the people of West Papua to self-determination, a right guaranteed to them under international law³, and it has been at the heart of the ongoing human rights abuses in West Papua. Since 1969, between 100,000 and 800,000 Papuans are estimated to have been killed by Indonesian troops.⁴ **Human rights abuses are widespread, with regular reports of beatings, torture, extra-judicial killing, rape and the destruction of property by police and soldiers. The Indonesian military in West Papua has been implicated in financial corruption⁵ and the murder of independence leaders.⁶**

As a result of this ongoing abuse, and their original denial of self-determination, the people of West Papua are widely supportive of a growing internal movement calling for a genuine referendum on self-determination and their future relationship with Indonesia. This movement is also gaining international support. **Indonesia, meanwhile, continues to ban journalists and human rights observers from West Papua, and access is extremely limited for visiting tourists. Most of West Papua remains closed to the outside world, in an apparent attempt by the Indonesian government to limit the spread of information about their ongoing abuses of the population.**

RECENT DEVELOPMENTS

Ongoing human rights abuses in West Papua are fostered by a culture of impunity in the police and military, and by a lack of scrutiny by outsiders, caused by the government's sealing-off of the province from the outside world. Here are some of current major issues raised by the occupation of West Papua:

POLICE CRACKDOWN AFTER FREEPORT DEMONSTRATIONS

Large student demonstrations in March 2006 against the Freeport mining company, which runs the Grasberg gold and copper mine in West Papua, ended in violence as many demonstrators were badly wounded by police and soldiers, and five members of the security services were killed. The protests were followed by a police crackdown in which student dormitories were raided, students and their relatives were attacked and beaten, and many students fled to the jungle or over the border to the neighbouring country of Papua New Guinea. One group of students who attempted to escape by boat claim that they were chased by the Indonesian military, who sunk the boat and stabbed to death one of their number. Others claim that soldiers deliberately assassinated students they suspected of being involved in the demonstrations.⁷

PRISONERS IN INDONESIAN JAILS TORTURED AND INTIMIDATED

The Indonesian authorities in West Papua were accused of torture in a human rights report released by the Catholic Church's Papuan Peace and Justice Secretariat in June 2006. Investigators interviewed students who had been arrested and imprisoned for taking part in demonstrations against the Freeport mine in March 2006. The students had reportedly been denied access to legal representation and suffered physical and mental torture. The report also accused soldiers of opening fire on civilians.⁸

LEGAL SYSTEM CONSISTENTLY FAILS VICTIMS OF POLICE VIOLENCE

On 8th September 2005, two senior Indonesian police officers, accused of allowing the killing of three Papuan students and the torture of over a hundred others, were acquitted by Indonesia's Human Rights Court. An Amnesty International spokesperson said 'Today's verdict means that not a single member of Indonesia's security forces has been convicted of these horrific crimes after nearly five years of investigations and legal proceedings.' The West Papuan human rights monitoring group ELSHAM, cites several similar cases where police officers were either never charged, were acquitted, or were given very light sentences.⁹



November 2005:
West Papuan demonstrators thanking Dutch Professor Pieter Drooglever for his research (commissioned by the Dutch Parliament) into the 1969 'Act of Free Choice' which conclusively found that the West Papuan people have so far been denied their right to self-determination.



Many more West Papuan refugees, fleeing from police and soldiers, continue to seek asylum in Papua New Guinea, where an estimated 9,000 people are already living in border refugee camps.

UNHCR DENIED ACCESS TO WEST PAPUA

In May 2006 UNHCR's regional representative, Neil Wright gave evidence to an Australian Senate enquiry, stating: 'I can confirm that, despite repeated requests, the UNHCR has not been given permission by the Government in Jakarta to have access to West Papua.' Wright said that UNHCR was concerned about reports of widespread human rights abuses by Indonesian troops in West Papua, but was unable to visit to confirm them. Other aid agencies and nearly all foreign journalists are also barred from West Papua. Two years ago, an Amnesty International fact-finding delegation was also refused permission to visit West Papua.¹⁰

BRITISH WATER CANNONS USED AGAINST PAPUAN PROTESTORS

A report in the Observer in November 2005 alleged that Tactica water canons manufactured in the UK had been used by Indonesian security forces against Papuan protestors on at least two separate occasions in 2005. Photographs seen by the Free West Papua Campaign and verified by the Campaign Against the Arms Trade confirm the use of British-made Tacticas to police at least one demonstration.¹¹

POLICE OFFICERS IMPLICATED IN INTIMIDATION, KILLINGS AND VIOLENCE

A report from ELSHAM, the Papuan Institute for Human Rights Study and Advocacy, details a number of recent cases of violence against women by Indonesian police officers. A 19 year old woman was shot in the head on 15th July 2006 by a police officer, after she resisted his attempt to rape her.

The officer and his two companions had been drinking, and were immediately attacked by the woman's relatives. One officer was killed and the other two injured. The ELSHAM report also documents other recent cases of abuse, violence, torture and extra-judicial killing of Papuans by Indonesian authorities.¹²

THOUSANDS OF PAPUANS FORCED TO FLEE THEIR HOMES AND SEEK ASYLUM

In February 2006, 43 West Papuan refugees arrived in Australia to seek asylum, after crossing the ocean in a dugout canoe. Despite the diplomatic row sparked between Australia and Indonesia by their high-profile case, all were eventually granted asylum. Many more West Papuan refugees, fleeing from police and soldiers, continue to seek asylum in Papua New Guinea, where an estimated 9,000¹³ people are already living in border refugee camps. Recently, concerns about the safety of these refugees have been raised, after reports of Indonesian military personnel crossing the border and a build-up of troops in the area.

AN ASSESSMENT OF UK GOVERNMENT POLICY - 1 out of 10

The British government's policy towards West Papua is both inconsistent and ineffective.

The government accepts that Indonesia's annexation of West Papua in 1969 was flawed, but refuses to be drawn on whether the people of West Papua have an ongoing right to self-determination. It claims to be concerned about human rights abuses in West Papua,

yet has not, to our knowledge, made any serious representations to the Indonesian government on the matter. British companies continue to supply arms to Indonesia, and British oil company BP plans to open a large liquid natural gas (LNG) plant in West Papua in coming years, despite human rights violations, environmental problems, and legal concerns about Indonesia's occupation of the country.

CASE STUDY :

FILIP KARMA & YUSAK PAKAGE : JAILED FOR RAISING A FLAG

Every year, on 1st December, West Papuans celebrate the anniversary of the day they briefly gained independence, in 1961, before the Indonesian occupation began. On 1st December 2004, the day was celebrated in the Papuan town of Abepura with a ceremony at which 200 local people publicly raised the West Papuan national flag – the Morning Star – and called for their freedom from Indonesia.

The event itself was peaceful, open and public, but despite this the Indonesian authorities regarded the raising of the Papuan national flag as an act of rebellion against the state. Police advanced on the crowd, firing guns (at least four people were said to have been injured by bullets) and beating demonstrators with batons.

Police then arrested Filep Karma, the man who they accused of raising the flag. They took him to the police station, where he was reportedly beaten and abused. A small crowd gathered outside the police station to protest against his arrest, and twenty of them were arrested too. All were later released except for one man, Yusak Pakage.

Karma and Pakage were kept under arrest and scheduled for trial, on charges of treason. They staged hunger strikes during their pre-trial detention to protest over their ill-treatment and the charges against them. Despite large demonstrations outside the courthouse calling for their release, and support from human rights campaigners around the world, Filep and Yusak were tried in May 2005 on charges of rebellion and expressing hostility or hatred towards the state. They were found guilty and sentenced to 15 and 10 years' imprisonment respectively.

Human rights campaigners, politicians, writers and supporters all round the world have since protested against these harsh and unjust sentences. Amnesty International has designated Filep and Yusak prisoners of conscience. Their case has come to symbolise much that is wrong with Indonesia's control of West Papua.



Key points about UK government policy on West Papua:

- On 13th December 2003, answering a question tabled by the Bishop of Oxford, Richard Harries, Foreign Office Minister Baroness Symonds stated in the House of Lords that ‘a thousand [handpicked Papuans] were largely coerced into declaring for Indonesia’ into joining Indonesia in 1969. Foreign Secretary Jack Straw confirmed that this was the government’s view in a letter to the Free West Papua campaign in January 2004. The government has not yet, as far as we know, changed its view in this regard.

“[The Government] claims to be concerned about human rights abuses in West Papua, yet has not, to our knowledge, made any serious representations to the Indonesian government on the matter.”

- The obvious inference to draw from these statements is that the British government does not believe that the people of West Papua have been granted the right to self-determination to which they are entitled under international law. Repeated requests for clarification from the government on this point have, however, gone unanswered. Instead, the government has repeatedly declared that it respects the ‘territorial integrity’ of Indonesia, and is supportive of Indonesian moves to grant the people of West Papua a limited degree of autonomy within the Indonesian state. The Free West Papua Campaign regards these two positions as entirely inconsistent.

“The government is similarly reluctant to condemn or curtail British arms sales to Indonesia, despite evidence that some British-made weapons have been used in repression of the West Papuan people.”

- The government is similarly reluctant to condemn or curtail British arms sales to Indonesia, despite evidence that some British-made weapons have been

used in repression of the West Papuan people (see above).

- The government claims to be concerned about human rights abuses in West Papua. However, they have failed to seriously investigate specific claims and cases presented to them by the Free West Papua Campaign and other human rights campaigners, choosing to accept Indonesian government assurances that abuses had either not occurred, or had been dealt with.

- In March 2006, West Papuan tribal leader Benny Wenda, who now lives in exile in Britain after being forced to flee for his life from Indonesian soldiers, wrote to the Prime Minister, on the eve of Tony Blair’s visit to Indonesia. He asked Mr Blair to raise the human rights situation with the Indonesian president, tell him that the British government would not tolerate human rights abuses there, and raise the case of the two imprisoned flag-raisers (see Case Study). As far as we know, none of these issues were raised. The Prime Minister did, however, find time to lobby the President on behalf of a delegation of British businesspeople. Benny Wenda received no reply to his letter.

“[The government has] failed to seriously investigate specific claims and cases presented to them by the Free West Papua Campaign and other human rights campaigners”

RECOMMENDATIONS

The Free West Papua Campaign believes that the British government can have an influential effect on the situation in West Papua if it chooses to do so. As an ally of the Indonesian government, a supplier of aid and arms to the country and an influential player on the world stage, its voice is listened to in Jakarta. We would like to see that voice raised in support of the suffering people of West Papua. Specifically, we call on the British government to:

- **Terminate all sales of arms to Indonesia until the Indonesian government that stops its violations of human rights in West Papua**
- **Send a formal written communication to the Indonesian government asking for the release of Filep Karma and Yusak Pakage**
- **Press for the release of other West Papuan prisoners of conscience, from imprisonment**
- **Call on the Indonesian government to allow full and unrestricted access to West Papua for international media, aid agencies and human rights monitoring groups**
- **Make a public commitment to support a UN-sponsored re-run of the flawed 1969 'Act of Free Choice', this time as a genuine, one-person one-vote referendum, internationally-monitored, and giving the tribal peoples of West Papua the chance to choose freely between independence, free association or continued integration with Indonesia**

FOOTNOTES

1 See Act of Free Choice: The Papuans of Western New Guinea and the limitations of the right to self determination, P. J. Drooglever, Institute of Dutch History, The Hague, 2005. Summary here:

<http://tapol.gn.apc.org/reports/droogleverengsum.htm>

2 Ibid

3 A right to self-determination is guaranteed to decolonised people under international law, and was specifically promised to the West Papuans under the New York Agreement of 15th August 1962, which mandated the UN to oversee the 1969 'Act of Free Choice'.

4 John Rumbiak, ELSHAM, Jayapura, West Papua.

5 Eg. see 'Trifungsi: The Role of the Indonesian Military in Business', paper presented by Lesley McCulloch to the International Conference on Soldiers in Business, Jakarta, 17–19 October 2000

6 Most prominently the murder of Theys Hiyo Eluay, leader of the Papua Presidium Council, in November 2001. See <http://www.theage.com.au/articles/2003/04/21/1050777211770.html>

7 ABC News Online, Australia. 10th May 2006. See:

http://www.freewestpapua.org/index.php?option=com_content&task=view&id=72&Itemid=2

8 See http://www.infopapua.org/artman/publish/article_948.shtml. See also report in The Age, Melbourne, Australia:

http://www.freewestpapua.org/index.php?option=com_content&task=view&id=104&Itemid=2

9 Amnesty International press release, 8th September 2005:

<http://web.amnesty.org/library/Index/ENGASA210182005?open&of=ENG-IDN>

10 ABC News Online, Australia, 26th May 2006. See:

http://www.freewestpapua.org/index.php?option=com_content&task=view&id=89&Itemid=2

11 'Indonesia deploys British arms against protesters', The Observer, 27th November 2005. See:

<http://observer.guardian.co.uk/international/story/0,6903,1651806,00.html>. See also protest letter to Foreign Secretary from TAPOL, FWPC and CAAT: <http://tapol.gn.apc.org/news/files/let051128.htm>

12 ELSHAM report, 18th July 2006. See: http://www.infopapua.org/artman/publish/article_920.shtml

13 2005 Global Refugee Trends, UNHCR



CHAPTER 06

WESTERN SAHARA

by Western Sahara Campaign

OVERVIEW OF THE POLITICAL AND HUMAN RIGHTS SITUATION



The country of Western Sahara is Africa's last colony. A mere 80 miles from the luxuries of the Canary Islands, it had been under Spanish control since 1884. In 1975, faced with international outrage at European colonialism and the growing strength of the Saharawi independence movement, the Polisario Front, Spain was forced to give up its possession. **As Spain left, Morocco and Mauritania invaded, both seeking to stake their claim on the phosphate-rich territory. The International Court of Justice declared in 1975 that neither had sovereignty over Western Sahara before the Spanish colonisation and that its people were entitled to the right of self-determination.**

Although military victory for the Polisario forced Mauritania to give up claims to Western Sahara, Morocco was able to strengthen its occupation by building a fortified wall around the territory it controlled. The use of landmines around the wall by both sides (especially Morocco) led to numerous innocent casualties amongst nomads. **Fighting continued between Moroccan forces and the Polisario until a ceasefire was declared in 1991 as part of a UN peace plan designed to bring self-determination to the Saharawi people. Yet, fifteen years on, the required referendum has not yet taken place.**

Many Saharawi continue to live in the occupied territory, although Morocco has attempted to populate the area with its own settlers. There are also up to 200,000 Saharawis who fled their homeland during the conflict. These refugees now live in camps in Algeria, with some having endured these harsh conditions for over 30 years.

RECENT DEVELOPMENTS

Efforts to find a political solution in the Western Sahara have suffered in recent years. James Baker, at the time the Personal Envoy of the UN Secretary General to the Western Sahara, proposed a peace plan in 2003 that required both sides to make some concessions in a bid to reach a compromise. Although the plan did not envision an immediate referendum on independence for the Saharawi, the Polisario Front (widely recognised as the legitimate representatives of the population) accepted Baker's proposals as a platform from which to work for peace. Though the UN Security Council had endorsed the Baker Plan as the best way forward, it was rejected by Morocco. Baker's replacement, Peter van Walsum, has had little success in finding an adequate solution that respects the political and human rights of the Saharawi people.

In 2006, the EU signed a fisheries agreement with Morocco that included access to Western Sahara waters. There has been a major dispute as to the legality of such an action. A number of European countries expressed their concern that fishing in the Western Sahara would violate international law. This is because it exploits Saharawi resources without the

permission of the people or their representatives, but the agreement went ahead nonetheless. This has been a major blow to the claim of the European Union to be fighting for the rights of the Saharawi people, and it has likely set back the chances of reaching a just solution to the crisis.

The military occupation of the Western Sahara has led to grave human rights concerns. The past year has seen the growth of a peaceful intifada, or popular uprising, amongst the Saharawi population. This has been met with repression from the Moroccan police and armed forces. A number of Saharawi activists, most of whom had previously been detained in secret prisons, were again arrested and imprisoned by Morocco in the summer of 2005. As peaceful activists, it appeared that the reason for their arrest was merely their opposition to Moroccan rule over their homeland. They went on hunger strike in protest at their detention, and Amnesty International noted its worry at claims that some had been subjected to torture whilst in prison, and argued that those detained may be 'prisoners of conscience'.¹ Human Rights Watch commented that 'these arrests and trials demonstrate that repression is still the rule in Western Sahara'.² The profile of one of the activists, Aminatou Haidar, is considered in the 'case study'.



The barren lands of the Sahara mean the refugee camps are in one of the most isolated places on earth



Some Saharawi refugees have not been home for 30 years

The Moroccan authorities have made access for outsiders to the occupied territory very difficult. A number of delegations, comprising of politicians from countries such as Spain and Norway, attempted to investigate claims of human rights abuses, but were denied access. One delegation from the Basque, made up of 27 people, was not allowed to leave their plane after it had landed in the airport. The Norwegian delegation (including MPs, a trade unionist and Arne Lynngard, the head of the Rafto Human Rights Foundation) arrived in Western Sahara on 4 July 2005, intending to observe the trials of human rights activists. They were deported within 36 hours of arrival, and their driver was arrested.

There have been numerous reports in the British and international media describing how the Moroccan

army has been rounding up African would-be immigrants to Europe passing through Morocco and dumping them in the desert. As Simon Conway, Director of NGO Landmine Action pointed out in an article in *The Observer* (23 October 2005), they were actually left in Western Sahara, in the minefields laid by the Moroccan military along its defensive wall (that runs the length of the entire territory). They said they were given a couple of tins of sardines and told to 'walk in a straight line'. Polisario soldiers picked up over 70 such people in 2005, and in the absence of any international support for these people, provided shelter and food.

The Polisario have also previously been subject to criticism on their human rights stance. This included their detention of prisoners of war from Morocco,

Western Saharan refugee camp



some of which had been held for over 30 years. However, all remaining prisoners were released in August 2005 following mediation from the United States government. The campaigning NGO War on Want noted that whilst all Moroccan prisoners of war had now been released, a list of 150 Saharawi prisoners of war remained unaccounted for, and over 500 Saharawis remain 'disappeared' in Moroccan custody.³

There are growing concerns that censorship on discussing the Western Sahara is growing in severity both in the occupied territory and in Morocco. Most recently, the Swiss-based website www.arso.org (ARSO stands for Association for a Referendum in Sahara Occidental i.e. Western Sahara) was blocked on all computers under Moroccan authority. Reporters

Without Borders condemned this move, noting that whilst ARSO encouraged protest against Morocco, it did not call for violence, and that restricting access to it was 'a serious violation of free expression'.⁴

It would be wrong to argue that recent events demonstrate a drastic worsening of the human rights situation in the Western Sahara. However, the direction of travel must be of serious concern. The detainment of peaceful activists, the EU fisheries agreement, and the refusal to apply pressure on Morocco to join the Polisario Front in agreeing to the Baker Plan all suggest that if the initiative is not taken soon, the rights of the Saharawi people will be further eroded in the years to come.

CASE STUDY :

AMINATOU HAIDAR

Saharawi human rights activist Aminatou Haidar was one of hundreds of young Saharawis who 'disappeared' in 1987 and held without charge or trial in Morocco's secret prisons until 1991. Since then she has worked for human rights and women's rights, often alongside Moroccan human rights activists.



She was recently hospitalised after being badly beaten when Moroccan forces broke up a recent peaceful demonstration in El Ayoun. While in hospital, more security agents came and took her to prison. Amnesty International argued that the unfair detainment of Haidar and others meant that they could be regarded as 'prisoners of conscience'. An international campaign calling for her release included a petition signed by 178 Members of the European Parliament.

In prison, Haidar participated in a group hunger strike from 8 August to 29 September 2005. The hunger strike was aimed at raising awareness of the prisoners' plight, and demanded investigations into allegations of torture against a number of Saharawi human rights campaigners. Louise Arbour, UN High Commissioner for Human Rights, expressed her concern for the fate of the strikers before the strike was ended after 51 days without food.

Haidar was released by the Moroccan authorities in the spring of 2006, and is currently engaged in raising the profile of the plight of the Saharawi people in Europe and elsewhere

AN ASSESSMENT OF UK GOVERNMENT POLICY - 4 out of 10

The UK government has been very quiet on the Western Sahara, both in terms of individual human rights abuses in the occupied territory and the broader efforts to find a lasting solution that will allow the Saharawi refugees to return home.

the opportunity of playing an important role in taking the initiative on the Security Council over this issue, but it too has been caught up in the desire not to offend Morocco.

“The most disappointing aspect of UK government policy is its stance on the UN peace proposals. This is particularly important given that the UK is an influential Permanent Member of the UN Security Council.”

Answering two recent Parliamentary Questions (82061 & 82043) on the Western Sahara tabled by Joan Walley MP, Kim Howells, a Minister at the Foreign Office, said that the UK government has ‘urged Morocco to respect human rights in the territory’ and that it fully supported the UN’s efforts to find a solution that would ‘provide for the self-determination of the people of the Western Sahara’. Both of these policies, with a lack of serious weight behind them, have so far proved to be ineffective. However, they do provide a base from which the UK must now work to bring about an effective and just solution for all those in the region.

Like every other state in the international community, the UK refuses to recognise Moroccan sovereignty over the territory that it currently occupies. This is to be welcomed. However, the fisheries agreement between the EU and Morocco described above has potentially contravened the rights of the Saharawi people. Sweden and others opposed the agreement for this reason, but the UK government did not.

“...these policies, with a lack of serious weight behind them, have so far proved to be ineffective. However, they do provide a base from which the UK must now work to bring about an effective and just solution for all those in the region.”

“The UK has had the opportunity of playing an important role in taking the initiative on the Security Council over the issue, but it too has been caught up in the desire not to offend Morocco.”

The most disappointing aspect of UK government policy is its stance on the UN peace proposals. This is particularly important given that the UK is an influential Permanent Member of the UN Security Council. The stance of one other Permanent Member, France, has been dictated by its long-continued support to Morocco, and the US also regards Morocco as a key ally. This has led to inertia amongst the Permanent Members with regards to the peace proposals in the Western Sahara, and a lack of serious pressure to bring Morocco on board. The UK has had

RECOMMENDATIONS

There are two key areas in which the UK can realistically take a lead in the international community to improve the human rights situation for both those living in the Western Sahara and those in the refugee camps.

First, the UK must apply much greater pressure on Morocco to act in good faith to bring about a referendum on independence for the Saharawi. A just and peaceful solution has to be found to the political elements of the dispute in the Western Sahara. This will, in the long run, be the most effective protection against human rights abuses. As long as the Western Sahara remains an Occupied Territory, violations are always likely to occur. Taking the initiative in the Security Council, and working with its EU partners, the UK is in a strong position to make a real impact in this area.

Second, the UK should expend diplomatic effort into ensuring that individual and collective human rights abuses in the Occupied Territories are effectively monitored and reported. This could be achieved by the Security Council including these functions in the mandate for the UN mission in the Western Sahara.

FOOTNOTES

- 1 <http://web.amnesty.org/library/Index/ENGMDE290092005?open&of=ENG-2MD>
- 2 <http://www.hrw.org/english/docs/2005/12/10/morocc12183.htm>
- 3 <http://www.nowall.org.uk/?lid=10561>
- 4 http://www.rsf.org/article.php3?id_article=15809

BURMA**Burma Campaign UK**

28 Charles Square
London N1 6HT

info@burmacampaign.org.uk
www.burmacampaign.org.uk



The Burma Campaign UK campaigns for human rights and democracy in Burma.

BCUK works for the freedom of all the peoples of Burma regardless of race, ethnicity, gender or age. We provide analysis to the media and government, and we lobby and campaign to improve government and commercial policy on Burma.

The Burma Campaign UK is the only national organisation in the UK dedicated to campaigning for human rights and democracy in Burma.

CHAGOS ARCHIPELAGO**UK Chagos Support Association**

www.chagossupport.org.uk
celiawhittaker@chagossupport.org.uk



The UK Chagos Support Association is the main body in Britain that campaigns with and for the dispossessed Chagos Islanders.

Our objectives are to raise awareness about the plight of the Chagossians, to support their struggle to return to their homeland and to lobby British officials on their behalf. We also provide funding for the exiled Chagossian community living in the UK and cover expenses to help Chagossians from Mauritius and the Seychelles to attend Court hearings in London.

COLOMBIA**Justice for Colombia**

9 Arkwright Road
London NW3 6AB

info@justiceforcolombia.org
www.justiceforcolombia.org



Justice for Colombia was established in 2002 by the TUC and the British trade union movement to raise awareness of the attacks on trade unionists in Colombia. Since that time our work has expanded and we now work with Colombia human rights groups, the student movement and with persecuted journalists.

Justice for Colombia has campaigns in the UK, such as the campaign to end military aid to Colombia, and projects in Colombia assisting trade unions and other civil society organisations. Justice for Colombia is based in an office in North London. Our President is Brendan Barber, the leader of the British TUC, and our Vice-President is Tony Lloyd MP, the former Foreign Office Minister responsible for Latin America.

TIBET

Free Tibet Campaign

28 Charles Square
London N1 6HT
mail@freetibet.org
www.freetibet.org



Free Tibet Campaign stands for the Tibetans' right to determine their own future. It campaigns for an end to China's occupation of Tibet and for the Tibetans' fundamental human rights to be respected. Founded in 1987, Free Tibet Campaign generates active support by educating people about the situation in Tibet. It is independent of all governments and is funded by its members and supporters.

WEST PAPUA

Free West Papua Campaign

PO Box 656
Oxford OX3 3AP
office@freewestpapua.org
www.freewestpapua.org



The Free West Papua Campaign was set up in 2004. Based in Oxford, England, we are a group of people from environmental and human rights backgrounds, a number of whom have spent time in West Papua. We take our leadership from Papuan representatives here in the UK, and in West Papua itself.

We are a peaceful, public campaign, whose aim is very simple: to give the people of West Papua the freedom to choose their own destiny - a freedom they have always been denied. We work with politicians of all parties, and with other NGOs and campaign groups, both national and international, towards this aim. We have no religious, party-political or corporate affiliations, and we are determinedly non-violent. Our funding comes from donations, the sale of merchandise, public fundraising events and occasional small grants from charitable foundations. We are entirely independent.

West Papuan tribal leader **Benny Wenda** provides the political leadership and direction of much of our work. Benny is head of Demmak, a pan-tribal assembly in West Papua which works peacefully for independence. Benny was forced to flee his homeland after he was arrested, tortured and threatened with death by Indonesian police. He now lives in the UK with his family, representing his people in exile.

WESTERN SAHARA

Western Sahara Campaign

c/o War on Want
56-64 Development House
Leonard Street
London EC2A 4LT
coordinator@wsahara.org.uk
www.wsahara.org.uk



The Western Sahara Campaign UK was established in 1975 to raise awareness of the plight of the Saharawi people. Over 30 years later, it remains at the forefront of international efforts to liberate the Western Sahara. Efforts by the Campaign have led to coverage by national newspapers, radio and television, and it enjoys support from MPs in all the main political parties.