

# Realisation of Human Rights in the UK Overseas Territories

Synthesis Report

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January 2003

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This report is a result of research carried out by Social  
Development Direct on behalf of the Foreign and  
Commonwealth Office and the Department for International  
Development. The views expressed do not necessarily reflect  
those of the British Government.

## ACRONYMS

AG	Attorney General
ATI	Alternative to Incarceration
BHC	British High Commission
BVI	British Virgin Islands
CARICOM	Caribbean Community
CAB	Citizens Advice Bureau
CAT	Convention Against Torture
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CERD	Convention on the Elimination of All forms of Racial Discrimination
COT	Caribbean Overseas Territories
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
DFID	Department for International Development
ECHR	European Convention on Human Rights
FCO	Foreign and Commonwealth Office
GGF	Good Governance Fund
GO	General Orders
HMG	Her Majesty's Government
HR	Human rights
HRC	Human Rights Committee
HRCF	Human Rights Challenge Fund
HRPD	Human Rights Policy Department
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organisation
NCH	National Children's Home
NGO	Non Governmental Organisation
PACE	Police and Criminal Evidence Act
OECS	Organisation of Eastern Caribbean States
OT	Overseas Territories
OTD	Overseas Territories Department
SDDirect	Social Development Direct
TCI	Turks and Caicos Islands
UDHR	Universal Declaration of Human Rights
UKOT	United Kingdom Overseas Territories
UNICEF	United Nations Children's Fund

# **Executive Summary**

## **The report**

This report is the result of research on human rights carried out in a number of Britain's Overseas Territories (OTs) by Social Development Direct (SDDirect) on behalf of the Foreign and Commonwealth Office (FCO) and the Department for International Development (DFID). The report reflects the views of those who were consulted individually or at workshops during SDDirect's field visits to the Overseas Territories concerned. The report also suggests ways in which human rights issues in those Territories might be addressed. The conclusions and recommendations in the report are those of the authors alone.

This report sets out a summary of the findings of the consultation phase of the joint FCO and DFID 'Realisation of Human Rights in the UK Overseas Territories' (UKOT) project. This project represents the initial phase of implementation of the FCO and DFID's long-term commitment to work in partnership with the governments and peoples of the UKOTs to further human rights in the territories. The 1999 White Paper 'Partnership and Prosperity for the Overseas Territories' provides the policy context for this work. Individual territory reports have also been prepared giving detailed findings from each visit.

## **The process**

This synthesis report draws on findings from a series of visits made by Social Development Direct to the UKOTs between August 2001 and May 2002.<sup>1</sup> The achievements of these visits include: creating and extending human rights dialogue; gaining a clearer understanding of human rights issues in individual territories and the territories as a group; documentation of the stages of human rights development; identification of local good practices and human rights champions; and clarifying a way forward which involves all stakeholders in the UKOTs as well as HMG.

This report aims to summarise the main findings by highlighting common human rights issues, identifying examples of good practice and encouraging developments, and putting forward suggestions for taking the process forward. The research is a reflection of the views of the authors, rather than a definitive statement of the human rights situation in the UKOTs.

## **Achievements in the Overseas Territories**

International human rights obligations fall under HMG's responsibility for external affairs in the UKOTs. The application of Human Rights Conventions is extended to Territories by HMG. The UK is obligated under international human rights law to extend such treaties, and the standards that they set, as widely as possible in areas under its sovereignty.

The 1999 White Paper, 'Partnership and Prosperity for the Overseas Territories', highlights the priority of international human rights obligations in the UKOTs:

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<sup>1</sup> Territories visited were: Anguilla, BVI, Turks and Caicos Islands, Cayman, Montserrat, Bermuda and Falkland Islands. St Helena and Ascension were also included in the project but visits were made by Alison Tierney, DFID's Social Development Adviser (findings included in this report).

*“We regard the establishment and maintenance of high standards of observance of human rights as an important aspect of our partnership with the Overseas Territories. Our objective is that those territories which choose to remain British should abide by the same basic standard of human rights, openness and good government that British people would expect of the government”*

The UKOTs have a well-deserved reputation for their respect for the observance of human rights. Awareness of international human rights standards and the accompanying legal framework is growing in the UKOTs and much locally driven action to meet international obligations can be seen. Achievements include:

- almost comprehensive extension of the core UN human rights treaties;
- work on development/amendments of Constitutions to include human rights chapters (some UKOTs already have);
- introduction of legislation in some areas e.g. Domestic Violence Act in Montserrat, a Children’s Act in Bermuda, and a Human Rights Act, also in Bermuda;
- establishment of Human Rights Reporting Committees in some territories and a Human Rights Commission in Bermuda;
- active civil societies in some territories playing a growing role in promoting and protecting human rights for particular interest groups, particularly women, the disabled, and immigrants;
- strong interest amongst government officers and the public in increasing their knowledge and understanding of international human rights; and
- specific examples of action to realise human rights e.g. introduction of human rights into the school curriculum in Anguilla; legal aid provisions in Falklands; counselling services for people living with HIV/AIDs in TCI; a programme to prevent mother to child transmission in Cayman; and introduction of a child protection register and protocols in St Helena.

This project has itself helped to raise awareness of human rights issues in both the territories and London, and created a momentum that needs to be maintained.

### **Areas for Improvement**

It is recognised that changes are needed in all territories to enable them to fully meet international obligations. The report outlines common issues of concern across the UKOTs as perceived by people met during workshops and meetings:

- Freedom of speech is a widespread concern and takes a number of forms: the constraining effect of unnecessarily restrictive General Orders on large parts of the population who work as civil servants; a ‘culture of fear’ in a number of territories where people are not prepared to speak out because of a fear of reprisals; and fear amongst migrant groups in particular due to the threat of expulsion. Independence of the media was also raised as an issue;
- Discrimination against socially excluded and marginal groups. This covers a wide-range of issues affecting women and men, migrants, long-term residents, people living with HIV/AIDS, those with special needs, Rastafarians, the elderly, homosexuals, the poorest and geographically isolated. Ongoing racial discrimination is a major issue in Bermuda. Some of the worst discrimination found affects migrants and people living with HIV/AIDS;

- Child rights and full implementation of the Convention of the Rights of the Child (CRC) is a priority. Child abuse, appropriate juvenile justice, corporal punishment, statelessness and access to health and education for children born abroad to belongers parents and children/other dependents of poorer migrants in some territories are some of the priority issues raised;
- Discrimination and exploitation in the workplace came up across many territories. The most serious forms of exploitation and contravention of health and safety concerns affect workers on foreign fishing vessels operating in Falkland Island waters. Examples of discrimination on the basis of gender, nationality and sexuality came up in all territories, and on the basis of race in Bermuda. The absence of trade unions and supportive environments for trade union development means that conditions go unchecked in many territories;
- A number of political rights issues emerged. At the highest level, questions of the right to self-determination and the need to address the perceived unequal power relationship between London and the territories were frequently raised. HMG recognises these concerns and sees the current constitutional review process as an opportunity for constructive dialogue with the peoples of the OTs. Poor governance (lack of transparency) and inadequate channels for public participation in OT government decision-making, and the lack of franchise 'taxation without representation' for large parts of the population in some territories were seen as problems by those affected (Montserrat, TCI, Cayman, and also in Ascension, but the situation has now changed here with the election of an Island Council and introduction of taxation);
- Whilst the standards of policing and prisons appear to be generally high in the UKOTs, certain groups face inappropriate incarceration due to lack of facilities and services: youth (lack of probation and rehabilitation options) and the mentally ill (lack of alternative secure facilities). Introduction of a UKOT relevant Police and Criminal Evidence Act (PACE), as suggested in Montserrat, would provide a legal framework and set common standards for the OTs to aspire to.

Some strategic issues also need to be addressed as a priority, which are set out in the way forward below.

## **Moving Forward**

The report sets out a series of recommendations for HMG and the UKOTs to consider. Recommendations are set out in full in Section 4 and summarised here in Table E1.

In the broadest terms, improved realisation of human rights in the UKOTs requires increased local ownership of human rights obligations; a deepened and expanded human rights partnership between UKOTs and HMG, and between governments, civil society and business sectors locally; and an inclusive approach which addresses discrimination against socially excluded and vulnerable groups.

The report outlines a twin-track approach. The first track is to deal with immediate priority human rights issues through targeted action. The second track is to put in place the fundamental 'building blocks' for realising human rights.

The proposed building blocks for achieving all human rights for all peoples living and working in the UKOTs are: strengthened local capacity in government and civil society; increased public awareness, full extension of international human rights conventions; introduction of human rights chapters in Constitutions where they do not exist and supporting domestic legislation; creation/strengthening of human rights committees; and increased local ownership of monitoring and reporting. Table E1 and Section 4 puts forward suggestions on activities to achieve these outputs.

On the basis of what the consultants have been told during visits, we believe that the following human rights issues should be addressed as a priority: discrimination against migrants and the unfair treatment of illegal migrants (the latter primarily in TCI); human rights abuses amongst children whatever their legal status, and concerted action on HIV/AIDs by ensuring access to treatment, medication and counselling and to address stigmatisation. These are our suggested priorities. However, we strongly urge HMG to agree priorities with UKOTs.

Practical measures are proposed for HMG to support the 'building blocks'. Immediate priorities are:

- Funding and facilitation of a cross-territory conference as early as possible;
- Facilitation of ministerial agreement of a human rights strategy emerging from the conference;
- Appointment of human rights officers to be based in the Caribbean for the UKCOTs and in London for the other territories (the latter is perhaps a part time position);
- Funding support for legal drafting in Attorney Generals' (AG) offices where required;
- Training and technical assistance for Human Rights Committees.

In addition, a number of immediate 'Quick Wins' are suggested: setting up of a human rights website; dissemination of materials gathered through this project; technical assistance to those territories awaiting the extension of CEDAW; distribution of leaflets on project findings and promotion of local consultations with Governors playing a key representational role; and action on General Orders to speed up the review process. We understand that training in human rights reporting is also proposed.

**Table E1. Recommendations Framework**

Goal	Outputs	Activities	Recommendations for HMG inputs
<ul style="list-style-type: none"> <li>Increased local ownership of rights</li> <li>Deepened and expanded partnership on human rights</li> <li>An inclusive human rights process</li> <li>All human rights for all peoples living and working in the UKOTs</li> </ul>	<ul style="list-style-type: none"> <li>A cross territory consensus on priorities for the human rights partnership</li> </ul>	<ul style="list-style-type: none"> <li>Local consultations on findings of human rights project</li> <li>Cross territory conference, 2002</li> <li>UKOTs Human Rights Strategy, early 2003</li> </ul>	<ul style="list-style-type: none"> <li>Leaflets for public distribution</li> <li>Funding and facilitation of cross-territory conference</li> <li>Facilitation of ministerial agreement to UKOTs Human Rights Strategy</li> <li>Lead draft of HR strategy</li> </ul>
	<ul style="list-style-type: none"> <li>Local human rights capacity increased</li> </ul>	<ul style="list-style-type: none"> <li>Training for HRCs &amp; Government officials</li> <li>Capacity building initiatives with Civil Society Organisations (CSOs)</li> <li>Increased legal drafting staffing in Attorney Generals' (AGs) offices</li> <li>Sharing of good Practice between UKOTs</li> </ul>	<ul style="list-style-type: none"> <li>Appointment of a HR officer</li> <li>Funding of training/ technical assistance</li> <li>Human Rights Challenge Fund (HRCF)</li> <li>Technical assistance in participatory approaches</li> <li>Trade Union strengthening project</li> <li>Funding of legal Draftspersons</li> <li>Match funding for attending international events</li> </ul>
	<ul style="list-style-type: none"> <li>Public awareness of human rights increased</li> </ul>	<ul style="list-style-type: none"> <li>Inter-territory human rights campaigns</li> <li>Incorporation of human rights education into school curriculum</li> <li>Celebration of international events</li> </ul>	<ul style="list-style-type: none"> <li>Human rights website</li> <li>Facilitate contact with UK CSOs</li> <li>Facilitate dissemination of Experiences</li> <li>Support initiatives through HRCF (above)</li> </ul>

Goal	Outputs	Activities	Recommendations for HMG inputs
<ul style="list-style-type: none"> <li>Increased local ownership of rights</li> <li>Deepened and expanded partnership on human rights</li> <li>An inclusive human rights process</li> <li>All human rights for all peoples living and working in the UKOTs</li> </ul>	<ul style="list-style-type: none"> <li>Treaties and conventions extended to all UKOTs and acted upon</li> </ul>	<ul style="list-style-type: none"> <li>Better consultation between HMG/UKOTs</li> <li>Full involvement of civil society stakeholders</li> <li>Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) extended at the earliest through revised approach</li> </ul>	<ul style="list-style-type: none"> <li>HMG to review extension processes, starting with CEDAW</li> <li>Technical assistance to UKOTs requesting support with CEDAW</li> </ul>
	<ul style="list-style-type: none"> <li>Constitutional and other legal frameworks in place</li> </ul>	<ul style="list-style-type: none"> <li>Complete constitutional review process with full public participation</li> <li>Incorporate human rights chapters into constitutions</li> <li>Enact new legislation (following detailed review)</li> </ul>	<ul style="list-style-type: none"> <li>Model chapter (already provided)</li> <li>Possible support with review and enactment of legislation (envisaged later)</li> <li>NCH Action for Children Project (underway)</li> </ul>
	<ul style="list-style-type: none"> <li>Human Right Committees (HRCs) established and functioning effectively in all UKOTs</li> </ul>	<ul style="list-style-type: none"> <li>Membership broadened</li> <li>Roles expanded</li> <li>Activities publicised</li> <li>Action plans</li> </ul>	<ul style="list-style-type: none"> <li>Training for HRC members</li> <li>Technical support from HR project officer</li> </ul>



Goal	Outputs	Activities	Recommendations for HMG inputs
<ul style="list-style-type: none"> <li>Increased local ownership of rights</li> <li>Deepened and expanded partnership on human rights</li> <li>An inclusive human rights process</li> <li>All human rights for all peoples living and working in the UKOTs</li> </ul>	<ul style="list-style-type: none"> <li>Convention monitoring reports 'owned' by the UKOTs and acted upon</li> </ul>	<ul style="list-style-type: none"> <li>HRCs preparing reports</li> <li>Public participation</li> <li>Action plans for each convention</li> <li>Development of indicators</li> <li>Research into key issues where knowledge gaps</li> </ul>	<ul style="list-style-type: none"> <li>HMG requested to approach UN on revised and rationalised reporting arrangements</li> <li>HMG requested to consider separate reporting</li> <li>Territory visits by HRPD/HR Project Officer</li> <li>Training for HRC members in reporting requirements</li> </ul>
	<ul style="list-style-type: none"> <li>Mechanisms in place for freedom of speech and fair redressal</li> </ul>	<ul style="list-style-type: none"> <li>The earliest complete review of General Orders (GOs)</li> <li>Provide legal aid services</li> <li>Ombudsman in all UKOTs</li> </ul>	<ul style="list-style-type: none"> <li>Inputs to facilitate speedy review of GOs</li> <li>Funding for study of legal aid/ombudsmen</li> </ul>
	<ul style="list-style-type: none"> <li>Targeted measures to address key human rights concerns</li> </ul>	<ul style="list-style-type: none"> <li>To be prioritised by people of the UKOTs through cross-territory and local strategies/action plans</li> </ul>	<ul style="list-style-type: none"> <li>Prioritisation of financial and technical support to be agreed with UKOTs</li> <li>Facilitation of funding/technical assistance from other sources (e.g. UNICEF)</li> </ul>
	<ul style="list-style-type: none"> <li>HMG capacity enhanced to deliver on human rights</li> </ul>	<ul style="list-style-type: none"> <li>HRs Officer(s) to support UKOTs</li> <li>Active cross-Whitehall Steering Group</li> <li>Training for staffing in HRs (where not yet received)</li> </ul>	<ul style="list-style-type: none"> <li>Joint HMG funding &amp; HR officer(s)</li> <li>Funding for training</li> </ul>



# 1. Introduction

## 1.1 Background to the 'Realisation of Human Rights in the UK Overseas Territories' Project

International human rights obligations fall under HMG's responsibility for external affairs in the Overseas Territories (UKOTs). Human Rights Conventions are extended to Territories by HMG. The UK is obligated under international human rights law to extend such Treaties, and the standards that they set, as widely as possible in areas under its sovereignty.

The 1999 White Paper 'Partnership and Prosperity for the Overseas Territories' highlights the priority of international human rights obligations in the UKOTs:

*We regard the establishment and maintenance of high standards of observance of human rights as an important aspect of our partnership with the Overseas Territories. Our objective is that those territories which choose to remain British should abide by the same basic standards of human rights, openness and good government that British people would expect of the government.*

Although the UKOTs have a 'well deserved reputation' for their respect for the observance of human rights, it is recognised that changes are needed in some territories to enable them and HMG together to meet international obligations.

## 1.2 The Approach

The current phase of the 'Realisation of Human Rights in the UK Overseas Territories' project<sup>2</sup> is an attempt to initiate a dialogue in individual territories on:

- what the peoples of the UKOTs regard as their own human rights concerns;
- practical difficulties facing the governments of the UKOTs in meeting the requirements of various international human rights Treaties, including reporting obligations;
- the role that civil society groups can play in the promotion and observance of human rights standards as set out in international law; and
- how HMG can help support the process through improved consultation and communication, training and logistical support.

Social Development Direct made a series of visits to the following UKOTs between August 2001 and May 2002. Territories visited included: British Virgin Islands (August 2001), Anguilla (August 2001), Turks and Caicos Islands (November 2001 and January 2002), Cayman (November 2001 and March 2002), Montserrat (March 2002), Bermuda (May 2002) and Falklands (April 2002). St Helena and Ascension were also included in the project. DFID's Social Development Adviser made visits to these territories.

Visits to each UKOT were between 5 and 10 days (later trips were longer after initial experience in Anguilla and BVI demonstrated that 5 days was insufficient to meet visit objectives). Visits involved meetings with a range of individuals and groups with an interest in human rights: government officials, elected representatives, representatives of civil society organisations, on island UK government officials and

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<sup>2</sup> This phase of the project follows on from an initial Scoping Phase carried out in March 2001.

members of the general public. In terms of the latter we sought to meet 'representatives' of vulnerable and socially excluded groups in particular. Time limitations meant that we were often unable to meet as many groups as we would have liked. In most territories one or a number of workshops were held with a cross-section of interest groups to promote a dialogue on local human rights issues. Media coverage occurred in each UKOT visited, including radio phone-ins, which gave the consultants an opportunity to hear views from the general public as well as to contribute to public awareness of human rights.

A report was prepared following each visit. Each report set out the issues and suggestions that emerged from discussions and the consultants' reflections on the implications of the visit findings. Completed reports have been circulated to the respective territories and feedback requested. Governors have been encouraged to circulate the reports widely to those people met and to place copies in local libraries. Territory specific leaflets are also to be produced to promote local discussion of visit findings. Feedback from territories will help the UK government and the governments of the UKOTs to agree a way forward in each territory.

The findings from the individual territory visits have been analysed collectively and this report presents an overview of findings.

### **1.3 Project Achievements**

Prior to the start of this project, there has been little, if any, dialogue on the realisation of human rights across the UKOTs, and how a successful partnership might be achieved in this area. This phase of the project was an attempt to start that dialogue with the view to identifying how a partnership approach might work.

The main achievements to date are as follows:

- Documentation of human rights achievements and issues in each territory based on local perceptions of the critical human rights issues;
- Some increased awareness of the international human rights framework, local human rights legislation and institutions, and local human rights issues amongst government officers and the general public in UKOTs visited;
- Ideas on the way forward based on consultations across the UKOTs both for individual territories (suggestions set out in individual territory reports) and for cross-territory action;
- Contacts with individuals and organisations across the UKOTs with an interest in human rights;<sup>3</sup>
- Documentation of 'good practice' for sharing across the territories; and
- Development of interest in many territories in collaborative action on human rights.

The original Terms of Reference for this phase of the project envisaged action plans be developed for each UKOT as a visit output. This idea was dropped after initial

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<sup>3</sup> See Annex 2 for a list of organisations met with an interest in human rights in the UKOTs.

visits when it became clear that more time was required to build up awareness and for the foundations of a partnership approach to be put in place. Similarly time did not allow the identification of specific projects for support.

## **1.4 This report**

This report sets out the main findings of the territory visits. Section 2 starts with outlining human rights achievements across the UKOTs, including examples of good practice. It then highlights human rights concerns common to territories covered. (Section 3). Finally, the report sets out recommendations on the way forward (Section 4). These recommendations are based on suggestions arising from people met, as well as the consultants' own reflections. The suggestions are for both the governments of the UKOTs and the UK government.

## **1.5 The Context**

In reviewing the report that follows, the reader is asked to keep in mind the following:

- The international human rights framework of the Universal Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social and Cultural Rights (ICESCR) was used as the lens for examining human rights. The issues included in this report therefore cover civil, political, social, economic and cultural rights and are necessarily broad in scope. Both absolute and aspirational rights are included.
- The findings presented in this report are primarily based on local perceptions of human rights issues as reported.
- It was not within the consultant's remit to verify allegations of human rights abuses, and in some cases, time constraints prevented us from checking allegations from a variety of perspectives.
- Frequent mentioning of an issue gave us confidence that the concern was important locally. We have, however, also included issues raised by a small number of people, in situations where it was an issue of absolute rights having been abused, or where the issue affects a minority group (in the UKOTs numbers of minority groups, e.g., disabled or mentally ill, will always be small). Similarly where socially stigmatised individuals have been brave enough to come forward (e.g. people living with HIV/AIDs and homosexuals), we have assumed that these concerns may be more widespread. We have also suggested, in places, that some issues need further investigation.
- We have been asked to draw comparisons with other countries (independent Caribbean territories and the UK in particular) in order to put the human rights status of UKOTs in context. Whilst we are able to make broad references, to make meaningful and accurate comparisons goes beyond the scope of work of this consultancy, would take time to research, and is hampered by the lack of easily accessible comparable data.
- Given the short nature of the visits to individual territories we acknowledge that the individual territory reports cannot go beyond an initial identification of issues. The synthesis report, however, is based on nine visits in total and highlights those issues and concerns which were consistently raised across the UKOTs.

- Finally, the report focuses on human rights **concerns** as perceived by people of the UKOTs. The reader should keep in mind that the findings in this report need to be put in the context of a generally high level of human rights achievement in the UKOTs.

## 2. Human Rights Achievements in the UKOTs

### 2.1 Introduction

The UKOTs have a well-deserved reputation for their respect for the observance of human rights. The level of human rights achievements across the UKOTs is generally high. Awareness of international human rights standards is growing and much locally driven action to meet international obligations can be seen. HMG is also actively working with the governments of the UKOTs in areas where they have primary responsibility, for example extension of treaties, preparation of human rights reports and training in human rights reporting. Funding is also available for supporting local human rights initiatives, for example through the Good Governance Fund (GGF) and Governors. The following section sets out some of the key human rights achievements highlighted during our visits. Table 2.1 provides an overview of the status of human rights frameworks across the UKOTs.

**Table 2.1. Status of Legal and Institutional Human Rights Frameworks in UKOTs**

	Anguilla	Bermuda	BVI	Cayman	Montserrat	TCI	St. Helena	Ascension	Falklands
Constitution	*	*	*	*	*	*	*	N/A	*
Bill of Rights/HR Chapter	*	*			*	*		N/A	*
Human Rights Committee	*		*						
Human Rights Commission		*							
Legal Aid		*	*			*			*
Ombudsman/Human Rights Commissioner		*				*			

### 2.2 High level of Extension of Human Rights Treaties and Conventions

Extension of the core UN human rights treaties to the UKOTs is almost comprehensive, and HMG is currently working with the governments of the UKOTs to standardise extension status. Table 2.2 shows current ratification status. All territories have had the Convention Against Torture (CAT), the European Convention on Human Rights and the Convention on the Rights of the Child (CRC) extended to them, and all but one have had the ICCPR and the ICESCR extended. This reflects favourably with the pattern of treaty and convention ratification for most Caribbean countries, and, of course, with the UK. The most common convention yet to be extended is the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

**Table 2.2 Overseas Territories Human Rights Instruments Ratification Table**

Treaty	UK	Ang	Ber	BVI	Cay	Fal	Mon	StH	TCl
Bill of Rights in Constitution		•	•			•	•		•
ICCPR	•		•	•	•	•	•	•	•
ICESCR	•		•	•	•	•	•	•	•
European Convention on Human Rights	•	•	•	•	•	•	•	•	•
CAT	•	•	•	•	•	•	•	•	•
CRC	•	•	•	•	•	•	•	•	•
CEDAW	•			•		•			•
CERD	•	•	•	•	•	•	•	•	•
Convention on Political Rights of Women	•	•	•	•	•	•	•	•	•
Convention on Prevention and Punishment of Genocide	•		•	•		•		•	•
Convention on Reduction of Statelessness	•	•	•	•	•	•	•	•	•
Convention on Status of Statelessness	•	•	•	•	•	•	•	•	•
ILO Convention No. 105 Abolition of Forced Labour	•	•	•	•	•	•	•	•	•
ILO Convention No. 87 Freedom of Assn. and Right to Organise	•	•	•	•	•	•	•	•	•
ILO Convention No. 98 Organise and Collective Bargaining	•	•	•	•	•	•	•	•	•
ILO Convention No. 29 Forced Labour	•	•	•	•	•	•	•	•	•
ILO Convention No. 100 Equal Remuneration	•								
ILO Convention No. 138 Minimum Age (UK ratified 2000)	•								
Convention on Consent to Marriage, Minimum Age and Registration	•	•	•	•	•	•	•	•	•
ILO Convention No. 97 Migration for Employment	•	•	•	•			•		
Geneva Conventions I, II, III IV (1949)	•	•	•	•	•	•	•	•	•
European Convention for Prevention of Torture or Degrading Treatment	•								
UNESCO Convention Against Discrimination in Education	•	•		•	•	•	•	•	•
Convention on Abolition of Slavery	•	•	•	•	•	•	•	•	•
ILO Convention No.182 Worst Forms of Child Labour (UK ratified 2000)	•								
ECHR Protocol No. 1 (Possessions/Education/Elections)	•		•	•	•		•	•	•
European Convention for the Prevention of Torture Protocol 1.	•								
European Convention for the Prevention of Torture Protocol 2.	•								

## 2.3 Constitutional Framework Largely in Place

The constitutional framework for human rights protections and realisation is largely in place in the UKOTs. All UKOTs have a Constitution and many are currently undergoing constitutional reviews. These reviews are being undertaken with public consultation providing a good opportunity for education on Constitutional rights. Five territories currently have a Bill of Rights or Human Rights Chapter within their Constitution. HMG has provided a ‘model’ human rights chapter to help territories revise their constitutions.

One of the corner stones of operationalising human rights obligations is introduction of supporting domestic legislation. In our visits we came across several examples of territories taking pro-active steps to introduce legislation in some key human rights areas. Examples include a Domestic Violence Act in Montserrat, a Children’s Act in Bermuda, and a Human Rights Act, also in Bermuda. Time did not allow a detailed review of domestic legislation and examination of to what extent human rights obligations are supported by domestic legislation. A joint OECS/UNICEF/NCH project is currently reviewing compliance of domestic legislation with CRC in some



UKOTs.<sup>4</sup> Such a review may well be welcome elsewhere. A similar approach to other core covenants could also be considered.

## **2.4 Human Rights Committees being Developed**

Anguilla and BVI now have Human Rights Reporting Committees and Bermuda has a Human Rights Commission. Human Rights Committees (HRCs) are a fairly new, but highly significant, initiative in the UKOTs. Creation of these committees represents a major step forward in taking responsibility for human rights reporting out of the office of the Attorney General and incorporation of a wider group of individuals in the reporting process. In BVI the committee has broadened its role beyond reporting by undertaking a major review of the current human rights situation. The Human Rights Commission in Bermuda receives, investigates and issues opinions on human rights complaints. Through its speakers bureau and many publications, the commission plays a very active role in public education.

Discussions in most territories highlighted a demand for HRCs to be more broad-based in representation (civil society participation in particular) and for taking on a more pro-active role (e.g. for monitoring, reporting, education and investigating abuses/complaints).

## **2.5 Growing Public Awareness and Interest in Human Rights**

Although the general level of public awareness of international human rights law and government obligations and responsibilities is generally low, visits to the OTs demonstrated that interest in human rights is widespread. Members of the public were eager to engage in debate and our workshops were well received.

The highest levels of public awareness were found in Bermuda which is no doubt related to the existence of the Human Rights Commission for over a decade and a programme of work which includes raising public awareness.

Human rights have been introduced into the school curriculum in Bermuda and are being added in Anguilla, and considered in the Caymans. Other OTs expressed interest in borrowing from this experience. Local media, radio, television and newspapers are widely used in the UKOTs for public education and discussion.

## **2.6 Healthy Civil Society Interest in Human Rights**

Internationally, attainment of human rights is very much dependent on active civil societies. Non-governmental organisations and other groups such as bar associations, trade unions, the media, the church, youth groups, associations, pressure and community groups play an important role in advocacy and action. Visits to the OTs identified a wealth of active civil society organisations. Annex 2 lists those organisations met during our visits. Though this Annex does not claim to be a comprehensive database of civil society organisations throughout the OTs, it does demonstrate that there is an active civil society in many of the OTs. In smaller territories such as Falklands, civil society organisation may be more informal than formal. Civil society organisations seem most active in Bermuda, TCI, BVI and Cayman.

Though few civil society organisations we met had knowledge or experience of human rights, we encountered considerable interest and recognition that these

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<sup>4</sup> Montserrat, Anguilla, BVI and TCI. HMG are contributing to this project by funding research by NCH.

groups had an important role to play in promoting human rights, particularly through education and advocacy. Civil societies in some territories are playing a growing role in promoting and protecting human rights for particular interest groups, particularly women, the disabled, and immigrants. Some active organisations are professional and businesswomen's groups in Anguilla, Cayman and Bermuda, Haitian pastors in TCI, and groups advocating for the disabled in TCI, St Helena and Bermuda.

## 2.7 Examples of Territory Specific Good Practice

Examples of good human rights practice can be found throughout the OTs and provides a wealth of experience for sharing across territories. The following section provides a cross section of examples encountered during our visits. Individual reports provide more detailed descriptions of the good practice examples listed. Some of the examples given are in early stages of development but represent innovative action.

### **Legislative and Institutional**

- Falklands, Montserrat, TCI
- 
- 
- 
- 
- 

### **Human Rights Awareness**

- Bermuda and Anguilla
- 
- Montserrat and TCI.

### **Civil society participation**

- 
- 
- Montserratians in the Diaspora - Antigua, Boston, London
- groups and women's organisations
- women, long term residents, people with disabilities)
- Bermuda, Cayman, TCI

### **Administration of Justice**

- 
- 
- Falklands
- 
- 
- 

### **HIV/AIDS**

- Cayman
- 
- 
- 
-

**Violence against women and children**

- - 
  - 
  - 
  -
- to report suspected child abuse)

**Special Needs**

- - 
  -
- services, sheltered housing, meals on wheels, active NGOs)

### **3. Human Rights Issues Raised**

#### **3.1 Overview**

This section presents the human rights issues raised during territory visits that are common to most if not all the UKOTs. Supporting tables in the text provide a quick overview of where issues were raised. These tables also help to identify the relative strength of concern in different territories. This section will also indicate the scale of concerns raised, who specifically is affected, and the depth and or severity of the problem as indicated by people in the territories with whom the consultants met.

The issues raised in this section, cover a wide spectrum of civil, political, economic, social and cultural rights which can be grouped into six broad concerns: freedom of speech; social exclusion and discrimination; labour rights; political rights; child rights; and administration of justice. In addition, despite the many achievements in the UKOTs, a number of concerns emerged relating to the process of human rights realisation. These concerns need equal prioritisation if the UK government and UKOTs are to have the necessary human rights framework in place to enable all peoples living and working in the UKOTs to achieve their fundamental freedoms and rights, as well as to work towards the realisation of aspirational rights.

#### **3.2 Strategic Process Issues**

Six strategic process issues surfaced in the visits to the territories: ownership/partnership, public awareness and attitudes; capacity for human rights realisation, institutions, Constitutional and legal framework, and UN reporting. These are discussed in turn below.

##### **3.2.1 Ownership and Partnership**

Full realisation of human rights across the UKOTs is both a long-term process and one that involves commitment by a range of actors: governments of the UKOTs, civil society organisations, the UK government and the general public. Final responsibility for meeting international human rights obligations rests with the UK government since the UK government signs international treaties and extends them to the UKOTs. Responsibility for realisation, however, lies very much within the domain of UKOTs governments, although the UK government maintains some responsibility here too with its direct responsibility for law and order, security and international affairs<sup>5</sup>. The 1999 White Paper stresses the need for a 'partnership' on human rights. Partnership between governments and civil society is also critical to the full realisation of human rights.

Our conclusion at the end of nine visits and following many discussions with a whole range of interested individuals and organisations across the UKOTs is that ownership of the human rights agenda is difficult to locate and a partnership on human rights at any level is yet some way off.

Ownership of obligation is the overarching issue that needs to be addressed in moving towards the realisation of human rights in the Overseas Territories. Currently the perception is that ownership and lead responsibility rests with the UK government. This is in part due to the fact that Conventions are 'extended' to the

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<sup>5</sup> Though the UKOTs have financial responsibility for law and order and internal security

UKOTs, rather than ‘acceded to’ by them, since only independent states cannot accede to international treaties. The issue of ownership is also inextricably linked to the complicated relationship between UKOT governments and their populations on the one hand, and the HMG on the other, and historical issues of dependency and dynamics of power.

A quote by a Montserratian wife and mother captures the essence of why local ownership of human rights is a problem. When asked to take part in her country’s constitutional review she said: “I was never even taught about the constitution in school. Now I am asked to review it. Do I have the tools to do so or know what I am looking for?” This captures the dilemma and status of local ownership over human rights not just at an individual level, but likewise between OT governments and HMG. In the case of the latter relationship, there is not an adequately shared responsibility between the two parties for meeting human rights obligations, with the balance tilted toward London; and OT governments, in the main, displaying weak roles in overall responsibility for human rights – in the extension of treaties, educating the public, reporting on human rights, and acting on human rights concerns.

To date there has been little, if any dialogue on the realisation of human rights across the UKOTs, and how a successful partnership might be achieved. This phase of the project was an attempt to start that dialogue with the view to identifying how a partnership approach might work.

### **3.2.2. Public Awareness and Attitudes**

The general level of awareness of international human rights law, government obligations and responsibilities, as well as that of government officials, businesses and civil society organisations is uneven across the territories but generally low. For example, where there are bills of rights in local constitutions, very few people were aware of that, or of the treaties and conventions applicable to their society, or of the reporting process. Perhaps the convention most widely known is the Convention on the Rights of the Child (CRC), and the public’s attitude to the CRC is quite hostile since it is widely viewed as reducing parental authority and prematurely. Again, only leading trade unionists are aware of ILO conventions, not the general public; and women who have been to international meetings know about the CEDAW, whilst the majority of government ministers in UKOTs have no knowledge of it.

### **3.2.3 Capacity for Human Rights Realisation**

Realisation of human rights requires trained and experienced individuals and organisations. A number of capacity constraints can be identified:

- Governmental staff in key departments such as health, education, social services, the police and judiciary are untrained in human rights, undermining their potential role. Similarly their potential role requires clear definition. Examples were found of child abuse cases falling between the cracks because different professional groups felt that it was not their responsibility to act;
- The number of civil society organisations across the UKOTs playing a direct role in human rights advocacy is limited. There are many NGOs who could and would be interested in playing an active role in the promotion and protection of human rights, but their knowledge, skills and financial resources are limited;
- Insufficient legal drafting staff in AG’s offices in many territories;

- Few linkages seem to exist between Caribbean Overseas Territories (COT) civil society organisations and others in the Caribbean region and the UK, thus hindering their ability to learn from and draw on the experience of other groups. In the Scoping Phase we found that Caribbean regional organisations (NGOs, international/regional bodies and donor third countries) tend to see COTs as separate from the independent territories and not in need of support (it is assumed that linkages with the UK are strong). This needs to be reversed.
- Access to Caribbean-wide human rights initiatives sponsored by other agencies (e.g. USAID funded) who often expect funding to be provided by HMG. The COTs are often unaware of human rights programmes for independent Caribbean territories (e.g. training), which might be of interest and value.

### **3.2.4 Human Rights Institutions**

Only four of the nine territories visited have human rights institutions: Human Rights Committees in Anguilla and BVI, a Human Rights Commission in Bermuda and a Children's Committee in TCI. Elsewhere responsibility for human rights rests solely with the Attorney Generals' offices.

The two human rights committees that have been established are in the early stages of development and need more permanence, better integration with civil society, more political autonomy, more operating resources, and more active ownership of the human rights brief for the territory. This would involve taking on a more pro-active role in monitoring, reporting, education and investigating abuses/complaints. At present the committees that exist only have a reporting role. Membership tends to be from different government departments and civil society participation is limited. Training for more effective Committee reporting and for parties to be able to take on a broader role would be useful. Following our visits, we understand that both BVI and Anguilla are now looking at expanding the role of their reporting committees.

The Human Rights Commission in Bermuda could provide a useful model for other territories to aspire to, although smaller territories would be unable to justify the resources.

### **3.2.5 Constitutional and Legal Framework**

Whilst the constitutional and legal framework for securing human rights is largely now in place, the processes of extension of international treaties and Constitutional reviews should be completed as a priority. As resources allow domestic legislation should also be reviewed and amended to ensure that this reflects international obligations. Section 4 sets out proposed recommendations in this area.

### **3.2.6 Reporting**

A series of messages consistently emerged about reporting on UN conventions:

- Reporting is generally seen as an onerous task and local ownership is limited. Frequent complaints were made about London (HMG) being unsympathetic to the resource constraints that AG's offices face, the short timeframe given for report preparation (London would contest this) and questioning on whether such comprehensive reporting was necessary given the small size of UKOTs.

- There is little ownership of the reporting process locally. Reporting tends to be seen as a London rather than as an international (UN) requirement.
- Reporting tends to be a one-off process and centred on AGs offices. An opportunity is missed for local dialogue on human rights issues, achievements, and problems to be targeted. Similarly there is little if any feedback of findings of the UN reporting committee and agreed action on how to make improvements before the reporting period.

### 3.3. Freedom of Speech

Freedom of Speech was raised as a priority issue in most territories visited. Concerns took a number of forms and affect people in different ways.

**General Orders (GOs):** General Orders are in force across the UKOTs. These orders provide a binding code of conduct for all government employees. In most territories we encountered widespread concern about the overly restrictive nature of GOs.<sup>6</sup> This was raised in six out of nine OTs and those affected complained bitterly. Although only a few examples were found of people losing their jobs as a result of breaking the GOs,<sup>7</sup> a general fear about speaking out exists amongst government employees. Since a large proportion of the adult population works in government service in all OTs, a large number of persons are affected. The blanket nature of GOs prevents public servants speaking out on issues that relate to government but are unrelated to their work. On the other hand, the consultants and people met accept that reasonable restrictions need to be maintained to preserve the impartiality of the civil service, as in the UK. HMG officials have made the point that OT public servants cannot expect their code of ethics/conduct to be less restrictive than that to which UK public servants are bound.

Reviews of GOs are ongoing in four territories: BVI, Montserrat, Falklands and TCI. Complaints were received about the seemingly never-ending nature of these reviews, the need for a conclusion to the process, and for decisive and early action to update GOs.

**Expatriate Migrant Workers:** Fear of losing work permits and/or residence status reportedly prevents expatriate migrant workers from speaking out against wrongs and particularly against government policies. Their status as 'non-belongers' also affects their willingness to speak out against their hosts, the 'belonger' population. This fear was at its most extreme in TCI where (poor, Haitian) migrants are particularly subject to discrimination. In BVI and Montserrat, expatriate teachers reported that even children in their classes, when unhappy with assignments, grades or discipline, would threaten them with their ability to get them deported. Almost everyone reported that this type and scale of intimidation is fairly new and on the increase, which they linked to a feeling of insecurity as the population of persons born outside the territories has steadily increased relative to locals.

**Businesses:** In a small number of territories, businesspersons met expressed concern about criticising the government in case they lose lucrative contracts or licenses. This arose in BVI and in Cayman. This appears to be less of an issue where foreign businesses, particularly in the tourism sector, see themselves, and are seen to be, in a powerful position vis-à-vis the government, as in TCI and Bermuda.

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<sup>6</sup> This was true for Bermuda as well, though General Orders have been re-written locally as the General Code of Conduct and Rules of Employment.

<sup>7</sup> For example, in Montserrat, a former employee claimed he was dismissed because he spoke out.



**The media:** The local media is active in all UKOTs. Concerns were raised by media representatives in Montserrat, Anguilla and Cayman about the lack of independence of the media. In Anguilla, a programme thought to be critical of the government (Speak Your Mind) had been removed from the air, successfully challenged in court and then restored. A comparable process occurred in Montserrat with the program, “Labour Speaks”. There have been similar charges of a lack of full media freedom by the Eastern Caribbean and Trinidadian media in recent years.

**General public:** Whilst there are no legal restrictions to freedom of speech anywhere in the UKOTs, a number of factors were reported to have a restraining effect on the general population, creating ‘a culture of fear’ against speaking out: the small size of the population and the resulting lack of anonymity and potential for ‘punishment’ (e.g. being branded a trouble-maker and being discriminated against); a lack of self-confidence which many put down to the long established culture of colonial dependency in the UKOTs; and ‘a culture of impunity’, affecting the Caribbean OTs in particular. What is evident is that regardless of the fact, people’s perceptions count. Whether or not they would actually be punished for speaking out against prevailing norms and or policies, seems less important than the feeling that they should not, or if they did, that they would face punishment.

**Table 3.1 Cross-Territory Findings: Freedom of Speech**

Freedom of Speech	Anguilla	Bermuda	BVI	Cayman	Montserrat	TCI	St. Helena	Ascension	Falklands
Public sector (General Orders)			***	**	***	**	***		**
Expatriates / migrants	**	***	*	**	*	***		**	**
General public	***					**	**		**
Business			**						
Media				**	***				

Key:

- \* denotes a low-level intensity with which this concern was raised with consultants.
- \*\* denotes a medium level of intensity, and
- \*\*\* denotes a serious level of concern expressed to consultants.

### 3.4 Social Exclusion and Discrimination

Across the OTs, we found assertions of discrimination and social exclusion. Groups affected include: women, men, immigrants, persons living with HIV/AIDs, Rastafarians, persons with special needs, the elderly, gays, those living in

geographically isolated locations, the very poor, and ‘belonger’ minority groups (indigenous Portuguese in Bermuda). Racial discrimination was presented as a priority issue in Bermuda, although it was raised in Cayman and elsewhere.

The social exclusion and discrimination issues raised are presented below, and in Table 3.2. Although some of the issues may not directly contravene a specific article of any convention, the examples highlight the widespread presence of social exclusion both across territories and social groups. This is a matter of concern, not least because continuing social exclusion fundamentally contravenes international human rights principles and Articles 1 and 2 of UDHR in particular.

**Immigrants:** Immigrants reported discrimination, particularly poorer migrants – the Haitians, Jamaicans, Guyanese, Dominicans in the TCI, BVI, Cayman and to some extent in Montserrat. These claims of discrimination concern access to education, health services, housing, utilities, general social services and justice, as well as general public attitudes. Discrimination is of particular concern in the case of vulnerable groups: children, pregnant women, and persons living with HIV/AIDS. TCI also faces the difficult issue of dealing fairly with and ensuring that the fundamental human rights of illegal migrants are met. Migrants face lesser discrimination in other OTs, including St Helenians who feel they face discrimination in the Falklands. Long-term Portuguese immigrants in Bermuda also claimed that they face social bias and exclusion, reportedly from both whites and blacks. Discrimination against migrants seem part of a general tension between ‘belongers’ and ‘non-belongers’ and a lack of understanding and respect for different cultures.

**Women:** Attaining formal education and credentials in numbers often greater than men (all across the Caribbean), women in the OTs tend to hold senior positions in public life; but inequality and insecurity in the private realm remains a concern to women’s groups. Despite occupying high and powerful business and government posts in Bermuda, Cayman, Montserrat and TCI, women still do not earn at the same level as men, though the trend is a narrowing of the gap.<sup>8</sup> Domestic violence was raised as a widespread concern in all territories. Gender discrimination in the workplace, especially private sector pay inequity (e.g. in Bermuda) was raised as a concern.

Divisions between women on the basis of class and race emerged as an issue in Bermuda, in TCI and in Montserrat. Reportedly, immigrant women from Caribbean Community (CARICOM) countries face discrimination and resentment from local women over jobs and inter-personal relations with local men in UKCOTs. Poor immigrant women are most likely to be the subject of gender discrimination. With positive economic outlooks for the more affluent Caribbean OTs, (Bermuda, Cayman, TCI), migration of Caribbean women (especially Haitians) are not expected to abate. These differences among women may therefore not lessen.

**Men:** Although not strictly a human rights issue, concern about the increasing marginalisation of boys and men arose in discussions in all Caribbean OTs.<sup>9</sup> With girls matriculating at rates higher than boys in most high schools, the trend of larger percentages of females to male professionals is expected to continue.<sup>10</sup> These trends are already causing tensions in some of the OTs (Bermuda, Montserrat). Already in these OTs (and across the English-speaking Caribbean), there are legitimate concerns about male under-achievement in education, young male

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<sup>8</sup> Both the narrowing of the gap and its continued existence are universal. See [Women: Trends and Statistics Worldwide, 1995-2000](#).

<sup>9</sup> See Footnote No. 4 above.

<sup>10</sup> In territory after territory, high school girls more than boys were consistently choosing higher-level professions.

unemployment, the lack of rehabilitation support for young offenders (leading to a culture of crime), and legal and judicial bias against fathers separated from their children, often after divorce.

**Persons Living with HIV/AIDS:** The extent of the HIV/AIDS epidemic in the Caribbean is second only to sub-Saharan Africa. The highest levels of incidence in the UKCOTs are in TCI and Bermuda. Although numbers affected are smaller elsewhere, concerns about discrimination arose in most territories visited. Key issues are: lack of access to anti-retroviral treatment to reduce mother to child transmission; lack of access to employment and health services (TCI), lack of testing, counselling and support services; the absence of public education; and social discrimination arising from stigmatisation. Treatment of HIV in the illegal migrant population in TCI is a priority issue that needs to be tackled. Poorer sections of society are particularly at a disadvantage as they are unable to afford access to treatment overseas. The growth of sex tourism in the Caribbean generally may yet produce more persons infected with the virus (although this did not surface as an issue in our visits).

**Rastafarians:** This religious/cultural group see themselves as belonging but distinct and mistreated in society in BVI, Cayman and Montserrat. In some places, their marginalisation is legalised by discriminatory attitudes and laws. The 'Rasta Law' in the BVI prohibits legal entry of Rastas. The smoking of cannabis or marijuana is illegal in all OTs; yet, Rastas claim that their freedom of religion and expression are frustrated by such laws since marijuana use is central to their religious belief and expression. Earlier discrimination against them in schools (where their rural, 'organic' ways and long hair were frowned upon) has led them into the ranks of the unschooled, unemployed (and even imprisoned), in numbers disproportionate to their population.<sup>11</sup>

**Special needs:** Concerns about the mentally ill came up in most territories. Issues raised include: lack of services; inappropriate incarceration in the absence of secure accommodation; and inappropriate use of police powers of restraint. Inadequate service provision is clearly linked to the small size of the mentally ill population, lack of resources, and the stigma attached to mental illness. The disabled are a second special needs group who claim discrimination. A lack of provision for the disabled means that they are often confined to their homes and unable to access public buildings. The small numbers of persons with special needs raises difficult questions about how to provide for these groups. Consultants encountered individual activists and organisations for persons physically challenged in Bermuda and TCI. These organisations are working hard to provide examples of community and national level civil society partnerships with government.

**Elderly:** Abandonment, abuse and poverty; inadequate or overly expensive provision of care for the elderly; and poor conditions in their homes were revealed during visits to some territories. The most stressful situation for the elderly was found in Montserrat due to post-volcanic relocations, unavailability of familiar and/or adequate housing, and their loneliness. In Bermuda, due to exorbitant housing costs, life is very difficult for pension-less retirees. Time prevented in-depth examination of conditions for the elderly in the OTs. Further investigation is recommended to assess the nature and extent of problems for this growing group.

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<sup>11</sup> In a celebrated case, an eight-year-old Rasta boy's head was forcibly shaven by school authorities in order to admit him to school. This action was condemned by the court.

**Homosexuality:** Widespread social attitudes in the UKCOTs condemn and discriminate against homosexuals. We were told that hostility was stirred up following passage of the UK Government's Order in Council decriminalising private homosexual acts.<sup>12</sup> Organised gay-rights groups in Bermuda and individuals in Cayman raised the matter of discrimination against them. Examples of discrimination include job dismissal (Cayman, Bermuda), social persecution (Bermuda and TCI), discrimination by landlords (Bermuda), general stigmatisation and rejection on Christian grounds (TCI), and general harassment. It is difficult to know the size of the population concerned. Strong hostile public feelings mean that a relaxation towards lesbians and gays is unlikely without considerable public debate.

**Geographically Isolated Populations:** Several territories are made up of a number of islands and comments were made about the isolation of communities and consequent denial of access to basic and emergency health care, education, transportation, and other social services. The Government of the Cayman Islands is making an admirable effort at regional development and decentralisation in Little Cayman and Cayman Brac, as is the TCI government in South Caicos, Salt Cay and North Caicos. Secondary school children (and some workers), on Anegada, BVI, must sea-ferry in to schools daily. Although relatively small numbers of persons are located on these remote islands, youthful and elderly populations make it more imperative that adequate services be made available, even if costly.

**Poorest:** Across the UKOTs, those facing the greatest poverty and hardship were those most likely to be missing out on their full realisation of human rights. The issue of poverty arose most forcefully in Montserrat, TCI and Cayman - that is in both low and high per capita income territories. Young, under-educated youth on Grand Turk and on Provo (TCI), and Bermuda make up large sections of the poor. The unskilled/unemployed, lone-parents without adequate housing and some migrants are among the poor, some inter-generationally poor. Where children's right to education is denied, poverty is likely to continue. Greater targeting and a more inclusive approach to the poor is required.

**Race:** Racial discrimination was flagged up as an over-riding concern in Bermuda, but was also raised in Cayman and TCI. In Bermuda, the legacy of legalised racial discrimination (legal until 1956) leaves a strong perception on the part of many in the black community that they continue to be the victims of racial discrimination, especially over jobs. De facto segregation continues in housing and education. All are affected by a racial system in which: "whites have privilege, Asians are accepted and blacks must earn merit". As in former colonial societies, race/colour and class/profession and family name are so tightly woven in the (Caribbean) OTs, that it is more informative to say that complaints of racial discrimination were also complaints of economic and social exclusion, except where education and high professional attainments had intervened. In this context and because the people's of the Caribbean territories are majority non-white, the observation of the consultants is that racial rights and justice can be best attained through access to higher education, social inclusion for blacks, and multi-cultural learning for all.

**Minority groups:** Discrimination against indigenous Portuguese was raised as an issue in Bermuda. Their marginalisation is political rather than economic, a legacy of their political invisibility in a black majority and dominant white minority environment.

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<sup>12</sup> This was consistent with the UK fulfilling its international legal obligation (under the European Human Rights Convention).

**Long-term residents:** We received numerous approaches from long-term residents in some territories, most particularly TCI, Bermuda and Cayman claiming discrimination and non-enfranchisement. Many are former contract workers who entered on time-specific work permits in the private or public sector, or are spouses or divorce partners of belongers. Some, like a 60-year Haitian construction worker in the TCI migrated there as long as 30 years ago, before immigration regulations of any sort were established, but who still faces an ambiguous legal status. Others are skilled professionals who have exhausted multiple work permit renewals but want to remain, sometimes with strong ties to the society. In still other places, long-term residents complained that they have no channel for representation of their view, despite the fact that they pay taxes and in other ways live under the law. People met complained about the lack of consistent policy toward long-term residents. Much ambiguity prevails and injustices are felt. Long-term residents constitute sizeable sections of the population in some territories. Bermuda is proposing regulatory legislation which might be an example for other UKOTs.

**Table 3.2 Cross-Territory Findings: Discrimination, Vulnerability and Social Exclusion**

Social Group	Anguilla	Bermuda	BVI	Cayman	Montserrat	TCI	St. Helena	Ascension	Falklands
Women	*	*	*	*	*	*	*	*	*
Men		**		*	**				
Race		***							
Immigrants	*	**		***	**	***			**
HIV/AIDS	*			**	*	***			
Rastafarians				**	*				
Poor		*		**	**	**			
Minority groups		*							
Gays, lesbians, transgenders		***		**					
Special needs / (mentally) disabled	**	**		**	**	**	**	*	*
Geographically isolated				*		**			*
Elderly		*		**	***	**	**		
Long Term Residents	**	***		**	*	**			

Key:

- \* denotes a low-level intensity with which this concern was raised with consultants.
- \*\* denotes a medium level of intensity, and
- \*\*\* denotes a serious level of concern expressed to consultants.

### 3.5 Labour Rights

A number of issues were raised relating to the rights of workers. These ranged from workplace discrimination to the absence of effective trade unions, to workplace safety issues. While no Territory has laws against free association through trade unions, organising the work force is a new challenge in small, close-knit societies operating until recently with a high degree of informality and little structure. Where this may not be the case, for example in Montserrat, where labour union organisation is a tradition, the globalised economy and work force (new, more migrant workers, new work patterns) present new challenges.

Labour rights issues are presented below, and in Table 3.3.

**Discrimination in the workplace:** Complaints about discrimination in the workplace arose in all territories, although the issues varied. We encountered claims of discrimination on the basis of gender, nationality, sexuality and race. Concerns raised include: inequality in pay (by gender and nationality); type of work available (by gender, race and nationality) with high paid professional jobs open mainly to men; type of contracts (by race and nationality); working conditions (nationality); harassment (by gender, sexuality and nationality); and unfair dismissal (homosexuals, pregnant women, people with HIV/AIDS).

**Absence of effective Trade Unions:** Trade unions are generally not well established in the UKOTs. Complaints were heard in some territories about the lack of positive support from government for union formation (e.g. Cayman, TCI). In some places GOs are seen as preventing public sector workers from joining unions. Civil service associations represent public sector workers but their powers are limited.

Where they exist (Anguilla, BVI, TCI), trade unions tend to have small numbers, are failing to attract members because they are seen as ineffective in bringing about change, and often fail to represent those most in need i.e. migrant workers in low wage and insecure employment. They also tend to be under-funded, lack skilled employees, and are dependent on lone individuals. In TCI, a trade union exists but is effectively defunct; likewise in BVI. Trade unions were well established in Montserrat before the volcanic eruption but sadly, mass out-migration has led to a dwindling of numbers and consequent effectiveness. A public service union in Anguilla is likely to also represent private sector workers.

The absence of unions leads to a fear of speaking out about grievances, particularly amongst migrant workers who fear being dismissed. With the absence of unions, labour rights are not generally well understood nor protected. Often large employers are seen as being allowed to flout the law because of their powerful position. This accusation arose in Ascension and TCI.

In some places labour tribunals exist e.g. Montserrat and Cayman but there are accusations of lengthy backlogs making them ineffective.

**Workplace Health and Safety:** Workplace health and safety concerns arose in three territories: Falklands, Montserrat and TCI. The concerns raised were quite specific to each territory however: health and safety on foreign owned fishing vessels in Falkland

Island waters; exposure to poor environmental conditions in Montserrat, and exposure to hazardous working conditions amongst low paid migrant workers in TCI. Working conditions amongst low wage employees in the informal sector, and child labour would merit a review across the OTs (e.g. domestic workers, migrant workers or sex workers). Workers in the informal sector are a significant group but more needs to be known about them.

**Coverage of ILO conventions:** Confusion over the status and applicability of ILO conventions was widespread. Clarification of coverage and the rights and protections provided is needed. Education of workers on the provisions of the ILO conventions extended to them, their constitutional rights and channels available for redressal are all needed, particularly amongst those facing discrimination. The Department for Education and Skills and the UK trade union movement could play an active role in the UKOTs in this respect.

**Table 3.3 Cross-Territory Findings: Labour Rights**

Labour Rights	Anguilla	Bermuda	BVI	Cayman	Montserrat	TCI	St. Helena	Ascension	Falklands
Absent or weak Trade Unions	**		**	*	*	***	*	**	*
Discrimination in the workplace	*	**	*	**	*	***	**	**	**
Child labour						**			
Health and safety					***	**			***
Absence of labour tribunals					*				

Key:

- \* denotes a low-level intensity with which this concern was raised with consultants.
- \*\* denotes a medium level of intensity, and
- \*\*\* denotes a serious level of concern expressed to consultants.

### 3.6. Political Rights

Several important issues were raised under the broad title of political rights; a number of which evoked deep and widespread concern. These relate to issues of self-determination and governance: at a territory level between governments and the public, and at an international level between UKOTs and the UK, and representation of the

UKOTs in international fora. These issues are essentially inter-related and are presented below, and in Table 3.4

**Self-determination:** The 1999 White Paper commits the UK government to upholding the right of individual territories to determine their own future and to enjoy a high degree of autonomy. To follow through on this commitment, care has to be taken by UK Government to keep channels of communication open on this basic human right and not to close off what is seen by people in the OTs as still an open dialogue. The current Constitutional Review process represents such a channel, although limited public consultation in some territories has meant that the opportunity for widespread public dialogue about the relationship with the UK has been missed. It is important to respond to requests for the exercise of this right and HMG should consider making available political education on choice concerning the right of self-determination of all peoples in the OTs (called for in Anguilla but no doubt would be welcomed in other UKOTs).

**Partnership:** Some tensions were reported by workshop participants (in BVI and Montserrat) in the relationship between UK Government representatives in the territories and democratic governing principles. They claimed that “the imposition” of Orders of Council and treaty extension undermine trust and good will and negate the letter and spirit of the 1999 White Paper on Partnership. In the field of development planning, implementation and evaluation of programmes, local professionals lamented lack of adequate prior and on-going consultation with them as well as HMG’s failure to use local experts. Finally, the lack of clear and timely information-sharing between HMG and local governments was reported as of concern. They also felt this to be the case between government bureaucracies, and the public with access to information on matters of public interest being a major concern.

**Good governance:** In workshops held as well as in private conversations, the public (and some senior administrators) consistently voiced disappointment with standards of governance in the UKOTs. The specific issues raised were that leading individuals in local government and sometimes entire administrations were seen as governing under a culture of impunity, even though OT governments are elected and can be voted out. Those who raised this concern (in Bermuda, Cayman and TCI) felt that some local authorities acted as if they were above the law and above learning. Dishonest management of natural resources was raised as a concern in Cayman and TCI. The truthfulness of these claims could not be ascertained, but they are mentioned here since they were reported and demonstrated the public’s commitment to upholding principles of accountability and good governance and fundamental human rights.

**Public participation:** A number of specific issues were raised concerning public participation in governance:

- the lack of formal channels for public participation in government decision making;
- that informal relationships dominate decision making processes leading to a lack of transparency in decision making that disadvantages socially excluded groups in particular (leading to further exclusion);
- that many civil society organisations are similarly dominated by elite/friendship networks, alienating youth, migrants and others outside these networks;



- public meetings (often the main mechanism for public consultation) are influenced by social stratification, undermining meaningful and inclusive participation;
- poor representation of youth, women, the poor and those with opposing political views on Statutory Boards and agencies.

**Table 3.4 Cross-Territory Findings: Political Rights**

Political Rights	Anguilla	Bermuda	BVI	Cayman	Montserrat	TCI	St. Helena	Ascension	Falklands
Civil society			**			**		*	
Public participation				**	*	**	**	***	**
Good governance/inclusion	**	*	*	*	*	***			*
Disenfranchisement		***	**	**	**	*		***	
Self-determination	**		**		**				
Partnership in decision-making	***	*	**	*	***	**			

Key:

- \* denotes a low-level intensity with which this concern was raised with consultants.
- \*\* denotes a medium level of intensity, and
- \*\*\* denotes a serious level of concern expressed to consultants.

### 3.7 Child Rights

This consultancy did not specifically focus on child rights, as this is the subject of a separate study being managed by NHC<sup>13</sup>. However a number of common issues were raised during consultations. Children are among the most vulnerable groups in society and the protection of their human rights always needs to command high priority. We present below, the concerns raised during our visit. Table 3.5 also presents findings.

**Nationality and citizenship:** for children born outside their parents' place of birth. Children born outside the territory to belong parents face discrimination in not being able to acquire unequivocal and permanent legal status. Various rules and regulations govern their lives and these rules have the effect of leaving some children with ambiguous immigration status within the territory.

**Access to education and social services:** this concern relates to children of legal migrants in BVI and in TCI, to both legal and illegal child migrants. Montserrat faces the

<sup>13</sup> Covering the Eastern Caribbean OTs and TCI.

unique problem of children's services being either physically destroyed by the volcano or institutionally weakened by loss of professional staff. Exclusion of pregnant teenagers from continuing their education is a widespread practice in the Caribbean OTs. Initiatives in TCI and Bermuda are aimed at reversing this.

**Access to justice for juveniles:** arose in a small number of territories but could be of more widespread concern. Separate detention facilities for youth, alternatives to incarceration, provision of probation, and rehabilitation support are sorely lacking in most OTs. Bermuda's Alternative to Incarceration (ATI) is an interesting initiative. A UNICEF study has recently been undertaken in the Caribbean and although this was not available to the consultants should be accessed to provide greater insight into this issue.

**Corporal Punishment:** the rights, wrongs, effectiveness and ineffectiveness of corporal punishment are hotly debated in the Caribbean territories. This provides a good example of the need for widespread public debate about the rights of the child and the tensions between traditional practices and cultural beliefs and international standards.

**Child abuse:** accusations of the physical, mental and sexual abuse of children are a serious cause for concern in many territories. The UK government is now giving child abuse and child protection the high priority attention deserved.

**Child labour:** was only raised as an issue in one territory (TCI), but from observation and informal discussions, we believe this does occur in more OTs, in both poorer and middle class homes. Any review of child rights at a territory level should include an examination of the prevalence of the use of child labour.

**Table 3.5 Cross-Territory Findings: Child Rights**

Child Rights	Anguilla	Bermuda	BVI	Cayman	Montserrat	TCI	St. Helena	Ascension	Falklands
Nationality	*		**	**					
Access to education/social services			*		**	***			
Child labour						**			
Child abuse				***	**	***	**		
Corporal punishment		*			*				
Exclusion of pregnant teenagers from school	*		*		*				
Child Development Resources – youth centres			*	**			**		
Juvenile justice	*		**	**					

Key:

- \* denotes a low-level intensity with which this concern was raised with consultants.
- \*\* denotes a medium level of intensity, and
- \*\*\* denotes a serious level of concern expressed to consultants.

### 3.8 Administration of Justice

A number of issues relating to the fair administration of justice arose through territory visits, almost exclusively in the Caribbean OTs. It is worth remembering that the OTs practice fairly high standards in the administration of justice. For example, the right to life is protected, habeas corpus is upheld, and though physical prison standards vary, they are generally high, especially in BVI and Bermuda. Also noteworthy is that OT economies are small and that improvements across the board will be expensive for OT governments. Raising human rights standards will have a resource cost.

No one single issue pre-dominates in the administration of justice. The main issues raised are as follows and as set out in table 3. 6.

**Access to legal aid:** Legal aid is not available in most territories and where it does exist concerns were raised about the limited extent of coverage (particularly Bermuda, BVI and TCI). Pro-bono work is provided by lawyers in some territories but the numbers benefiting are small. We were frequently informed that many people do not see the judicial system as an option given the prohibitive costs involved in seeking legal advice and obtaining representation.

**Ombudsman:** TCI is the only UKOT with an ombudsman. As such there is an absence of an independent agent who can challenge the excesses of government, holding political behaviour to high standards. The ombudsman can also be an agency for the promotion of internationally acceptable standards of human rights and the rule of law.

**Prisons:** Inappropriate incarceration of juveniles and the mentally ill due to lack of alternatives, provision of a probation system and the provision of help to former prisoners to return to society and not re-offend.

**Policing:** DFID is supporting improved policing in a number of UKOTs, with the view to bringing policing practices towards UK standards. There is no UKOT equivalent to the UK Police and Criminal Evidence Act (PACE). If such legislation (modified to reflect local realities and needs) could be introduced across the OTs, this would set standards in line with international human rights obligations (e.g. police complaints procedures).

**Victim support:** is generally lacking and is of particular concern for victims of child abuse, sexual harassment and rape. Specialist officers, counselling services and trained and sensitised judiciary, police officers, social workers, teachers and health care staff were put forward as lacking.

**Table 3.6 Cross-Territory Findings: Administration of Justice**

<b>Administration of Justice</b>	<b>Anguilla</b>	<b>Bermuda</b>	<b>BVI</b>	<b>Cayman</b>	<b>Montserrat</b>	<b>TCI</b>	<b>St. Helena</b>	<b>Ascension</b>	<b>Falklands</b>
Policing					*				
Legal aid/access	**	**	**			*			
Victim support: CAB/hotline/ support group									*
Prison (conditions)			*		**	***	*		
Prison (other: lack of rehabilitation & alternative sentencing options)			**		*				**
Need for ombudsman	*		*			*	*	*	

**Key:**

- \* denotes a low-level intensity with which this concern was raised with consultants.
- \*\* denotes a medium level of intensity, and
- \*\*\* denotes a serious level of concern expressed to consultants.

## **4. Recommendations for Moving Forward**

### **4.1 Introduction**

The process of deciding recommendations for a way forward are based on what stakeholders all over the territories told us. To move closer towards the goal of local ownership for the realisation of human rights, it is important to share these ideas and consult broadly, especially with civil society, with a view to gaining consensus on an overall strategy for the UKOTs, as well as for specific territories. In this process, the enabling role of UK government is pivotal.

Recommendations are laid out as follows:

- Strategic observations considered critical to the full realisation of human rights in the UKOTs;
- Specific building blocks required to take the process forward; and
- Practical recommendations on how the UK Government could facilitate the process.

### **4.2 Strategic Observations**

It is clear from the analysis given in Section 3 that a number of strategic changes need to occur to strengthen the human rights partnership between the peoples of the UKOTs and the UK government. The following represent a series of goals which provide the framework for subsequent recommendations:

#### **4.2.1 Increasing Local Ownership**

All actions must aim for a higher degree of local ownership than now holds. This means finding ways of 'shifting the centre of gravity' for human rights responsibility from London to the UKOTs and increasing the 'ownership of obligation' locally. UKOTS should be encouraged to take the lead on ensuring human rights are met in their territories and the UK government (which ultimately has to ensure that it meets its own obligations) should take steps to play a supportive rather than directive role. Greater use should be made of local expertise, and of regional expertise in the Caribbean.

#### **4.2.2 Deepening and Expanding Partnerships**

Human rights partnerships need to be strengthened between the UK Government and the UKOTs; within each OT between government and civil society; and across OTs. This can only be achieved by developing new ways of working based on increased understanding of human rights, use of participatory approaches, better information management and dialogue, and shared decision making at these different levels.

Civil society organisations, business, government workers and people from all sectors of society should be brought into human rights work.

### **4.2.3 Building an Inclusive Process**

Full realisation of human rights in the UKOTs means realisation of all human rights for all people, regardless of gender, nationality, race, ethnicity, age, sexuality and religion. New processes need to be developed to build understanding and sensitivity to the issues faced by different, particularly socially excluded groups, in society. Participatory and democratic processes are essential to inclusive governance.

## **4.3 Building Blocks for Human Rights Realisation**

Achievement of these goals will require strengthening of processes and structures at territory level. A number of building blocks are proposed, though what is appropriate in individual territories will vary. Whilst these processes and structures do not directly address particular human rights concerns, they are fundamental to the greater realisation of human rights. These are put forward in order of the consultants' perceived priority.

### **4.3.1 Capacity Building**

Government, civil society and the business sector all have a key role to play in human rights. Existing capacity requires strengthening in a number of areas:

- Human rights committees would benefit from enhanced knowledge and skills to play a full and active role in promoting and protecting human rights as well as in reporting (see below);
- Capacity building of NGOs, Trade Unions and other civil society groups to enhance their role in the promotion and protection of human rights;
- Increased knowledge and understanding of human rights amongst government officials, particularly teachers, health professionals, social workers, the judiciary and police;
- Increased legal drafting capacity in AGs offices to speed up the introduction of domestic legislation to support human rights conventions; and
- Sharing of good practice examples between OTs and from neighbouring and culturally similar countries. For example, Caribbean OTs can draw on experiences from the independent Caribbean.<sup>14</sup> St. Helena and Ascension may want to draw on model work in South Africa. Development of linkages between territory-based NGOs and potential 'partner' NGOs in the UK is strongly recommended.

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<sup>14</sup> A database of regional organizations and contacts was started in the Scoping Phase of the Realisation of Human Rights project. This should be distributed to all HRCs/human rights contact points and maintained and expanded by OTD/HRDP. It could also be posted on OTD website.

### **4.3.2 Human Rights Education**

To take the process forward, a wide and deep process of formal and informal human rights education has to be initiated and sustained in order to build a local support base for improving human rights. Schools, the media, business groups, the church, formal and informal organisations, clubs and associations, parent-teacher groups should be incorporated into the work of advocating and upholding human rights. The relative success of women's group action on domestic violence in the Caribbean illustrates the power of local ownership of the human rights agenda. Various measures are proposed:

- Sustained inter-territory human rights education campaigns, intra-territory reviews and celebrations of human rights achievements are critical to moving forward. Human rights expertise exists to a lesser or greater extent in each territory and should be used;
- Incorporation of human rights education into the school curriculum and public information and education materials using examples of good and innovative practice across the UKOTs;
- Recognising and celebrating World Cultural Heritage Day, United Nations Children's Day, Human Rights Day and other public celebrations across lines of gender, race, age, ethnicity and other diversity as found in each territory;
- Staging of an inclusive territory-wide annual cultural event, engaging all – for example, graffiti artists, calypsonians, orchestras, popular dance groups; and
- Linking human rights education into existing rights efforts such as constitutional reviews and campaigns on HIV/AIDs, adult literacy and child rights.

### **4.3.3 Extension of Treaties and Conventions**

To respond to the concerns of people met in the UKOTs, the process of treaty extension must depart from past practice and involve:

- Much greater consultation (or more effective consultation since HMG believe that consultation has indeed been extensive) between HMG and the receiving OT;
- A higher degree of involvement of stakeholders within the OT, moving out from and beyond the traditional governmental level;
- Early extension of CEDAW to OTs preparing to adopt it: Anguilla, Bermuda, Montserrat and St. Helena/Ascension, using this as an opportunity to involve men and women stakeholders as well as girls, in gaining an understanding of the intent and value of the CEDAW, long before it is enacted. Women's Resource Centres can play pivotal informing and mobilising roles (e.g. in Bermuda, Cayman); and
- Extending the rights under the European Convention on Human Rights (ECHR) to all OTs which have not accepted it.

#### **4.3.4 Constitutional and other Legal Frameworks**

All territories have written constitutions, but only some of the constitutions have a human rights chapter. Rights are both part of, and equally dependent on, an adequate constitutional/legal framework. In this regard, it is recommended that the OTs:

- Press ahead with their constitutional review process, taking the opportunity to consult widely and deeply with all members of society, and ensuring that each constitution includes a Bill of Rights or Human Rights Chapter. This is probably the single-most important action that UKOTs could take to promote the realisation of human rights for all. A model human rights chapter has been provided to all UKOTs by HMG; and
- Enact new legislation that protects individual rights against potential abuses of the state, with particular regard to those particularly vulnerable to abuse: children, immigrants, women, special needs groups, ethnic and religious minorities, and homosexuals.

#### **4.3.5 Institutions**

The key institution needed at individual territory level is a fully functioning, (staffed and funded) Human Rights Committee. Thus:

- Where one does not exist, it should be created;
- Where such a committee undertakes only a limited function such as reporting, its writ should be expanded to include other key roles such as monitoring, education and investigation of human rights abuses;
- Where the committee may exist but may not be widely-known within the OT, every effort should be made to ensure the population makes full use of it;
- Where composition is primarily governmental, membership should be expanded to include civil society representation;
- Committees should draw up pro-active plans of action, with a focus on broad public education and on reaching communities most in need of protection; but who are generally least likely to know their rights - the poor, Rastas persons living with HIV/AIDS, and immigrants; and
- The work of the human rights committee should be shared with Parent Teachers Associations, Chambers of Commerce, church groupings and the like.

#### **4.3.6 Reporting and Monitoring of Human Rights**

This concerns improving the reporting process locally as well as between London and the territories. Recommended measures at the local level include:

- Preparation of reports by (the new/expanded) HRCs rather than AGs offices;



- Incorporation of public consultation into the report preparation process, for example there should be public notification of when a report made under a human rights treaty obligation is being compiled. Public debate should be encouraged on any feedback received from the United Nations or other bodies;
- Action Plans for each treaty and involvement of HRCs in periodic monitoring;
- Agreement of a set of indicators and timebound targets for each convention and incorporation of data gathering (including gender disaggregated data) into national economic and social planning processes. A number of UKCOTs are going through exercises to mainstream social indicators into national planning. This provides an opportunity for mainstreaming human rights monitoring;
- Further research is needed where there are gaps in human rights knowledge. Examples include child labour, HIV/AIDS, children without full and proper legal status, the elderly, the physically and mentally challenged; and
- Making full use of information gathered for one report for others where appropriate.

A number of requests came from the territories for HMG, vis-à-vis reporting as follows:

- That HMG consider urging the United Nations to consider rationalising the present myriad of reports, many of which require the same basic information. It is seen as unreasonable for small territories with limited drafting resources to provide so much information;
- That HMG staff who coordinate the reporting be given the opportunity to visit territories to better understand constraints at Territory level, and share knowledge on UN information requirements; and
- In addition, we suggest that it would help territories to provide information in a more timely manner if they saw more value to themselves in the reporting process. Separate reporting (i.e. separate from metropolitan UK) to the UN bodies, whilst initially more time-consuming, would allow greater contact between the reporting bodies and people 'on the ground', and hopefully inspire them in the fuller implementation of the treaties. Continuation and extension of the recently introduced practice of representation at UN examination committees is strongly recommended.

#### 4.3.7 Targeted Measures

Annex 6 sets out a raft of proposals based on local suggestions, which could be taken to address the key human rights concerns raised during territory visits. On the basis of the findings from the project to date, we suggest three priorities for targeted action; although we urge HMG to set priorities through dialogue with the peoples of the UKOTs.

- (i.) **Migrant issues:** Migrants represent a very large group across the territories. Attention to issues raised by migrants provides a clear entry point into responding to a myriad of human rights concerns.

- (ii.) **Child rights:** Children are a particularly vulnerable group. A series of issues have been raised, many of them serious such as: child abuse, denial of access to education for some migrant groups, and the lack of alternatives to incarceration for juvenile offenders.
- (iii.) **Those living with HIV/AIDS:** We perceive those living with HIV/AIDS as a third priority group given that this issue is about the fundamental right to life. The lack of support for people living with HIV/AIDS in many territories mean that those affected have little chance of survival and face discrimination and social stigmatisation as they strive to live with HIV/AIDS. The absence of education and other preventative measures puts the whole population at risk.

DFID is supporting health and education programmes in a small (but decreasing) number of territories. These programmes should be reviewed through a human rights lens, and on the basis of the findings of this report, to see how these programmes might be modified to meet human rights objectives.

We recommend that HMG liaise with other agencies and donors, particularly within the Caribbean where UKOTs may be able to benefit from programmes.

#### **4.4 How Could HMG Facilitate the Process?**

As requested, the following section sets out a number of specific recommendations for HMG. These recommendations are put forward as practical entry points for moving the human rights agenda forward in the UKOTs. Recommendations fall into six broad categories: building consensus, local level capacity building, strengthening mechanisms for encouraging freedom of speech, facilitating networking, staffing and institutional strengthening, and supporting thematic priorities.

##### **4.4.1 Catalysts for Building Consensus**

The political will and support needed to fulfil the realisation of human rights in the UKOTs can only be achieved through the careful building of consensus both at local and cross-territory levels, with a strong input from the UK government. We recommend as immediate steps:

- A cross-territory human rights conference as early as possible, as proposed at the outset of this project and now expected by many. This gathering will bring together key actors from each territory to allow them to discuss the issues they have raised so far in this project together with the consultants' proposals on the way forward. The conference should also be used as an opportunity for sharing of innovative practices and networking;
- The outcomes of the conference should feed into a ministerial level, cross-territory meeting geared toward the adoption of a human rights strategy for the realisation of human rights in the UKOTs. The Consultative Council meeting provides an opportunity for seeking ministers views on the recommendations of this report and for input into the development of a strategy; and

- Proposed territory level leaflets summarising project findings and designed for widespread public distribution could be used as a simple, popular tool to spark conversations and to build a consensus for action at local level. Feedback from these discussions will also provide a valuable input into the proposed conference.

#### **4.4.2 Supporting local capacity building**

A number of priority measures for supporting local level capacity building are proposed:

- Training: Priority should be given to training of human rights committees, addressing the wider potential role of HRCs as well as reporting. Training should be designed in full consultation with HRCs. Wider training for key government officials, including the judiciary, law enforcers and administrators of justice could also be considered as a second priority;
- Financial support: For capacity building of civil society in human rights promotion and protection, with an emphasis on human rights education and advocacy, and active support for organisations working with socially excluded groups. Funding could also be extended to government-civil society human rights initiatives such as the development of school curriculum;
- Funding for legal draft persons where this is a major constraint to introduction of human rights chapters and supporting domestic legislation;
- Technical assistance to governments to assist in the development of participatory and rights based approaches to development, such as currently being funded by DFID in Montserrat. Such participatory approaches are the cornerstone to inclusive, transparent and accountable development;
- Financial and technical assistance for strengthening trade unions across the UKOTs; and
- Technical assistance, best sourced locally or regionally, will be required to support measures, such as CSO capacity building, human rights education, training for HRCs, and for specialist advice (e.g. HIV/AIDS, child rights.)

#### **4.4.3 Supporting Development of Key Human Rights Mechanisms**

In the short term, HMG could usefully support the following, which would put in place some fundamental mechanisms to encourage freedom of speech and for peoples of the OTs to seek redress for perceived human rights abuses. These are as follows:

- Provision of inputs to support the completion of the review of General Orders at the earliest. The importance of making changes to GOs cannot be over-emphasised; and
- Commissioning of a study to draw up practical proposals for the development/ strengthening of legal aid and ombudsmen across the UKOTs.

#### **4.4.4 Facilitating Networking**

People met in the UKOTS stressed how much they would value sharing of lessons and ideas with other OTs. HMG is well placed to kick start this process, though it is important that the ownership and momentum for networking rests with the OTs. With this in mind the following could be undertaken in close collaboration with local human rights focal points (see Annex 5 for list). We recommend:

- Setting up of an interactive human rights website with regular updating based on information from the territories. Examples of good practice, project reports, and information on organisations should be posted. Governors offices could play a proactive role in publicising the website;
- Establish contacts with relevant UK CSOs and involve them in the cross-territory workshop with the view to fostering linkages between UKOTs and the UK. A list of potential organisations is included in Annex 2;
- Share information collected during this project on Caribbean regional organisations with human rights organisations in the UKOTs (again through focal points); and
- Consider financing match funding for representatives of the UKOTs to attend key international/regional events.

#### **4.4.5 Staffing and Institutional Measures**

Whilst mainstreaming is essential, both a formal and long term institutional home is required in HMG for delivering on human rights in the UKOTs. Our recommendations include:

- Appointment of a Human Rights Officer(s) to be the lead and focal point for co-ordinating HMG's efforts. This person should ideally be Caribbean based. A second officer will be required to cover non-Caribbean OTs. It is strongly recommended that the appointee(s) is either from the UKOTs or Caribbean region (for UKCOTs). ToRs for this position are included in Annex 5. Close collaboration with HRPD and the HMG legal adviser in BHC Barbados will be required;
- Formalisation of the Human Rights Project Steering Committee as an ongoing inter-departmental working group to oversee implementation of the UKOTs human rights strategy; and
- Human rights training for all departmental staff in HMG (where not yet received) tailored to the specific human rights objectives of the UKOTs.

#### **4.4.6 Supporting Targeted Measures**

Financial support will be required to act on specific human rights issues once the UK government and the UKOTs have decided upon priorities for action.

We also recommend that HMG liaise with other agencies and donors to help the UKOTs, particularly within the Caribbean, to tap into regional programmes.

HMG is supporting health and education programmes in a small (though decreasing) number of territories. These programmes should be reviewed through a human rights lens, to see how these programmes might be modified to address some of the issues raised in this report. The OTs will need to put more resources into raising human rights generally, for example through social welfare programmes.