



Defence Committee

Oral evidence: [The Situation in Iraq and Syria and the Threat posed by Islamic State in Iraq and The Levant](#), HC 690

Tuesday 29 October 2014

Ordered by the House of Commons to be published on 29 October 2014.

[Watch the meeting](#)

Members present: Rory Stewart (Chair); Mr Dai Havard; Mrs Madeleine Moon; Sir Bob Russell; Bob Stewart; Ms Gisela Stuart; Derek Twigg; John Woodcock

Questions 187-285

Witnesses: **Professor Marc Weller**, Cambridge University, **Professor Sir Adam Roberts**, Oxford University, **Dr Adrian Gallagher**, Leeds University, and **Aaron Stein**, RUSI, gave evidence.

Q187 Chair: Welcome to the public. We are now in the final evidence session of this set on the situation in Iraq and Syria, and the threat posed by the Islamic State in Iraq and the Levant. We are privileged to have three distinguished witnesses in our first session. Professor Sir Adam Roberts has had more accolades than one can list; he was president of the British Academy among many other things. Professor Marc Weller is a professor of international law and international constitutional studies at the university of Cambridge. Dr Adrian Gallagher, who is at POLIS at the moment, has done some very interesting work on specific modules, most recently on Mali, Kenya, Libya and Syria. Thank you all very much for coming. We are trying to bring in eight Members so could you try to keep answers relatively short? I want to begin with the obvious question. The Prime Minister has declared that military action is legal in both Iraq and Syria on the basis of collective self-defence against ISIL. Do you agree?

Professor Roberts: Yes, broadly speaking, I do agree that there is a powerful case of self-defence, based on the self-defence of Iraq against incursions on a large scale from Syria. That argument seems to me to be, in a way, relatively straightforward, based on the clear request from the Government of Iraq in a letter of 20 September and an earlier letter.

Where one gets into more difficulty is over the case of UK or coalition involvement in Syria. That was the subject, as we know, of great debate in Parliament at an earlier stage, when the debate was about a different matter: the Syrian violation of the prohibition on chemical weapons. But it has changed its character, because Syria has now been involved in allowing—not deliberately consenting to, but not taking action against—the attack on a

neighbouring country, namely Iraq. So it is a very different set of issues legally from what it was a year or so ago.

Although there are certain objections and certain concerns about the lawfulness of action in Syria, which I have laid out in a paper for the Committee, it seems to me that the same self-defence argument largely works. Where I think there are difficulties with the argument that has been presented is, first of all, the weakness of the Iraqi state and the inevitable question as to whether it really is a representative of the entire state. In that connection, it was very interesting that the United States delayed taking coalition until there was a new Government in Baghdad that at least had made a colourable claim to represent the inhabitants of Iraq generally. That seems to be one basic difference between the bases.

Q188 Chair: On one specific point, you suggested that the justification for an intervention in Syria is that Syria effectively allowed an invasion of Iraq. Presumably that is predicated on the assumption that Daesh—the Islamic State in Iraq—drew most of its energy and strength from Syria rather than being an indigenous Iraqi movement that emerged as a successor of al-Qaeda Iraq and had only a trivial or contingent relationship to what happened in Syria.

Professor Roberts: That is indeed another worry about the involvement in Syria, although it might also be a worry about us getting involved in taking action in Iraq. If the uprising in Iraq is interpreted largely as an Iraqi uprising, which is the essence of your question, then it is still possible for us to defend action in support of a Government against a rebellion, but that is a more difficult argument to make, because it implies the failure of the Iraqi Government.

I will briefly mention the other qualification I would make to the overall justification, whether of action in Iraq or Syria. That is, quite simply, that there needs to be a coherent view of how the laws of armed conflict will be applied in this case. There also needs to be a coherent view, as the Prime Minister said in the debate, about the strategy of action and the end state being aimed at. That involves a lot of really tricky questions.

Professor Weller: I think it is right to distinguish between Iraq and Syria in relation to the question of self-defence. As I understand it, HMG's position, in the short paper that was published just before the vote in the Commons, was that you do not need to invoke self-defence in relation to Iraq itself, because all you are doing is supporting a Government in an internal matter by supplying troops at its request. You are not engaging forces across borders, and therefore there is not even a need to invoke the right of self-defence, which is of course true—provided, as we just heard, that you accept that the Government of Iraq can represent Iraq. I, like others, am persuaded that it can, especially given the effort that was made to broaden its representativeness.

The question of Syria is slightly more difficult but, in the end, I agree that self-defence does offer a legal justification for visiting IS in Syria, but in the strict context of removing it as an actor that disrupts the peace and security of Iraq. The argument in relation to Syria is entirely subsidiary to the argument that there has been an invitation to exercise collective self-defence from the Government of Iraq. At the moment, that invitation has only been made to or accepted by the US, as it applies to Syria. Iraq formally communicated to the UN Security Council that it is unable to secure its borders, given the massive or significant

presence of formal, organised structures of IS across the border, from which, in large measure, the operations in Syria are fed.

Traditionally, international law would say that you can only invoke the right of self-defence against a neighbouring state—that is, against Syria—if an armed attack of some significance has occurred. In this case, the cross-border operations are not mounted by Syria. They are mounted by a group that has imposed itself in Syria and whose actions would not ordinarily be attributable to Syria. Under classical international law, you could argue that IS is a creature of the Syrian Government and operates, as the Nicaragua case suggested, under its direct control; you would then be able to exercise self-defence classically. However, that has moved on since the early 1990s, and the argument is that you can also use self-defence across borders where a state is no longer able or willing to control its own territory to ensure that no hostile operations are carried on from its own territory against a neighbour. In this case, that argument seems to have been accepted by the UN Secretary-General, who referred to it immediately after the announcement of the US operation. Of course, over the past year, Syria has demonstrated that it is neither willing nor able to dislodge IS from its own territory.

Chair: Thank you, Professor Weller.

Q189 Derek Twigg: Following on from that, is the Syrian Government a legal Government, in your view?

Professor Weller: The Government of Syria should, in my view, no longer have the authority to request military assistance from other states, because it has lost the power to represent the state as a whole, at least in relation to military matters. This is a controversial doctrine; it is my view, which others would oppose. Over the last 20 years, in cases of prolonged internal conflict, the standard response of the UN Security Council—as opposed to previous practice—has been to adopt a resolution which removes the right to receive arms not only from an armed opposition but also from the Government at a stage where you have a prolonged conflict and a very large group of the population that has dissociated itself from the Government.

Q190 Derek Twigg: I think you said that the Assad regime in Syria has no legal Government, in your view.

Professor Weller: Sorry, no: it has lost elements of the powers to represent—

Q191 Derek Twigg: I am trying to pin it down; does it have legality or not, in your view?

Professor Weller: In my view, it still exercises effective authority over parts of Syria. Traditionally, that would entitle it to represent Syria internationally or, as you would put it, to purport to be the Government. However, in my view it has lost essential elements of that capacity through a process called dissociation, where the population is manifestly no longer willing to be ruled by their Government. At least at that point, a serving Government can no longer claim that it has the right to invite military assistance. That is where the difference lies

between Syria and Iraq. In Iraq there is a Government that has, in a way, been displaced from control of a part of its territory by IS and its ability to control exclusively parts of Iraqi territory. That has been done through an armed operation, part supported from abroad, that has imposed itself upon the people. That is where the difference lies. The Iraqi Government has done its best to maintain its full representativeness.

Q192 Chair: I am worried that we are going to go down this road, so I am going to hand over to Madeleine Moon and perhaps bring in Dr Gallagher. But first, it is not entirely clear to me that there is a clear distinction between the Syrian Government's lack of control of its eastern territories and the Iraqi Government's lack of control of its western territories. You have defined the difference in terms of one of them being an armed insurrection supported by outside powers. That, indeed, is how the Damascus Government would describe their loss of control over eastern Syria, so why are you so confident on that distinction between eastern Syria and western Iraq?

Professor Weller: The situation in Syria arose from a popular movement that gripped most parts of Syria and led to a significant dissociation of large parts of the population from its Government. It was only after that popular uprising was militarily repressed that some form of military opposition formed itself to engage with it. The fact that there is the broad dissociation of a very significant part of the population in that case distinguishes it from a situation in which a small armed group, through the use of force, imposes itself on certain regions of a country, represses the population, kills those who don't fit, and tries to establish what it thinks is something—

Q193 Chair: There are two things. One is the question about precursor—whether it is preceded by a popular uprising, and the second is the difference between an armed group imposing itself on a population, and a population being disenchanted with its Government. Presumably—putting aside the precursor question of popular uprising—there are analysts at the moment who would argue that the Sunni population of western Iraq is deeply alienated from the Baghdad Government. They would argue that it is not simply a minority armed group imposing itself and that the very success of ISIL shows that in fact the Sunni population of western Iraq has been, for at least the past five years and probably since 2003, increasingly alienated from what they perceive as the Shi'a-backed Baghdad Government.

Professor Weller: Of course, I am only a lawyer. I lack deep perspicacity in relation to the allegiances of individuals, groups and armed movements such as ISIL. My impression was that ISIL started out as a fairly narrowly defined, narrowly based group that forcibly imposed itself on significant parts of Iraq and has maintained itself in control through, in part at least, a strategy of forced displacement, terrorising and murder in relation to those elements of the population that, in its view, are likely to support it. That is a significant difference in the situation.

Q194 Mrs Moon: I want to go back over this again a little bit. The US has said that its strikes against ISIL in Syria are legally justified because the Syrians are unwilling and unable

to tackle the threat that ISIL poses. Is that an accurate interpretation of the law, in your opinion?

Dr Gallagher: I think that a strong case can be made now that Assad is not trying to stop the threat posed by ISIL. In fact, at the start of this campaign the number of military strikes conducted by the Syrian regime on average was 20 per day. Since the US started carrying out airstrikes, that has increased to 40 per day. On 21 October, it was reported that the Assad regime had conducted 200 airstrikes within 36 hours against non-ISIL groups. It has used the US airstrikes as an opportunity to embolden its attacks against non-ISIL groups. According to UN resolution 2170 on 15 August this year, states have an obligation under UN resolution 1373 of 2001 to bring to justice individual groups associated with al-Qaeda, including ISIL and al-Nusra Front. A strong case can be made that Assad is failing to fulfil that obligation.

Q195 Mrs Moon: So you are demonstrating that they are unwilling and unable because they have shown that they are willing and able to strike other groups.

Dr Gallagher: Yes.

Mrs Moon: Thank you. That was really helpful; that clarified it for me.

Q196 Mr Havard: Does that justify someone else coming in and doing that for them? The Americans are saying, "Because you are not doing it, we will do it," but how does that justify someone else doing it? Does them not doing it justify someone else coming from somewhere else to do it for them?

Dr Gallagher: I am not saying that it justifies it.

Q197 Mr Havard: Legally.

Dr Gallagher: I am not quite sure what your question is.

Q198 Chair: The US has declared that its strikes are legally justified because Syria is unwilling and unable to do it.

Dr Gallagher: Yes.

Q199 Chair: So I think Mr Havard's question is: is that an appropriate legal justification?

Dr Gallagher: To go back to the comments at the start, I believe that the US has a strong case. Because Assad is not tackling that threat and that poses a threat to the state of Iraq, under article 51 of the United Nations Charter, a collective self-defence case can be made. Because Iraq is after assistance, that assistance can justify a collective self-defence against ISIL in Syria.

Q200 Mrs Moon: You are getting vigorous nods there from Professor Weller. Can I ask about responsibility to protect? That has been raised a number of times in debate. In this morning's conference in the Foreign Office about humanitarian law, it was suggested that responsibility to protect is a political issue rather than a legal one. Therefore, what status does the responsibility to protect have in terms of a Government's intervention, either in Syria or Iraq?

Dr Gallagher: If I may take that one, please? The responsibility to protect is not legally void. I think that is the first point to make. It is not purely a political agreement. At the core of the responsibility to protect, there are existing international laws; one of the strongest is the 1948 Genocide convention.

According to the UN report, ISIL—at least in Iraq—has intentionally and systematically targeted ethnic and religious groups and, under article 2 of the Genocide convention, that constitutes genocide. That UN report was on ISIL in Iraq. You would then have to make the case that ISIL has also conducted the same targeting in Syria. We believe that to be true, but you would have to make that case.

To go back to the responsibility to protect, then the case for pillar 3 can be made. Assad is manifestly failing to protect the population of Syria from genocide, war crimes, crimes against humanity and ethnic cleansing and, because he is manifestly failing to fulfil that responsibility, the international community has a responsibility to do that. But it has to go through the UN Security Council and that decision is made on a case-by-case basis.

If I could throw in just one more thing, there is the “Uniting for Peace” resolution which the Commission raised in 2001. If you cannot get agreement at the UN Security Council, you can move the debate into the General Assembly. That will not give you the legal green light, but a two-thirds approval would give you the political and moral legitimacy needed to conduct that action.

Mrs Moon: Thank you; that was most helpful.

Q201 Bob Stewart: The change of sovereign borders might not be sovereign in the old way—in effect, 2001. Is that correct?

Dr Gallagher: Yes.

Q202 Bob Stewart: So, in other words, the United Nations, with a Security Council resolution, can ignore sovereign territories and that is the change that we are seeing in international law.

Dr Gallagher: Yes, sovereignty is conditional.

Q203 Bob Stewart: Can I ask about self-defence? When the Khorasan group was struck, could the United States say that that was national self-defence?

Professor Roberts: Tell me details of when the Khorasan group was struck.

Bob Stewart: That is what I was asking you.

Q204 Chair: They were struck on the day of the first strikes. Khorasan, being part of Jabhat al-Nusra, was struck just on the edge of Aleppo. **Professor Roberts:** The United States has made plain in its letter to the UN Secretary-General that it includes the Khorasan group as a branch of al-Qaeda within the same legal category as IS when it comes to viewing their activities and the right to take action against them. I think the answer to your question is probably yes. That might well also apply were the UK Government to find itself in a position of attacking the Khorasan group.

Q205 Bob Stewart: In other words, striking al-Qaeda in Iraq or Syria, or the Daesh thugs sometimes called ISIS, is fully justified under international law. First, we have determined that it is absolutely justified under international law in Iraq. And using the springboard that Dr Gallagher mentioned of the changing sovereign law in the United Nations gives more sustenance to the idea that attacking in Syria is perfectly legal as well—does it not?

Professor Roberts: I would not necessarily link the responsibility to protect to that change of law. As has been mentioned, R2P depends for enforcement—the aspect of R2P that deals with external states taking military action to enforce—on the involvement and approval of the UN Security Council, and we know that that is very, very unlikely in the cases we are discussing today. One falls back on a different line of argument, which is to do with self-defence; there, I would agree with your proposition. Marc may well kill me for this, but I think that people expect binary yes or no answers from international legal questions, and sometimes there are not exactly binary yes or no answers. In this case, as I indicated at the beginning, there is a serious worry—which was separately a worry when Parliament debated Iraq a year ago—about exactly what strategy and end state is aimed at. In my view, they need to be part of the legal calculation here; it is not enough just to rely on article 51. If one takes that broad view of the legal calculation, one is left with a set of international legal criteria for judging an action, but there may be honest disagreement about the answers to the question.

Q206 Bob Stewart: I will finish with a final comment that is slightly off-piste. I cannot think of any conflict, apart from one or two, that the British Armed Forces have engaged in where they have a bloody idea what the end game will be when they start. I am worried by politicians and some academics saying, “We can’t move until we know the end game and the strategy at the end.” Did we know that in 1939, apart from, “Smash the Nazis”? In this case, do we need another mission apart from, “We want to annihilate these Daesh thugs that are terrorising people in the Middle East”? That is the end game. What else do we need apart from that?

Professor Roberts: I agree with you that it is not always possible to know. In 1939, there was an act of faith that there had to be resistance to this juggernaut in Europe. There was hope, based on the experience of world war one, that the United States would ultimately become involved, as indeed it did, and that victory would lie through that. There was a thought but, I agree, not a precisely articulated end game.

I can, however, think of cases where there has been a pretty clear notion. I would include, among those, the war of 1991 over Kuwait, where there was a fairly simple objective: the expulsion of Iraq from Kuwait. That was achieved, so it is possible. It is important to think through the end game as best can be done, even while acknowledging that there are cases where precision is not likely to yield much by way of results. One has to recognise that during armed conflicts, the ambitions of the parties do change in the course of events.

Q207 Bob Stewart: The end game with Daesh thugs or ISIL is to annihilate them. That is the military end game. Politics may well take some time catching up.

Professor Roberts: You said that twice, and I have some reservations.

Bob Stewart: You are challenging me back. That is fine.

Professor Roberts: There were some reservations, I believe, at an earlier meeting of this Committee about whether complete annihilation is necessarily the objective. It is very, very rare in dealing with terrorist movements that they be completely annihilated. In fact, I think it never happens. The interesting question is how such movements are defeated or run out of steam, absent that possibly desired goal of complete annihilation. They do; they regularly suffer from fission, fusion and exhaustion. We have to envisage a richer array of possibilities than complete annihilation.

Bob Stewart: Thank you, Professor. That is exactly what I was getting at. I am sorry if I was playing devil's advocate.

Q208 Sir Bob Russell: Could I ask Dr Gallagher to clarify something that he said in response to a question from Mrs Moon? Did I hear you correctly when you said that the Assad regime has increased its attacks on groups within its own country following the increase in strikes against ISIL by the Americans? Are they bombing different groups or the same groups? In other words, is the Assad regime going after one group that it has displeasure with while the Americans are going after ISIL in Syria?

Dr Gallagher: Yes. Assad is going after the groups that America are not going after.

Q209 Sir Bob Russell: Is that because they have divided it up? They are not doing this in mutual agreement, are they?

Dr Gallagher: This has led to reports in certain leading US newspapers about whether, behind closed doors, they are all sharing intelligence and there is a consensus with regards to airspace. Obviously, the Americans are striking certain parts of airspace and they do not want

to be coming across Syrian planes. I do not know what is going on behind closed doors, but there are a lot of airstrikes going on against different groups; I do not know if it is being co-ordinated.

Q210 Sir Bob Russell: There is no evidence that the Assad regime and the Americans are attacking the same group at any stage, is there?

Dr Gallagher: No. Not that I am aware of.

Sir Bob Russell: Thank you.

Q211 Ms Stuart: I return to the theme that Professor Roberts started to develop, about whether we must accept that there are never yes and no answers here—certainly not in international law—whatever the parameters and frameworks. I would like to invite the three of you to help us develop a framework which would say that humanitarian intervention in Syria is sufficient for us to have a legal base for some action. So far, we have not done anything. What are the kinds of thing we would be looking for that would lead towards us having a legal base?

Professor Roberts: I think your question points to a need to separate out, to some extent, the question of humanitarian emergency from the question of responsibility to protect. Incidentally, another difficulty with responsibility to protect, apart from those we have heard, is that the Government that might have to do most of the intervening—the United States Government—has been pretty consistent in its nervousness about the doctrine of responsibility to protect. They want to be able to make decisions on interventions on the basis of each case and without a presumed obligation for the United States to act. We are left with the doctrine of humanitarian emergency, which the British, among others, have particularly pursued.

When the United States started its action to save the Yazidis in August this year, before the main action against Syria, it was interesting that it did so on the grounds of an extreme humanitarian crisis and not on the grounds of responsibility to protect. In my view, cases justified in those terms are generally not objected to where it is completely plain that there is a humanitarian crisis and military action can do something about it. Thus, the action in August this year to save the Yazidis resulted in rather little international criticism compared to other things that the United States has done. Not wholly dissimilarly, in the spring and summer of 1991, when Kurds rightly fearing oppression by Saddam Hussein fled in the direction of Turkey, the action that was taken at that time to establish safe havens in northern Iraq was not objected to. It did not have a specific Security Council approval. It was a typical case, and we face that case now, where the Security Council wills the ends but does not will the means. It has willed the end of Islamic State being acted against and undermined, but it has not explicitly willed the means of force.

Similarly, with the safe havens in northern Iraq in 1991, the Security Council willed the ends but not the means. Action was taken, largely a British initiative with French, American and other involvement to enable the Kurds to return home. That, in its own terms, was relatively successful and not objected to by other states. It seems that much depends on the

context. The difficulty of the case of Syria in the debate a year ago was that it was not self-evident exactly how an intervention was going to help. There was no prospect of boots on the ground, whereas boots on the ground were involved in the safe havens in northern Iraq. The context was very different and it was much harder to get consent, even within potential coalition countries, let alone outside, for the case of intervention in Syria.

May I add one point on that? I am very nervous about doctrines whereby we say that a certain Government is not the lawful Government of a country—very nervous. It is certainly true that we have some history in that matter, as in World War Two where we objected to German quisling Governments and the like, and recognised Governments in exile here. However, that was where there was a clear, coherent alternative to the German-dominated Government in the case in point. We are not dealing with a case like that now. It is very different.

Most of the world regards the Syrian Government still as the Government of Syria and it makes me very uneasy that we choose to say that it has no sovereign rights at all, because that reinforces the view that the western powers are running roughshod over sovereignty to too great an extent. I think we have got to be very careful about choosing the grounds on which we act and the occasions on which we act.

Q212 Ms Gisela Stuart: Before I ask Professor Weller and Dr Gallagher what they would like to add, may I just throw another variable into your framework? Let us assume it is still a humanitarian intervention in Syria, but we have a UN resolution with a Russian veto, which is by and large regarded to be politically motivated. Are there circumstances under which a generally assumed politically motivated Russian veto would ameliorate the fact that we have a Security Council veto?

Professor Roberts: Are you asking whether, as it were, the world would take such a critical view of a Russian use of the veto that it would still view the resolution as—

Ms Stuart: Yes, such as new gas attacks by Assad, for example; Assad does something so outrageous that we say, “Hold on, folks. Even if the Russians say no, we now have international legitimacy.”

Professor Roberts: I think that that can happen. Something similar happened over Kosovo in 1999. We did not get a Security Council resolution, but there were many other sources of legitimacy, such as regional bodies and NATO. Several Parliaments debated the principle of whether we could intervene on humanitarian grounds in Kosovo: the Parliaments of Canada, of Germany, and others. They all came to the same conclusion: that there might be circumstances where it was justified. So there are a lot of other bases for legitimacy. I think that, above all, the general awareness of the huge refugee problem that had arisen from Kosovo contributed to the sense that something had to be done.

Finally, the Russians put their own foot in it, of course, by trying to get a resolution past the Security Council declaring the action over Kosovo to be illegal. That failed to pass and in a backhanded way that gave legitimacy. So there can be nuances of interpretation of attempts in the Security Council to get a resolution passed, even if there is a use of the veto.

Q213 Ms Stuart: Is there anything to add before we move on?

Professor Weller: It is useful to remind ourselves who we are thinking of as the objects of protection. We started with protecting Iraqis in Iraq and supporting the Iraqi Government in defeating ISIS in Iraq. We then looked at IS-held territories in Syria and taking the limited action that is necessary to preclude IS from threatening to, or continuing to, interfere in the affairs of Iraq. That was still an extension of the self-defence of Iraq.

Then we looked at an additional terrorism group, Khorasan. There was a different justification for acting against that group, which was to protect the US. The US argued that an imminent threat of a terrorism action directed against the US was emanating from that group. That gave it its own right of self-defence in relation to that group. Legally, that is a little bit more difficult to argue. The US would really have to demonstrate quite clearly where that instant, overwhelming necessity, leaving no choice of means and no moment of deliberation, came from. They have the duty to make that case.

Now we are dealing with two slightly different issues and we have not quite clarified which. Are we trying to protect Syrians from IS in Syria, or are we talking more generally about the question of humanitarian intervention in relation to the suffering of the Syrian people brought about by the Government of Assad? Those may be two slightly different things. In relation to both, and as Sir Adam so rightly said, on the one hand there is a responsibility to protect, which, as we have heard, has been mainly turned into a doctrine which is meant to inspire the Security Council to take action—although in a wider sense, as was mentioned earlier, it also undermines a little bit the traditional views of sovereignty being a right held by Governments, as opposed to attributed to people.

So yes, the responsibility to protect enhances the pressure on the Security Council to become active, but if, due to a Russian veto, they cannot be active, there is the alternative that we heard: can you go to the General Assembly? For HMG that is not always an attractive option because, of course, if you allow the General Assembly to authorise the use of force, you lose the validity, the currency of the veto, which the United Kingdom holds, almost uniquely, in the Security Council. So it is a kind of double-edged sword: you undermine your own power by going that way. It would be possible to do that; as the other two speakers already mentioned, it does not strictly generate legal authority, but it would generate legitimacy.

Stepping outside of responsibility to protect, we have the doctrine of humanitarian intervention in general international law. In my view, HMG is right to argue, as it first did in 1991 in relation to the Kurds in northern Iraq, that this is an accepted doctrine in international law; but that is controversial. Over the next 23 or so years, HMG stepped back and was a bit more cautious, saying, “We’re not going to offer you criteria for humanitarian intervention, but we sort of know it when we see it, because we don’t want to be constrained in our political judgment in relation to that.” But in August of last year—the episode some of you mentioned—HMG returned to the cause of international law. In the justification that was put to Parliament—the one and a half page document—they did formally again say, “There is a right of humanitarian intervention in international law and here are the criteria for it.”

As Sir Adam was saying, the first criterion is an overwhelming humanitarian emergency. So if you want a framework, what do you need to have in order to justify humanitarian intervention under international law? This is it: an overwhelming humanitarian emergency;

there must be no other way of averting it, as a second criterion, other than through the use of force; and the use of the force that is employed has to be strictly focused on the humanitarian aims that were established and has to be proportionate and necessary. The doctrine is contested, so not all states would agree that if those criteria are fulfilled you may then take action, but it is a doctrine that has been gathering steam and, as an academic, I certainly support it. Some Governments support it, but not all—Russia would undoubtedly object and, too, some others.

Chair: I am sorry. I know Dr Gallagher was next, but a number of colleagues wish to concentrate on you.

Q214 John Woodcock: I suggest it is unlikely, but if ISIL were sufficiently degraded in Syria to be wiped out as a coherent occupying force in the territory in which it currently resides, what happens then, legally, to that territory? Does it automatically return to the sovereignty of the Syrian Government, or what?

Professor Roberts: I will make a brief attempt at answering that. The normal assumption is that it would revert to Syrian control, but this is not a normal circumstance. The alternative assumptions are either that some attempt would be made to get it quickly under indigenous control by the actual inhabitants of the area, or—more likely—that some kind of military administration would be set up in the area. There the question is, who on earth—which country—would supply the troops for such an exercise? We are absolutely not clear at the moment. It is one of the causes of worry about the operation, because if we are serious about wanting to displace IS from this huge territory, there has to be some administration of it. If we are not willing to provide the administration, then it would definitely revert to Syria or to some renewed armed conflict. Either option seems pretty unpalatable to me.

Q215 John Woodcock: What could be the legal justification for setting up such an administration?

Professor Roberts: For setting up what we might call an occupation administration?

John Woodcock: Yes.

Professor Roberts: It is in one sense a quite normal act following military operations, but occupation in that part of the world has a terrible name, because it is associated with Israeli occupation of the West Bank and Gaza and with the occupation of Iraq, both of which were pretty unfortunate episodes—sorry, Rory. That being so, there would be a deep reluctance on the part of western powers even to consider undertaking an occupation of this territory. What would normally be a quite unexceptionable activity—this is what armies do when they are running countries—is that they set up a temporary occupation administration pending restoration of the local government, whether it be the national Government, the Syrian Government in this case, or some other entity. But it would not be normal in this case.

Q216 John Woodcock: Does the fact that Syria is in civil war affect the options? If the opposition side effectively takes control, or is supported to take control, is it legally questionable for us to support that?

Professor Roberts: Everything is legally questionable—

John Woodcock: Sure—sorry, wrong phrase. In your view, would we be legally justified in doing that?

Professor Roberts: Assuming, for example, that that rather amorphous entity, the Free Syrian Army, is what you are talking about and it was to it that we wanted to entrust the administration of this vast territory, needless to say there would be all sorts of questions about guarantees from it on how they will administer the place, the respect they will show for international legal principle in doing so, and all of that. That is not going to be an easy process, but I would not rule it out as a possibility.

One can find examples from late phases of World War Two, in which resistance movements took over liberated territory pending the re-establishment of lawful government in the country, as well as many cases in which a foreign army took over the administration of a country pending the restoration of lawful authority. Both courses of action can and do happen sometimes. One cannot necessarily say that international law prescribes one course in preference to another.

Q217 John Woodcock: You mentioned the different types of humanitarian right-to-protect intervention, and potentially a case for the right to protect Syrian citizens against their own Government. Presumably that could be invoked against simply handing back the territory to Assad if there was a fear—as clearly there would be—that he would then subject his own citizens to whatever horrors.

Professor Roberts: Yes, there would be powerful objections to simply handing over the territory to the tender mercies of the Assad Government, that is for sure.

Professor Weller: I am not sure, in the first place—gosh, I am saying this—that this is a legal issue. It will be a factual issue, of who is in a position to fill the vacuum that is created if you force IS to withdraw. Obviously the Government of Syria will say, “We are legally entitled to be the Government of all of Syria, so it should be us.” But there are very significant areas of Syria that are already under the control of various popular opposition movements, and they will argue that they should just expand those areas of control—the liberated areas—into there.

Whether the organised international community can do a great deal to stabilise this depends on three factors. One is whether you want to try to develop some sort of co-operative regime with the devil, Assad. There have been all the local ceasefires, which to some extent the UN has been involved in supporting, in which the opposition essentially had to give up and, in exchange for humanitarian relief, allow some greater modicum of control to be obtained over those territories by the Government. Or are you going to mount a humanitarian intervention in which you go in and do not just remove IS but facilitate, as you say, the takeover of those provinces or territories by the opposition? That would be the other extreme. The middle ground is whether it would be possible for the UN to play a role in negotiating

some sort of regime to neutralise the areas from which IS withdraws, to try to keep them immune from the renewal of conflict between Government and opposition.

Q218 John Woodcock: So, establishing UN peacekeeping forces there?

Professor Weller: I cannot at this point speak for the UN. I could see grave objections to sending the peacekeeping forces I was mentioning. If you went into the UN Department of Peacekeeping Operations and said, “Tomorrow we want to send a force to support those areas in the middle of the general chaos and fighting—an island, as it were, of stability,” I think they would have concerns and worries that that would be very difficult.

As Assad has responded in this slightly unexpected way to the start of the bombardment of his own territory by the US and there has been some sort of co-operation in generating local ceasefires, there has been the idea that that could perhaps be the start of a broader termination of the conflict, in which you agree to some sort of co-operative regime relating to these territories and gradually that kind of area of stability can spread throughout Syria. But it would not be that we simply say, “There will now be UN peacekeeping and that is the end of it.” It will be extremely difficult and complicated—perhaps impossible.

Chair: Professor, many apologies, but there are three colleagues whom I am very keen to bring in.

Q219 Sir Bob Russell: My question is a very brief one, and follows up on the intervention I made earlier. It needs only a brief affirmative or negative response. Should other armed Syrian groups—not the current ISIL terror group—also cross from Syria into Iraq, would the UK Government be legally justified in carrying out airstrikes against them?

Professor Weller: In Iraq, obviously yes, if asked by the Iraqi Government. So you have an armed group that has infiltrated into Iraq—it is not ISIL, but someone else—and the Iraqi Government asks for your help to defeat them, and you do it. Can you also visit them on the neighbouring territory of Syria if so requested by the Iraqi Government? The answer would depend on whether the Syrian element of that group is a key part of the armed intervention by that group on the neighbouring Iraqi territory.

Q220 Sir Bob Russell: I specifically said Iraq, because the British Government, rightly or wrongly, talks at the moment only about Iraq. I am talking about others coming into Iraq from Syria, but not ISIL.

Professor Weller: If the Iraqi Government identifies them as a target, obviously you then do not have to take action; you can refuse to take action, say, if you do not agree with the classification of that group as one that has, as it were, invaded Iraq. But if HMG’s view is that that is a group that is similar to IS in its attitude, composition and posture on the ground, then, at the request of Iraq, you could take action.

Q221 Sir Bob Russell: So the prerequisite must be the Iraqi Government requesting action?

Professor Weller: Yes; the Iraqi Government can tailor and fashion the extent of force that is used on its behalf on its own territory.

Q222 Derek Twigg: It is believed, I think, that a number of militant Sunni groups are attacking the Iraqi state. Would it be legal for the UK to use airstrikes against them?

Dr Gallagher: In Iraq?

Derek Twigg: Yes.

Dr Gallagher: It is the same justification, really, as for the last question, as far as I can say. Under article 51—the collective right of self-defence—if Iraq asks for the assistance to be given, because these groups are deemed to be a threat to the state of Iraq, it does not matter which groups they are.

Q223 Derek Twigg: So even though they are Iraqis themselves, that is legitimate?

Dr Gallagher: Yes.

Professor Roberts: Perhaps I could add a rider to that. I do not disagree with anything that has been said, but it seems pretty plain that if we take the view that the disaster that has happened in Iraq has been the complete loss of confidence of the Sunni population in the Iraqi Government, then a clear part of any strategy for dealing with this problem has to be to try to get the Sunnis back into a position of neutrality or support. That is an extremely difficult task, and we would therefore need to be extremely careful about how force was used against such Sunni groups as you mentioned. It would depend very much on what their aim was and what they were trying to achieve whether the use of force against them was wise or not.

Q224 Derek Twigg: So it is not a case of legality but a case of judgment?

Professor Roberts: Yes.

Q225 Derek Twigg: Professor Roberts, in the paper you submitted, you refer to having a strategy. It is interesting that, in the sessions we have had, a lot of the witnesses cannot see a strategy. Would you like to add a little to what you said in your paper? I am quite interested in what you said about the perception that there is no strategy and about the impact, therefore, on the legality of any action that is taken. Could you expand a little on that?

Professor Roberts: One can detect elements of a strategy in what is going on.

Q226 Derek Twigg: When is something a strategy and when is it not a strategy?

Professor Roberts: When there is a clear idea of what you are trying to achieve.

Q227 Derek Twigg: So do you see that?

Professor Roberts: The emphasis on this being the beginning of a very long and slow conflict and the emphasis there has been on not expecting quick results—those seem to me to be in themselves an important beginning point, because this one is not going to be resolved quickly, and it is troubling if people are given the impression that it will be.

The other element of a strategy that one might see in this relies, to some extent, on hope, but not a completely empty hope. That is that even if movements of that kind have deep roots—and the idea of the caliphate has very deep roots in many Islamic communities—it is also true that movements of that kind have a tendency to split in one way or another; they do not last terribly long. So the emphasis that there is on containment, which is a word that has been used in connection with the strategy, seems to me to be entirely sensible. Do not expect dramatic results.

One of the reasons for that, of course, is that western Governments found it impossible to stand totally idly by and do nothing when Yazidis were being slaughtered left, right and centre, and so on. There had to be some action. Indeed, it would be very worrying if no action at all were taken against a threat of this kind; so I can see elements of a strategy here.

I mentioned, towards the end of the paper, another factor in thinking about strategy, which is the factor of the composition of the coalition. Let's face it, that is a bit thin at the moment. It is not a great array of states, and some of those bodies involved seem to be involved more in name than in real substance: for example, the Arab League's name has been invoked, but I invite you to look up the Arab League website, and I do not think you will find a ringing statement of endorsement of action against Islamic State, or, indeed, any mention of the issue at all. Clearly there is a problem there, and that, to my mind, is the weakest element in the strategy.

To be fair, the US Government waited to take action until there was at least the beginning of a coalition, and I think that was a very important part of their strategy; but absent, for example, the active presence and agreement of Turkey, it is very difficult to see how this can be convincingly pursued. The thing that would be most damaging, which I mention in my paper, is if this were perceived as yet another purely western action in the area. That is why, again, it is important not to raise expectations of dramatic western action, because it has to be local action. In the end it will be, because Islamic State is a threat to every Government in the region. Every Government is under threat from Islamic State.

Q228 Derek Twigg: I understand, but I do want to push you, so that we are clear. You said there were elements of a strategy. Do you agree there is not a clearly defined strategy at the moment—and outcome?

Professor Roberts: If there is, we have not been told what it is.

Q229 Mr Havard: I am just going to advertise our next call for evidence, which will be on that very question; we have just agreed. So start sharpening your pencil.

The question about the legality of the war: hanging over this is the intervention in Iraq in 2003, so the debate is tending to be framed in this way. Things are slightly different now; the circumstances are not the same. We all understand that; but the nervousness, if you like, politically and otherwise, is in this—there is change, and there are these questions about sovereignty and so on. So as a general first stab, are we in the situation where that was declared to be illegal and our current, measured activities are legal, and will our future activities, as currently predicted to develop, be legal?

Dr Gallagher: At the moment, as long as the strikes are conducted against ISIL and not against the Assad regime, that seems to be emboldening the Assad regime, so there is not going to be a backlash like there was in 2003, precisely because it feeds into the narrative that Assad has been saying for four years: “Look, there are terrorist organisations in my state.” Now he could say, “The West seem to agree with me.”

Q230 Mr Havard: So benign acquiescence means that that is out of competition.

Dr Gallagher: And then if Assad is happy, the Russians are happy. So there is certainly not the political fallout that there was in 2003. Any mention of Iraq also has to be pushed to the fore—that with regards to Iraq they are asking us for assistance in the first place—because speaking to a lot of people, still, the memory of 2003 causes them to think that this is just the same as then, and obviously it is not.

Q231 Mr Havard: But these questions of attribution—of whether a group is acting with the acquiescence of a Government, or is coming out of one state into another state—still seem to pose problematic questions. Is that correct?

Dr Gallagher: They are problematic questions, but the current strategy I do not see—

Q232 Mr Havard: So current actions are as are. Right. What do you say, Professor?

Professor Weller: I say they are. Of course, HMG would say, “According to the ministerial code, all of our actions must always be in compliance with international law.” If only one had had that in one’s mind in 2003 with the clarity we now have. Yes, I entirely agree. Action against ISIL both in Iraq, and in Syria to the extent necessary to defeat ISIL in Iraq, is lawful. The question has become more complex if you are asking to what extent can we use a humanitarian-intervention-type force in relation to Syria, either in relation to IS-controlled areas or Syria as a whole—Assad. There, as we heard from Sir Adam, there are political issues of legitimacy. Can you obtain legitimacy perhaps from bodies other than the Security Council? Can you make sure you have a broad coalition so that it does not look like the West ganging up on a defenceless Arab state and imposing its vision upon it and some other political steps? Ultimately, though, as I said earlier, the case has to be made that we

now have entered a new phase, where we have a qualitatively new level of extreme humanitarian emotions. We have had this emergency for the past four years with 200,000 dead and millions of refugees and displaced persons, and we have not yet even approached an argument in the West about forcible humanitarian action.

Q233 Mr Havard: So, “We are all right as is, but as we move forward we need to be extremely careful not to make a mistake” is essentially the argument.

Professor Weller: Not to make a mistake, but also to build the case. The case for this present operation, as I think Sir Adam was hinting, was built very carefully over some months.

Q234 Mr Havard: The context of that case is important as well, in the sense that it has to include the strategic objectives.

Professor Weller: They are different things. Defeating IS in Iraq is very different from defeating IS, or possibly even Assad, in Syria in relation to the protection of the people of Syria. If such an argument is to be built, one has to build very carefully evidence for the overwhelming humanitarian emergency and evidence for the fact that there is no other means of addressing it. We have tried the Security Council; we have exhausted all other bodies; we have gone to other sources of legitimacy; the NATO council has approved it—things like that. Then you have to make sure that the operation is perceived as being exclusively focused on a limited humanitarian objective, which, in the Middle East, is very difficult because everybody will suspect the West of having its own motivations, other than an altruistic humanitarian one.

Q235 Mr Havard: Can I stop you there? We have limited time, and I want to ask this particular question. It was not Rory’s fault we went into Iraq. He was not here. He did not make the decision. Some of us did have to decide on that question. I did not vote for it, but that is a different matter. The question that came out of that subsequently—

Ms Stuart: I did.

Mr Havard: Okay. People made different decisions. I led the report that we did on the law. The law is now more problematic domestically as well as internationally. The legitimacy that is given to individuals who we are asking to do things on our behalf is changing: the question of combat immunity, the question of universal jurisdiction, all of these other things. My colleague Bob Stewart is not here at the minute, but why is it important? Well, it is important now for other and different reasons than it was then in the past. So, can you say something about what this means for us? How can we be clear about whether these things are legal or not? Is it important, as long as it is legitimate and justified? Is that a different question? Sir Adam, can you help me?

Professor Roberts: I think it is particularly important because of what happened in Iraq in 2003. I am not one of those who thought that there was absolutely no legal case for going into

Iraq. There were elements of a quite well worked out legal case. It was rather a complex one. The trouble is, it was based upon some extremely dubious evidence. The idea that there might be some continuing authority from earlier resolutions if Iraq had violated the ceasefire was not in itself absurd. If Iraq had violated the disarmament terms of the ceasefire, it was not in itself absurd. It is the poor use of evidence and rushing to a conclusion that is in question.

Having said that, that whole issue has given sensitivity to the question of whether an action is lawful. For the troops going into an action, it is important that there should be as little controversy as possible, both at home and internationally. They need to feel confident in a degree of support for what they are doing. In those terms, it matters.

I would add one other point to that. I think there is a question of local legitimacy in a region, which is slightly separate from a formal legality. Local legitimacy is important, in the sense that an action is deemed to be understandable by those in the region, which may be by slightly different standards and other criteria than just article 51 of the UN charter.

I will refer to an analogy here. Australian forces acting in a peacekeeping and peace-building capacity in the Solomon Islands made a conscious decision that the local legitimacy of local actors in the scene was going to be far more important than a blessing from the UN Security Council. That proved to be so. There is a very interesting lesson there that legitimacy may come from below as well as from above.

Q236 Chair: Our colleagues want to come in, but I just want to do something a bit controversial. First, do the witnesses have a little more time or do they have to rush off? Do you have another few minutes?

Dr Gallagher: Yes.

Q237 Chair: In which case, I would like to give my colleague Gisela Stuart an opportunity to open some questioning on Turkey. That involves bringing our Turkey witness to the table. We will then take the unusual step of moving back from Turkey to international law, and I will bring in my colleague Madeleine Moon to wrap up on that. We invite Dr Aaron Stein to join the panel.

Aaron Stein joined the panel to give evidence.

Ms Stuart: Thank you for being accommodating, Chairman. I have a problem with Birmingham schools that I need to attend to, so I will have to disappear. As I wanted to hear Aaron Stein talk about Turkey, the Chair is being very generous.

Chair: To explain this to the public, in addition to the witnesses you have already heard, we now have Dr Aaron Stein, who is a specialist on Turkey.

Q238 Ms Stuart: We are slightly confused about what Turkey's game is. It is sitting on its hands a bit, like Russia in 1944 outside Warsaw. What is Turkey's preferred outcome in Syria and Iraq?

Aaron Stein: Before we start, I would like to correct the record—I am not quite a doctor yet, but I appreciate that. I will be in a couple of months.

As for Turkey's preferred outcome, in the Syrian context they want three specifics. They want a no-fly zone, a buffer zone and to expand the scope of the airstrikes to include regime targets. Their goal basically comes down to regime change through the air and a massive increase in the arming of rebel groups. They feel that if you narrowly define the mission as being anti-ISIS, you do not get to the root of the problem.

The root of the problem for them is Bashar al-Assad. He created the conditions for ISIS, so if you degrade it you will simply create a vacuum into which his forces can then move in. Unless you increase the arming of rebel groups, which they support, they can move into that vacuum. So Turkey's preferred outcome is regime change, with increasing scope for arming of the rebels. In terms of specifics beyond that, they have not articulated them yet.

Q239 Ms Stuart: We know they have not articulated them, but what do you think they are? They are just standing on the sidelines and saying, "Over to you, Claude. You may use IF and these things, but get on with it."

Aaron Stein: From the beginning, when they decided to break relations with the regime, which was September 2011, they worked actively on two different strands. That was to organise the opposition, and then after that to arm different groups. Neither went very well, but they are still sticking to that strategy. They want to be able to move in the coalition that they have in Turkey at the moment—they host it—to maintain some semblance of a strong central Government in order to deal with the different threats that they see coming out of Syria. One issue is refugees. They would like to be able to move some of those refugees back into the buffer zone, the safe zone. And there are the autonomous Kurdish cantons that have popped up: Kobane, Afrin and Cizire. They don't like the idea of autonomy or a federal structure. They want a strong central Government, and they like the idea of their Syrian National Council being able to move in and perform those functions.

Q240 Ms Stuart: That includes the removal of Assad.

Aaron Stein: It is conditional on the removal of Assad.

Ms Stuart: Thank you. I shall read the evidence with great interest, along with my colleagues. Thank you for allowing me to quickly ask that question out of sequence.

Chair: Mr Stein, we will come back to you in a second. Madeleine Moon is going to continue the questioning on the legal issues.

Q241 Mrs Moon: Actually, a comment from you, Mr Stein, on my question would perhaps be useful as well.

I am interested in the local legitimacy issue, but I am also interested in the "Something must be done" argument, which often is a local public argument. At the same time, we have

the law of armed conflict and the law of humanitarian intervention. But we are talking about an organisation, in the form of ISIS, to which the law is an ass. They really do not care what laws we are looking at; they will do what they want to do. So my question is this. Where does our legitimacy rest? Is it in the desire of the local populace for change and for assistance? Are people watching on television as Yazidis are fleeing and as Shi'a are attacked and the possible massacres of people in Kobane? Is it that, or do we as a state that operates under legal constraints have to always, even when dealing with terrorist organisations that ignore the law, obey the law?

Dr Gallagher: I think we do have to obey the law, because if you begin to appeal to the same logic as the terrorists, you are in a difficult position in the long term. Let me raise one point on regional public opinion, because a colleague of mine, Lars Berger, has done an analysis of the Pew global attitudes survey from 2012. The data was released two months ago. Five thousand people were interviewed across Egypt, Jordan, Lebanon, Tunisia and Turkey, and across those five states, when the question “Do you think President Assad should step down?” was asked, 77.6% approved of that, so 77% see him as illegitimate, but when you move to western military intervention to remove Assad, that drops to 23.6%, and for Arab military intervention it is 50%. I just want us to bear that in mind, because obviously 50% of ISIL’s fighters—of the 30,000—are influxing from these states.

Mrs Moon: That is really helpful, because sometimes we can look at issues coldly, in terms of legal definitions, and miss the human aspect of the decisions that we are making and how that is perceived both on the ground and within our public opinion. That is extremely helpful; thank you.

Professor Weller: Again, I am only a lawyer, but in my experience of negotiating about transitions in that region, anything that the West does is regarded with the greatest suspicion. Obviously, with military action, that is particularly so, although I have also come across a slightly different phenomenon, which is that once you close the door and deal directly with the interlocutors, they will come to you and say, “Sort it out, please. We can’t.” There is a difference between the public and the private.

You said that they—ISIS and other groups that behead prisoners, who should be held as something akin to prisoners of war and so forth—will do what they want to do, but in response we can only do what the law allows us to do. Some would say that that is fighting with one hand tied behind one’s back, but I am not sure that that is appropriate; we have jet planes and other things that are asymmetrical in a different way.

For the United Kingdom—with the slight exception of 2003, it has been seen as the brand leader of a campaign for the rule of law in international relations, and that has been so for a considerable period of time—it is clear that lawfulness is an essential ingredient. Yes, there can be arguments on the position that is put forward by the British Government, but, as we saw from the Chilcot inquiry on Iraq, it at least has to be a respectable argument that one is willing to defend in the longer term—a kind of trend that we want to advance as a pattern of practice that others could rely on. We have to ensure that we are not making the law to fit the case because we are interested in it just now; it has to be a principle that can apply more generally.

The other key element is that lawfulness is necessary but not enough. I think everyone agrees with that. Lawfulness is the first ingredient you need to have, but you also need to

have the other aspects of legitimacy that we heard about: local acceptability, regional acceptability and no negative impact on our attempt to build a sense that the rule of law matters more generally in the world. All of that has to come together before you can take action.

Professor Roberts: I just add two brief points to that. First, law sometimes should be applied by western forces not out of any expectation of reciprocity, but for other reasons, whether to do with domestic or international opinion or to do with coalition operations and the need to harmonise practices. A very good example of that was the 1991 Gulf war, when the coalition did, by and large, observe rules of restraint and were careful in their targeting of bombing and so on. Meanwhile, Saddam Hussein was blowing up oilfields and polluting the Gulf and goodness knows what else. There was merit, irrespective of whether Saddam Hussein observed the laws of our conflict on that occasion.

My other point is that part of the morality of the street in the Middle East is to view occupation as illegitimate. If you look at the gruesome art form of the suicide video—the videos of suicide bombers from all the areas where, for example, al-Qaeda has been active—it is striking that they are not particularly appealing to Islamic statements or principles. They are, above all, complaining about occupation by western countries of Muslim lands, but they of course grossly simplify the occasions of these so-called occupations. They completely fail to note that some of the interventions were in defence of Muslim communities against Christians, be it in Kosovo or Bosnia. None the less, that is the trope, as it were. That is the story they want to tell.

The avoidance of boots on the ground is an understandable way of approaching this problem for western powers, although it is one that we know leaves some awful gaps in their capacity for action. I am not sure that substituting boots on the ground with air power will be seen as a progressive move. That seems to me to be one of the defining circumstances of the Middle East at the moment that we need to take account of.

Aaron Stein: I think it depends on each individual group and how they view the intervention. I completely agree that we need to have a discussion on the legality, but how that is perceived among the different rebel groups fighting in Syria depends on those individual rebel groups. Legitimacy will come from their ultimate goals and aims. Most of them would, I think, welcome a greater coalition air campaign to force Assad from power. Not all, but some—I would even say most—would welcome it, as would certain states in the region. I always seem to argue that nuance doesn't really translate, so some of these things about the legal arguments do not affect the fighting on the ground, or how the man who is carrying the Kalashnikov is viewing the introduction of western and Arab air power.

Chair: Mr Stein, before we go on to you and release the rest of the panel, do you have a quick question, Dai?

Q242 Mr Havard: I have one last question about the law. We have concentrated on it in one way, and there has been talk about what we do domestically about people who have engaged, but there are other aspects of the law, such as the International Criminal Court. Are there any parts of the law that we should be considering that we haven't asked you about?

Professor Roberts: Perhaps I can begin by saying that there are a range of issues to do with the law of armed conflict—international humanitarian law—that we need to consider. When you start to consider them, they pose some really tricky problems. One is the whole question of detention and managing prisoners of war. If we operate solely from the air, we are engaged in, in many cases, killing people, but we are not making provision for detaining them. That seems, in itself, an extremely worrying approach to the conduct of war. If there are those who surrender, and, for example, if we have helicopters operating there as I read about in the papers today—there have been cases of fighters trying to surrender to a helicopter in the past—what will our policy be on that matter? That is one issue we haven't thought about.

Other issues to do with the laws of war include the issue we have already mentioned of occupation administration and also the question of cultural property. Attacks on cultural property are extremely sensitive. They touch very raw nerves in the region, and we are in the embarrassing position in the UK of it being 60 years on 30 December this year between our signature of the cultural property convention signed at The Hague in 1954 and our ratification of it. There is no known reason why we are not ratifying it except for the absence of parliamentary time, so I beg you to ensure that action is taken. The Department for Culture, Media and Sport is in charge of that issue, and it may not be its top priority, but it just seems odd. I agree that it is not going to make a fundamental change to the outcome of this engagement, but not to be party to it just gives us a weakness that we don't need.

Professor Weller: Speaking of prisoners of war, yes, the campaign is fought from the air, but sometimes things fall down from the air. What do we expect will happen if British service members fall into the custody of some of those groups? What is the provision one has? Is there anything one can do to interest those groups, who will do what they do in any event, in some sort of compliance with standards of humanity? It is probably unlikely, but presumably some thought is being devoted to that.

There was a big discussion on the International Criminal Court some time ago. As we know, it cannot exercise jurisdiction over this issue unless there is a Security Council reference. The Swiss and some others have been campaigning very hard to get a Security Council reference, but, of course, with a Russian veto, they won't. There has been the debate about asking the General Assembly to adopt a resolution constituting an international tribunal instead. Strictly speaking, perhaps, you do not need chapter VII powers to do so; the Security Council has done it for Yugoslavia and Rwanda. Perhaps the General Assembly would be sufficient to give it legitimacy, because, legally speaking, such a body might be entitled to exercise jurisdiction at an international level, even without a Security Council reference. I always thought that was a bit of a diversion from the essence of the case, because building a new tribunal will take a year, after which 50,000 more people will be dead. But now, four years on, one wonders. It will not have a decisive influence, but that is one of the ideas that has been around for some time. The other axis is the humanitarian one, on which much work has been done.

Finally, there were some achievements in terms of chapter 7 resolutions at the end of last year, but one hasn't heard much about how that Valerie Amos-led track has progressed. Perhaps more could be done to make that more transparent. That is all I have time to say.

Q243 Mr Havard: Dr Gallagher, any bright ideas I have forgotten about?

Dr Gallagher: On your final point about the domestic aspect, with regard to people returning home, there will obviously be legal pressure to put those people in jail. A colleague has done work on deradicalisation in Northern Ireland that shows that the credible voice of deradicalisation in Northern Ireland was of ex-terrorists. Obviously, there are major concerns about people returning home, but theirs might be the credible voices in the deradicalisation at home, because certain communities are not going to listen to white faces in suits in Westminster. They may pose a problem, but they also offer an opportunity to decrease the pull of ISIL.

Mr Havard: Thank you very much. That is very helpful because, as Sir Adam said, it will take a long time, it will run for a while and it will develop and change.

Q244 Chair: Before we move on, I want to make a slightly rushed attempt to summarise this incredibly complicated situation. I want to be very cheeky and, in five minutes, run through some of the evidence we have received. If it is possible to give a yes/no answer, I would be extremely grateful. I understand that that is an extremely unfair thing to ask such distinguished people.

Would I be correct in saying that simply asserting a generic, statistical correlation between people going on armed jihad and terrorist incidents at home is not a legal justification for intervention in Iraq and Syria? In other words, if the Government argue, “A lot of people go off to fight in Afghanistan and Syria. They are likely to come home and do terrorist attacks”, would I be correct in saying that that is not a legal justification for intervention?

Professor Roberts: Correct.

Professor Weller: That is correct. Your response is a law enforcement response that you have to undertake in your domestic jurisdiction.

Q245 Chair: Secondly, would I be correct in saying that the beheading of a British national is not a sufficient cause for a fully legal intervention in Iraq or Syria?

Professor Weller: It would be sufficient to justify a rescue operation for other hostages, but it would not be sufficient to justify mounting a larger armed attack on those states on the basis of self-defence.

Q246 Chair: Would I be correct in saying that a stated desire to create an Islamic caliphate is not a sufficient cause for intervention? I have chosen three things that, in the public mind, are driving people towards intervention.

Professor Weller: If creating a caliphate is intimately and necessarily connected with torturing, executing or forcibly displacing massive numbers of people, I would say you might be incorrect.

Q247 Chair: But the aspiration towards the caliphate itself, that other stuff set aside, would not be sufficient.

Professor Roberts: I would add that the aspiration for a caliphate is as old as the hills—it has been around for 1,000 years—so we are not going to wipe it out. The hardest thing to wipe out in human behaviour is dreams, and that dream will not disappear. It is the action that follows from the dream that we should worry about.

Q248 Chair: Narrowing in on the evidence you have given us, would I be correct in saying that if it could be shown that the impact of the Syrian elements of Islamic State were trivial or contingent, in terms of the atrocities in Iraq, a request for self-defence from the Iraqi Government is not a sufficient cause for intervention in Syria? In other words, you could not bomb Syria.

Professor Weller: On the basis of self-defence, you are right.

Q249 Chair: Okay. That moves us on to the next thing. If the argument were made on the basis of national self-defence, which is the Khorasan argument, you would have to prove the exact nature of the threat. If you weren't to get parliamentary consent, I think Professor Weller said that you would have to show an instant, overwhelming necessity, with no moment of deliberation.

Professor Weller: Yes.

Q250 Chair: In summary, these arguments seem therefore to be driving us towards an idea that an extreme humanitarian emergency or some form of humanitarian argument would be more solid grounds for a large, sustained intervention in Syria—in other words, an argument about the atrocities committed by Daesh, Islamic State or the Assad regime within Syria. In the absence of that, you would need to provide serious factual evidence either for support for atrocities in Iraq for or a direct terrorist threat mounted against a western power.

Professor Weller: Well, on support for the ability of ISIS to maintain itself in Iraq—as Aaron said, essentially occupying territory in Iraq—I would have thought that the case for that is quite strong, so HMG saying, “At the moment, we are limited to Iraq,” is an exercise in moderation. Even now there would be good support for following the US argument, which is that you cannot effectively engage IS only in Iraq and that you will ultimately need to engage them in Syria.

Q251 Chair: But am I right in saying that the nub of that is a factual question and not a legal one? It is a factual question of whether you were right or wrong that an essential part of Islamic State's operation in Iraq is that it has support from Syria.

Professor Weller: Exactly.

Chair: Witnesses testified to us and said that Islamic State is essentially a development of al-Qaeda Iraq, that it is not fundamentally different from the entity that existed in Iraq in 2005, '06 and '07 completely independent of any Syrian participation, that people like Abu Bakr al-Baghdadi are indigenous Iraqis, that the majority of Islamic State's support and components is made up of Iraqis and the strong, disenfranchised Sunni Iraqi population and that that continues regardless of what is happening in Syria. If that factual argument was made, it would be more difficult to make the legal argument for an intervention in Syria.

Professor Weller: I seem to remember that IS captured most of the weapons intended for the Syrian opposition and then was able to use some of them in relation to Iraq.

Q252 Chair: Again, that is a factual question, so you are basing this on the assumption of the reporting that you've seen—that those tanks or artillery captured in Syria were used in Iraq and are an important and necessary element in the success of Islamic State.

Professor Weller: I am unable to answer your questions without the facts, so if you are saying that we have to exclude this because it is a factual question, the application of the law depends on what the facts bear out. You have heard the other testimony, so if the law bears out that there is no link between the IS infrastructure in Syria and in Iraq, you are right and I cannot dispute that.

Professor Roberts: Perhaps I can add to that. I would be nervous about your logical conclusion that you are primarily left with a humanitarian justification. A humanitarian justification would be hard to sustain for the totality of a campaign against Islamic State. The self-defence justification is stronger.

You seem to slightly jump from the issue of the self-defence of the United States or the United Kingdom—we all agree that that on its own does not make a strong justification for all the action that has been taken against IS—to the humanitarian justification without stopping to consider the question of Iraq's self-defence, which does remain a basis for justification for action in not only Iraq but Syria. It is hard to separate the Syrian and Iraqi parts. Islamic State has abolished the border, in theory and perhaps in some way in practice. There is a limit beyond which we should not worry excessively about the distinction between Iraq and Syria, but I fully agree that we need to recognise that the problem was created largely within Iraq, as well as in Syria, and it is a problem for which we should accept some degree of responsibility.

Dr Gallagher: For the humanitarian aspect, I believe that the responsibility to protect replaced this legal doctrine of humanitarian intervention. That was an emerging state practice over the 1990s. There was a ruling in 2001. The responsibility to protect is the international community's response to that ruling. I think you need United Nations Security Council approval to approve what you would refer to as humanitarian intervention.

Chair: Thank you all very much. If you wish to remain for a cup of tea at the end of the session, you are very welcome, but if you are busy and need to get away, we fully understand. Thank you so much for your time; we now turn back to Mr Stein.

Professor Weller, Professor Roberts and Dr Gallagher left the panel.

Q253 Mrs Moon: Turkey is an active member of NATO, and I have been really quite shocked at their refusal to allow the use of their air bases, given how much involvement Turkey has had—I visited NATO’s bases as part of the NATO Parliamentary Assembly. What do you see Turkey’s price as being to allow the coalition to use their bases to fly the missions over Iraq? Will it be that the missions have to go into Syria as well?

Aaron Stein: Yes. I think the Prime Minister, Ahmet Davutoglu, has been very clear about that. In order for Incirlik to be opened up for airstrikes, you need to expand the scope of the mission away from just degrading ISIS to, essentially, carrying out regime change from the air. They have offered that if that were to be part of the mission, they would even consider putting ground troops into a special buffer zone along the border—about 15 kilometres from the border—into Syria, which then they would use to house refugees as well as to move some of the members of the Free Syrian Army and other rebel groups that are in Turkey back into Syria. In order for them to open up their bases, the coalition has to open up the mandate of the mission to include regime change from the air.

Q254 Mrs Moon: What is Turkey’s negotiation position point on arming Kurds?

Aaron Stein: That is a great question. Turkey is against the arming of Syrian Kurds. When the arms flow started to the Peshmerga in Iraqi Kurdistan, you had the current Foreign Minister, Mevlut Cavusoglu, saying, “We are okay with arms going to the KRG, and really to the Barzanis, but those weapons cannot make their way over into the hands of the PYD, who are in control of the three cantons in Syrian Kurdistan.” They have maintained that position. You have seen that recently with what they are moving forward. They were very unhappy with the American air drops to the PYD in Kobane, but they were eventually forced to open up this corridor to allow Peshmerga fighters in. But when they let in these Peshmerga fighters—I think it is happening as we speak—it was overseen, or is being overseen, by the intelligence agency, and they are taking a very specific count of what weapons are going in to ensure that when these people leave, those weapons also go out. So they are not in favour of arming the Syrian Kurds but are okay with arming the Iraqi Kurds.

Q255 Mrs Moon: What is their fear?

Aaron Stein: They see the PYD as being no different from the PKK, and the PKK has been involved in a fight with Turkish states since 1984—there have been 48,000 deaths—so their fear is that if you arm this group with heavy weapons, we have no guarantee that they won’t turn those heavy weapons around if the struggle with PKK Kurds continues.

Q256 Mrs Moon: I thought that there was a peace negotiation in place with the PKK. Do you not trust that?

Aaron Stein: I think it is important to put the peace negotiations in their proper place. They restarted again in 2012 and have been going on up to the present. Until this time, I

believe that the latest count is 930 deaths involved in PKK-Turkish clashes, so it is not as if violence hasn't been going on. The violence has just been held at a lower level, so they are concerned that that could once again escalate. It is actually a very real concern. There is an incredible amount of sympathy for the group in Kobane among Turkish Kurds. It has been going on all summer, when the IS assault started on it. You have weekly funerals going on inside Turkey, widely attended by Kurdish politicians, and that feeling of what is called Kurdish nationalism and sympathies for what is going on with the Syrian Kurds is something that the Turkish state has to take very seriously.

Q257 Mr Havard: Clearly there are Kurds and there are Kurds—there are Syrian Kurds, the Turkish Kurds you are talking about, Kurds in Iran and Iraqi Kurds. There is also the idea that the Kurds are one unified group. What are the settlements—what do they want and what are their demands? Is it the idea of a Kurdish state, or a series of Kurdish entities across the piece? I can understand what you say about Turkey's concerns about Turkish Kurds, but what is their view of a final settlement of the question?

Aaron Stein: Of the Kurdish peace process?

Mr Havard: Yes. Would they be happy with it, or not mind, if someone set up an enclave over here or over there? What is their view of all that?

Aaron Stein: They have taken a very piecemeal approach to their own Kurds in Turkey. They have begun to lessen some of the very draconian cultural restrictions that had been in place before, but it is very much a state-led process; they would be very uncomfortable with the idea of complete autonomy in Turkey's south-east region. They are expressing some willingness for limited decentralisation of powers from Ankara and the allowance of some greater, let's call it municipality control—

Mr Havard: Governance issues.

Aaron Stein: But that is very much open to debate. I call it the two As in the Kurdish peace process with Turkey: how will the autonomy issue be worked out and to what extent, and what about the amnesty? A lot of fighters who fight with the PKK and now with PYD—how will they be reintegrated into Turkish society? They are currently having that debate in Turkey, albeit very quietly and behind closed doors. Not a lot has been released about it, but that is exactly the question they are asking.

Q258 Mr Havard: But they are not bothered by an autonomous Iraq-Kurdish area; as long as they have settled borders, they do not care.

Aaron Stein: They are very comfortable with the KRG—the Kurdistan Regional Government in Iraq. The Government in Ankara have always had a very close relationship with Masoud Barzani in Erbil, but up until, I would say, 2010, they were very much interested in a very centralised Iraqi state, similar to their current policy towards Syria. After 2010, because of their political problems, they have gravitated more and more towards acceptance of what I would call not the break-up of the Iraqi state, but its de facto partitioning along different sectarian lines inside Iraq, Kurdistan being one of them. It would serve as a

buffer zone between Turkey and all the chaos in Iraq—there is a relatively safe part across the top of the country where they have lots of investments, are now shipping oil from and have a close relationship to the leadership.

Q259 Mr Havard: But that realpolitik is in complete contrast to their ambitions for what should happen in terms of Syria.

Aaron Stein: In terms of the Syrian Kurds, or in terms of Syria as a whole?

Q260 Mr Havard: They want a central state in Syria. They still want that demand over there, that's their idea.

Aaron Stein: It's the disconnect between the policies, and it really comes down to their comfort level with different groups of Kurds.

Q261 Mrs Moon: How is Turkey's policy seen across the rest of the Gulf? Are they frustrated with Turkey? Do they quite see where it is coming from?

Aaron Stein: No.

Q262 Mrs Moon: Is there a frustration at Turkey's holding back? Are they seen as grandstanding? What is the other view?

Aaron Stein: I'd call it extreme anger, particularly from the Emiratis and the Saudis, who are very upset with Turkey's border policy. They are very upset with Turkey's support for certain rebel groups. That is moving in contrast to what I think is the second fault line concerning Turkey in the middle east: the conflict and fallout over the Muslim Brotherhood. There is a dissatisfaction with Turkey's policy on the coalition—why is Turkey not getting involved more? For example, the Saudis have a similar policy to Turkey—they are interested in the overthrow of Bashar al-Assad—but they have prioritised ISIS as being the top security threat to the kingdom. Turkey is still backwards: it is Assad first, ISIS second. Much of the coalition has adopted the Saudi point of view and Turkey is the outlier. There is growing frustration about that point of view of the conflict.

Q263 Derek Twigg: How strong do you believe, or know from the information you have, the communications are between ISIL and elements in Turkey—the Turkish Government or Turkish representatives? Is any dialogue going on? What is it and how deep is it?

Aaron Stein: That is a very difficult question. I have not found any overt links between the Turkish Government and the Islamic State, but there are links between the Government and the Islamic State in that they have negotiated with them through intermediaries. I am talking about the prisoner release. To be clear, as I said, I have not found any evidence of a

Turkish role for the Islamic State, but there is clear evidence of Turkish support for other rebel groups that are along that spectrum of outlook or worldview. We have raised questions in our capitals about why they are talking to them or supporting them in the way that they did.

Q264 Derek Twigg: What about your instinct and what you know about the region? Do you think that there is more definite communication going on? I know that you said that you cannot prove it and you have no knowledge, but you know much more about the region than I do, and I just wonder whether you feel that there is something going on behind the scenes. Let us take an example such as Kobane, for instance, where ISIL are pretty confident that the surge would not intervene.

Aaron Stein: I think it is a serious allegation to make of Ankara of support for Islamic State or connections to Islamic State, and I am not prepared to make it.

Derek Twigg: I am not making the allegation. I am asking a question.

Aaron Stein: What I think is that there have been negotiations, but indirect, over very specific Turkish interests, and I am talking about the hostage exchange. Other things about Kobane—I absolutely have no idea. I have yet to see any evidence for it, except for poor border policy.

Q265 Derek Twigg: They seemed pretty confident that Turkey was not going to intervene in Kobane.

Aaron Stein: No, the spill-over of the conflict from Syria into Turkey has happened quite frequently throughout, and Turkey has never intervened in Syria outside of its support for certain rebel groups. I think it is not a crazy assumption to think that Ankara was never actually going to intervene in Kobane from the outset, with the caveat being: unless it becomes part of this coalition.

Q266 Derek Twigg: Do you think there is any scope for Turkey to get involved in training Iraqi troops to support them more strongly in terms of training? Is there any role at all for Turkey in that respect?

Aaron Stein: In other peacekeeping missions, as I am sure you guys are well aware, that is certainly a role that Turkey has played in the past. I think that there would be some appetite for that in Turkey. There is already a proposal on the table and negotiations ongoing between the US and Turkey for training in the new rebel force somewhere in Turkey. I think that is part of Turkey's limited role that they are playing in the coalition, and it is something that they could do—training rebel groups, perhaps training members of the Iraqi security forces or perhaps even Peshmerga.

I will say this, though. I think it would be a very tough sell to get Ankara into Baghdad and to co-operate quite closely with Prime Minister Abadi, for example. There are troubles between the AKP and his Dawa party going back a couple of years, so I am not sure that

Turkey would actually be welcome in Baghdad to train troops, but it is something that they could probably consider.

Q267 Mr Havard: I am intrigued by what you were saying. The flow of foreign fighters, and Turkey's role in that—stopping them, facilitating them or not facilitating them—is one thing. The other thing is the question of oil, and where people are getting money from, illegal sales and so on. Have you got anything you would like to help us with on that?

Aaron Stein: Yes. The policy has changed. I would say that you can backdate the change of Turkish border policy to March 2014. That is when you started to see greater control over the border, and you saw the first steps being taken to crack down on this illegal smuggling of oil. What they are doing is placing security forces along the highway near the border. As vehicles exit, they are checking the boot and other things for this oil and testing it. It is not popular. The people along the border had got used to buying this oil, and if you know how much petrol costs in Turkey, you understand why.

Mr Havard: There are parts of Northern Ireland where you could probably say the same thing.

Aaron Stein: Right. What you are seeing, though, is that there are two aspects of this. They are cracking down on things going from Syria into Turkey. The same cannot be said about what is going from Turkey into Syria. The trade between, say, Turkish businesses and areas in northern Syria is ongoing. So I think there are two ways to look at it. They are cracking down on things coming from the border but not going the other way. It is not going to the Assad regime.

Q268 Mr Havard: Sorry, what is not going to the Assad regime?

Aaron Stein: The increased trade that is happening is not going to the Assad regime. It is going to areas of rebel control. So there is trade still ongoing. I just think that the focus on oil and the fighters, while important, should not detract from what is going from Turkish businesses back into Syria.

Q269 Mr Havard: What is the nature of that trade, then? If you went to Gaza you would see that Israelis were bothered about cement going into Gaza because they are going to build emplacements with it. What is the nature of this trade that is going from Turkey into this area?

Aaron Stein: One of the reasons why they were so lax about their border, in addition to their problems with Bashar al-Assad, was that those border towns thrive on cross-border trade. So you are depriving those people of their livelihood.

Q270 Mr Havard: So it is normal civilian trade. It is not precursor chemicals for this, that or the other? It is not quasi-dangerous trade; it is just normal, commercial trade?

Aaron Stein: But it is going into rebel-controlled areas. One should be focusing on where it is going. It is not exactly clear.

Q271 Mr Havard: On this business about oil, the coalition's intention is to secure the West's oil supply. What is the Turkish view of what that end state is in terms of the overall objectives there? They had this relationship at one time with Israel, but that fell apart. Israel now has a relationship with Cyprus about gas. There is a whole potential destabilisation mix here in the south-east Mediterranean basin that involves hydrocarbons in the broader sense as well, perhaps going round the back of the Turks to the Iranians, or whatever. What is their view of what their objectives are in the longer term?

Aaron Stein: In terms of their oil policy in the longer term?

Mr Havard: Yes.

Aaron Stein: I'll address the comment first and come back to the oil. After September 2011, the AKP Government and the president, Mr Erdogan, incorporated into their Arab revolt policy an allergy against western intervention. There is a fear that the West's intervention will make life more difficult for the Turks. Part of that is this dissatisfaction with the approach to ISIS in general and Syria in general, but also there is a deep-seated culture of conspiracy about what the West actually wants from the Middle East. That is where that oil thing comes in. He is also appealing to his nationalist base when he says that. There is very much a domestic political angle to that.

In terms of their energy policy more broadly, I cannot speak specifically to the Cyprus-Israel issue, but I can say that they rarely let regional turmoil get in the way of them pursuing their best interests on the energy side. For example, they are engaged in a proxy war with Iran and Syria as we speak, but they also receive 20% of their natural gas from Iran. In Ukraine they have close ties to an ethnic minority in Crimea. When that event took place, they spoke out against the intervention but then turned around the next day and went to Russia to try to negotiate better natural gas deals. They are concerned, because they are so reliant on foreign energy sources. So they don't really let regional turmoil impact them.

Q272 Mr Havard: Do they read any significance into the fact that the declaration at the moment of the ISIL people—the Daesh state—is to have this caliphate that gives them control over all Muslims across the world, but starting with the Middle East, north Africa, the Levant—and Cyprus, interestingly enough? Is there any significance in that, or is that just an extra piece of mischief that they have chucked in?

Aaron Stein: I can tell you that the Turkish Government, while being conservative, does not sympathise with ISIS in any way. They view them as being a stain on Islam and basically embarrassing the faith in general. I wouldn't read anything into that in terms of sympathies going back and forth between Islamic State and the Turkish state. Just to loop this back into the original point, their refusal to engage in military action against the Islamic state doesn't come from any sympathies, it comes from their problems with the strategy, or at least their perception.

Mr Havard: It is as simple as that. Thank you.

Q273 Mrs Moon: I am intrigued, because I have followed Turkey's rise and it has done incredibly well in establishing itself as a key component of NATO, with an orientation towards the European Union. There were some difficulties, but they were moving. At the same time, they built close relationships across the Middle East and were seen as a critical friend. Even with Iran they managed to negotiate very good relationships. They had been playing a careful and diplomatic game—friends with everyone. But they seem to have blown that. They have alienated and created suspicion about their motivation across the NATO alliance. Where are they looking? What is their motivation? They have blown it across the rest of the Gulf. Are they aware of the damage they are doing to their own credibility? Is that something they are keen to stop? Will they stop digging the hole deeper, or will they keep on digging?

Aaron Stein: It is a matter of perception. Certainly there are people in the Government who probably think exactly the way you and I do about this issue, but the perception among some of the decision makers is that they are standing on the right side of history and that they have adopted a principled foreign policy, especially after the start of the Syrian civil war, so they are standing on the side of democracy. Frankly, they would probably tell our two Governments that we are standing on the side of Arab dictatorship. They think they are playing the long game and that in 10 years from now the conditions that led to the Arab spring will return, Turkey will be the only Government that stuck with it, and they will be in position to play a leadership role in future. They think that soft power they have perhaps lost for now will come back when the region eventually rights itself and continues on the trajectory as it was between 2010 and 2011. In term of their relationship now, they have blown it. They have poor relations with most of their neighbours outside of Gaza, Hamas, the Barzanis, the KRG and the leadership in Qatar.

Q274 Mrs Moon: If the stance was changed and the issue of Syria came further into the priorities, and regime change was seen as part of “the mission”, do you think Turkey would be willing to commit troops? They have the largest standing army. Would they be willing to put those boots on the ground? Everyone else is saying, “No, boots on the ground.”

Aaron Stein: I want to say this first, and then I will get to your question. They are speaking to a constituency in Syria. They are not speaking to our constituency, but they are representing the rebel groups that they support. Those rebel groups have basically the exact same policy that Turkey is then translating and putting to us. They are talking to somebody, it's just not us. They are talking to the rebels, and it is because of what I have just said. They believe in the rebels' mission and they are very uncomfortable with Bashar Assad. They think they are playing the long game so that, by holding out, they are appealing to the constituency that matters more than, say, their older allies.

Can you just remind me of your second question?

Q275 Mrs Moon: Are they willing to put boots on the ground? To be honest, I would not dispute that even in the West there is frustration with the Assad regime and they would like to see it gone. Although they are not quite sure who the rebel forces are, what their long-term aims are and whether they would agree with those, there is some sympathy for that, but the issue is: who's going to it? Would they be willing to put boots on the ground? Would they do that?

Aaron Stein: They have indicated that under highly circumscribed roles, such as if they get a no-fly zone, which is then used to enforce a buffer zone, then in that buffer zone—this has been expressed at the highest level, by the President and the Prime Minister—they would be willing to commit troops. I would treat that very sceptically. They may be willing to put some troops into a very limited role to, say, look after a potential refugee camp that is built on that side of the border, but I do not believe that they would expand the role to ground operations.

The Government is in campaign mode. That is why you are getting a lot of strange rhetoric coming out about oil. I would say the most important election in Turkey since 2009 will be June 2015. Erdogan as President and Davutoglu as Prime Minister want to increase the number of MPs that they have in Parliament. They had 327; they lost eight after the 17 December leak of all the telephone calls about corruption. They now have 319. They would like to get that number above 330. It will be difficult for them, but they want to. So They are really in campaign mode, and they are appealing to the nationalist side of Turkey at the moment. If you look at the way the vote broke down in the last election, when Erdogan became President, his potential weak spot is to his political right, not to his left. A lot of the rhetoric you are seeing about the Kurdish issue, the PKK, the PYD, western intervention and the use of Lawrence of Arabia are primarily geared towards a domestic audience, to protect his right flank as he tries to push forward and push himself over the 330 line.

Q276 Mr Havard: You've been watching that serial on the television.

The way that that is working is interesting. If we in the West have a problem with deciding who the good guys are to support in Syria and we want to support this opposition, whatever that might look like and whatever its component parts are, the Turks presumably would say, "We know already. Just support our friends and the job is done." What does that do in terms of helping us to understand who it is you might wish to support in Syria, or does it not help us?

Aaron Stein: One of the problems we had with Turkey—again, I would call March 2014 the month of change—was that they were supporting groups that are, let's say, affiliated with or under the umbrella of the Islamic Front. A lot of those groups posed some problematic questions about why you would give them support. In March, Turkey's strategy changed a little bit. I'm not going to say that they stopped giving support to those groups, but there was the opening—at least according to Open Source—of a joint-run American-Turkish operations room right along the border, where they were sending weapons across with Turkish facilitation and paying the salaries of two different rebel groups. The plan, and their part in the anti-ISIS coalition, is training this new rebel force of, I believe, between 2,000 and 4,000. At least according to the reports, those numbers of fighters will basically be taken from Turkish intelligence databases. They are probably already based in Turkey. They will then be

vetted and they will be trained either in Turkey or someplace else in the region and then they will sent back through.

Q277 Mr Havard: Am I right in saying that, if the Prime Minister is having a debate this afternoon with the Qataris about this, that and the other, there would be a very close correlation between their list of people and the Turkish list of people?

Aaron Stein: I'd say so, yes.

Q278 Chair: Just finally, to come back to the old chestnut, there are an enormous number of people saying that the solution to the situation with the Islamic State is a regional solution; that the way to solve this is to get the regional actors and the fundamental drivers of the conflict together to a form of proxy war. How plausible or probable does it seem to you that we will be able to get a common understanding of the problem out of the major actors—out of, for example, Turkey, Iran and Saudi Arabia—that is sufficient to come up with a solution to address Islamic State?

Aaron Stein: I would say next to impossible. It seems incredibly difficult to reconcile all the different positions. Even in the coalition of states that are participating in airstrikes in Syria and Iraq, you have differences. The French are different from the Americans, who are different from the Brits. Among the Arab coalition partners—including Turkey if you want to add that—there are also splits. The Emiratis have a completely different concept from, say, the Turks or the Qataris.

Q279 Chair: Is it possible that some of these states find the existence of at least a limited Daesh threat convenient? For the Iranians, it could be a potential reason for support for Bashar al-Assad, or perhaps give them some leverage in negotiations over nuclear issues. For the Turks, it is a possible other flank against Kurdish problems. For states such as Saudi Arabia and Egypt, it is perhaps a justification for more authoritarian and repressive domestic policies. So long as this thing exists in a minimal state, all those countries can use it as an alibi for other policy objectives.

Q280 Mr Havard: Or did they once find it useful and do not any more?

Aaron Stein: That is closer to my understanding. I wouldn't call ISIS useful for anybody, but I would say that the idea of the Sunni insurgency served certain objectives for certain individuals in the region. I can speak specifically to the Turkish case. June 2014 was a large wake-up call, when Mosul was overrun and 46 Turkish citizens were taken hostage. I can tell you from my own private discussions that the Ministry of Foreign Affairs takes this very seriously.

Q281 Chair: But Mr Stein, the Pakistani Government kept assuring us that they took the Taliban very seriously, and they did so with enormous plausibility, convincing many people—academics, specialists, ambassadors. Mr Zardari said his wife was killed by the Taliban: “We understand the threat of these terrorists much more than you do; they are an existential threat to our security.” You obviously hear similar statements coming out of Turkey and other neighbouring countries, but is it not conceivable that there is a difference between articulating that to you and actually doing anything about it?

Aaron Stein: I think that’s the problem most people have with the approach the Turks have taken to the conflict thus far. They are reassuring us over and over again that they take the threat very seriously, but they aren’t taking the steps that we think are required of them, so it obviously raises those questions. I do think that at some point, although I wouldn’t say ISIS specifically, other radical Sunni groups served a purpose. They certainly served a purpose to Turkey’s objectives in Syria. ISIS does not serve those purposes for the Turkish state any longer.

Q282 Chair: To what extent does anyone have the trust or relationship with the Turkish military to be able to act confidently anyway?

Aaron Stein: From my understanding, the Turkish military is hesitant, probably in the same way our militaries are, to get involved in the Syrian quagmire. There has always been a disconnect between the public rhetoric on the side of the elected Government in Turkey, in terms of their willingness to intervene, and the military’s preparedness or desire to do so.

One of the frustrations they have is that they cannot actually implement the policies that they want themselves. They are not strong enough to do so. They cannot enforce a no-fly zone. They cannot impose—they can, but it would be very costly—a buffer zone. So they are forced to rely on NATO allies, particularly the United States, and this is where the frustration comes out. The United States has refused to come to their side of the understanding of the conflict, and the Turks will not come meet the United States either, so you have friction.

Q283 Chair: If you were to have a frank conversation with the senior Turkish general, where would they put Islamic State on their list of priority threats? How would it compare with anxieties about other potential threats such as Cyprus, Greece, Iran or Syria, or concerns about Islamists within their own country and about their own democratically elected Government?

Aaron Stein: I think the concerns would be on par with or equal to the PKK threat.

Q284 Chair: And how would it rank against other threats? Are there any threats they would put higher?

Aaron Stein: I don’t believe so. I believe that the No. 1 threat that the Turkish Government face, at least in their own mind, continues to be the threat of PKK terror. I would put ISIS at that level. At least in their conceptual thinking, ISIS and PKK pose the same level

of threat. Now that is a high level of threat. The top security priority in the Turkish state is PKK terrorism.

Q285Chair: Within the Turkish military as well as the Turkish civilian leadership?

Aaron Stein: I would say so, yes.

Chair: Thank you very much for your time.