



Foreign, Commonwealth
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Rt Hon Harriet Harman MP
Chair, Joint Committee on Human Rights
House of Commons
London
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10 November 2023

Dear Harriet,

Thank you for your correspondence of 12 October regarding the Joint Committee on Human Rights' inquiry into the accountability of British citizens and residents for crimes committed by Daesh in Syria and Iraq.

Please see below for responses to the specific questions raised in your correspondence.

1. *To date, how many British citizens left the UK to travel to Syria or Iraq in order to affiliate themselves with Daesh?*

Since the start of the conflict in Syria, more than 900 people from the UK are thought to have travelled to the region. Those who have travelled include young women and families.

2. *Of those British citizens affiliated with Daesh in Syria or Iraq:*
 - a. *How many have returned voluntarily to the UK?*

Of the 900+ adults who departed the UK to relocate to Syria from 2012 onward, the majority have either returned or died during the conflict there. Up to a quarter of UK-linked extremist travellers may remain in Syria, although the status of many is unknown and it is likely that at least some of these will have also died.

- b. *How many have been repatriated with the assistance of the Government?*

Each request for consular assistance is considered on a case-by-case basis, taking into account all relevant circumstances, including, but not limited to, national security. The Government will seek to facilitate the return of British unaccompanied minors and orphans to the UK where feasible, and subject to national security concerns. In line with this policy, the Government has already facilitated the return of a number of orphaned and unaccompanied British children to the UK and will continue to do so. We do not routinely comment on individual cases.

c. How many remain in Syria or Iraq?

i. Of those who remain in Syria or Iraq, how many of these are women? How many are children?

We are aware that there are British nationals, including women and children, located in displaced persons camps in northeast Syria. Due to the shifting circumstances on the ground, we are not able to make an accurate estimate of their number.

3. Could you please set out what work, if any, is being done by the Government to provide assistance to those who remain in Syria or Iraq?

The Foreign, Commonwealth & Development Office (FCDO) advises against all travel to Syria and there is no consular support available to British nationals from within Syria. Each request for consular assistance is considered on a case-by-case basis, taking into account all relevant circumstances, including, but not limited to, national security. The Government will seek to facilitate the return of British unaccompanied minors and orphans to the UK where feasible, and subject to national security concerns.

It is essential that humanitarian agencies are enabled to safely access and deliver assistance to those in need within Syria, including in Al Hol camp. The UK is clear that all parties to the Syrian conflict must respect their obligations and responsibilities towards civilians under applicable international law, including international humanitarian law (IHL) and International Human Rights Law (IHRL). We are supporting vulnerable populations in the north-east with vital, lifesaving assistance, including in IDP camps, settlements and communities. North-east Syria will remain an integral part of the FCDO's Syria humanitarian programme.

The Foreign, Commonwealth & Development Office (FCDO) advises against all travel to all provinces of Iraq except the Kurdistan Region of Iraq, and against all but essential travel to the Kurdistan Region of Iraq. Consular assistance to British nationals in Iraq is provided through the British Embassy in Baghdad and the British Consulate General in Erbil.

4. Is the Government cooperating with the state authorities in Syria or Iraq in order to provide assistance to British citizens who remain in those territories and, if so, what is the nature of this cooperation?

Consular assistance to British nationals in Iraq is provided through the British Embassy in Baghdad and the British Consulate General in Erbil.

The FCDO advises against all travel to Syria and there is no consular support available to British nationals from within Syria. Each request for consular assistance is considered on a case-by-case basis, taking into account all relevant circumstances, including, but not limited to, national security. Where British unaccompanied minors and orphans are brought to our attention, we will seek to facilitate their return to the UK where feasible, and subject to national security concerns. The UK does not have diplomatic relations with the Assad regime.

5. Is the Government providing any assistance to the state authorities in Syria or Iraq with regard to local investigations or prosecutions?

The UK is a leading member of the Global Coalition Against Daesh and we are committed to making sure they cannot resurge in the region – working with the coalition, and our regional allies. The Coalition has helped liberate more than 110,000 square kilometers of Syria and Iraq, along with approximately 8 million innocent civilians. We are active within the Coalition across all five lines of effort, including leading the Coalition's strategic communications effort alongside the US and UAE.

The UK played a leading role in the establishment of the UN Investigative Team to Promote Accountability for Crimes Committed by Daesh (UNITAD), which has been a key pillar of the international community's commitment to hold Daesh accountable for international crimes. Over the past five years UNITAD has made significant contributions to addressing the legacy of Daesh in Iraq, including its capacity building of the Iraqi judicial system, as well as the generation of high-quality evidence which has supported trials in third countries. We also support the work of the International, Impartial and Independent mechanism (IIIM) for their assistance on the investigation of the most serious crimes under international law committed in Syria.

We will continue to pursue all available avenues with international partners in seeking justice and accountability for those who have fought alongside Daesh. Those who have fought for or supported Daesh, whatever their nationality, should wherever possible face justice for their crimes in the most appropriate jurisdiction, which will often be in the region where their offences have been committed.

The situation on the ground in Northern Syria remains complex and difficult, which adds to the challenge of securing the long-term defeat of Daesh and achieving justice and accountability for those who have committed crimes in the name of Daesh. The UK is a leading member of the Global Coalition Against Daesh and we are committed to making sure they cannot resurge in the region – working with the coalition, and our regional allies. The Coalition has helped liberate more than 110,000 square kilometers of Syria and Iraq, along with approximately 8 million innocent civilians.

The UK is aware the Autonomous Administration of North-East Syria has announced its intention to begin prosecuting foreign fighters held in detention facilities in north-east Syria. We are discussing this matter urgently with them to understand the implications in more detail.

Syrians continue to suffer under Assad's brutal regime, who remain intransigent in the extreme and unwilling to engage seriously with a Syrian-led, UN-facilitated political process. Only a genuine political solution in line with UNSCR 2254 can deliver the peace that Syrians need and deserve. The UK will not diplomatically engage the Assad regime in absence of the regime's genuine and sustained engagement with the political process established by UNSCR 2254.

The Government of Iraq and the Kurdistan Regional Government remain critical partners in the ongoing fight against Daesh. UK HMG works closely with both governments across a range of CT-related issues, including through support to the security and judicial apparatus. This includes programming, joint working with the international community, and extensive engagement with the Government of Iraq and Kurdistan Regional Government. UK support to Government of Iraq centres around building capability for the arrest, investigation, and prosecution of terrorist suspects. The core aspect of our work is supporting effective methods that prioritise compliance with international human rights standards and Iraqi law prioritising fair trials, due process and appropriate treatment. All UK support goes through a rigorous process of due diligence to assess human rights risks and all our programmes are effectively monitored to ensure the highest standards.

- 6. Does the Government recognise that the atrocities committed by Daesh amount to the crime of genocide (and therefore triggered various obligations on states under the Genocide Convention, the Convention Against Torture and under customary international law)?*

It is the long-standing policy of the British Government that any judgment as to whether genocide has occurred is a matter for a competent national or international court, rather than for governments or non-judicial bodies.

We welcome the decision by the German Federal Court of Justice earlier this year that a member of Daesh committed acts of genocide against a Yazidi woman and her daughter. This conviction was handed down by a competent court after consideration of all the evidence available in the context of a credible judicial process.

In August 2023, the UK Government announced that it acknowledges acts of genocide were committed against the Yazidis. This sends a strong signal of the UK's commitment of support to Yazidi communities and has been welcomed by Parliamentarians and Yazidi people.

7. *When did the Government become aware of the genocide and torture taking place against the Yazidis and other religious minorities?*
 - a. *What steps were taken by the UK Government to comply with its obligation to prevent the commission of genocide and torture, particularly to stem the flow of British citizens/residents from travelling from the UK to join Daesh in the commission of these atrocities?*

We agree that the Convention on the Prevention and Punishment of the Crime of Genocide confers obligations on its State signatories, rather than international institutions. Article 1 of the Convention provides that genocide, whether committed in time of peace or war, is a crime under international law which the Contracting Parties undertake to prevent and punish. As a party to the Convention, the UK is fully committed to the prevention and punishment of genocide as set out under the Convention. The UK has enacted legislation to give effect to the convention. In particular, the International Criminal Court Act 2001 provides that it is an offence for a person to commit genocide, in the UK, or for a UK national or resident to commit genocide anywhere in the world.

As a matter of domestic law, prosecutions for such international crimes can be brought in the UK under the International Criminal Court Act 2001 in the case of genocide, crimes against humanity and war crimes; the Geneva Conventions Act 1957 in the case of 'grave breaches' of the Geneva Conventions; and the Criminal Justice Act 1988 in the case of torture.

Our position on genocide determination will not, and has not, prevented us from taking action to address atrocities.

Through the Prevent and Channel programmes HMG is working to protect people from being drawn into terrorism. In partnership with industry, HMG is working to secure the removal of illegal terrorist content extremist videos through the police Counter-Terrorism Internet Referral Unit (CTIRU). The CTIRU identifies, assesses and refers online content that is in breach of UK terrorism legislation to tech companies for removal, in accordance with platforms' terms and conditions. To address the disparate terrorist threat, Prevent has evolved its delivery model from a local model of delivery to a regional one, driving up Prevent delivery standards nationwide through increased join up between the police and regional partners. Prevent has already changed and saved the lives of individuals from all walks of life, with over 3,800 people offered early interventions through the Channel programme. Prevent is focussing its activity where it will have the most impact, while remaining flexible enough to respond to evolving threats and all radicalisation risks. Greater emphasis will be placed on tackling Islamist ideology, which underpins the primary terror threat to the UK.

8. *What steps has the UK Government taken to comply with its obligations to punish acts of genocide and torture committed by Daesh?*

It is the long-standing policy of the British Government that any judgment as to whether genocide has occurred is a matter for a competent national or international court, rather than for governments or non-judicial bodies. It should be decided after consideration of all the evidence available in the context of a credible judicial process.

As far as UK domestic criminal legislation is concerned, the International Criminal Court Act 2001 provides that it is an offence for a person to commit genocide, as described in the Rome Statute of the International Criminal Court, in the UK, or for a UK national to commit genocide anywhere in the world. As a matter of domestic law, prosecutions for such international crimes can be brought in the UK under the International Criminal Court Act 2001 in the case of genocide, crimes against humanity and war crimes; the Geneva Conventions Act 1957 in the case of 'grave breaches' of the Geneva Conventions; and the Criminal Justice Act 1988 in the case of torture.

Prosecution decisions are taken independently of Government. In every case brought by the Crown Prosecution Service, Prosecutors are required by the Code for Crown Prosecutors to select charges which: reflect the seriousness and extent of the offence supported by the evidence; give the court adequate powers to sentence and impose appropriate post-conviction orders; and enable the case to be presented in a clear and simple way.

9. Bearing in mind the absence of any convictions of returned Daesh fighters for genocide or torture, does the Government consider that the UK is compliant with its legal obligations to punish genocide and torture?

The UK Government condemns in the strongest terms the atrocities committed by Daesh against all civilians, including Yazidis and other minorities, as well as the majority Muslim population in Syria and Iraq. We played a leading role in the establishment of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Daesh/ISIL (UNITAD), to gather evidence of Daesh crimes in Iraq. The UK contributes to the implementation of the Yazidi Survivor's Law which was passed in March 2021 and we continue to work with a wide range of actors to ensure full implementation. In 2022 the Metropolitan Police War Crimes Team (SO15) agreed an MoU on evidence transfer with the IIM to aid in the investigation of any suspected persons that may have entered the UK.

However, any determination as to whether war crimes, crimes against humanity or genocide have occurred is a matter for competent courts after consideration of all the evidence available in the context of a credible judicial process, as was the case in the Taha-Al Jumailly case in Germany. Nevertheless, our approach continues to be to seek an end to all violations of international law, and to prevent their further escalation, irrespective of whether these violations fit the definition of specific international crimes.

10. *Does the Government consider that an ad hoc international criminal tribunal may be necessary to ensure the prosecution of Daesh crimes and to avoid widespread impunity for genocide and torture?*

Any justice mechanism must respect human rights and the rule of law as well as ensuring fair trials and due process.

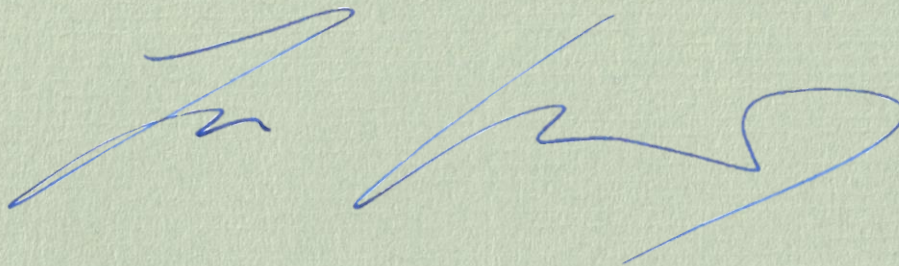
We are committed to seeking accountability for atrocities committed against the Yazidis and have seen promising steps to hold those responsible for these crimes to account. This is seen in the landmark case by the German Federal Court of Justice earlier this year which resulted in the conviction of a member of Daesh, Taha-Al Jumailly committed acts of genocide against a Yazidi woman and her daughter. In 2022, a German Court convicted

another former Syrian official for crimes against humanity. Other states such as Sweden and Canada have conducted investigations into Daesh members.

HMG continues to use its position at the UN, including as a permanent member of the UN Security Council, to secure justice and accountability for the Yazidi people and many other victims of Daesh's crimes. This includes leading the UN Security Council to adopt unanimously Resolution 2379 establishing a UN Investigative Team for the Accountability of Daesh (UNITAD). We are committed to ensuring that UNITAD's legacy is preserved and that international efforts to deliver justice for Da'esh atrocities continue.

Any International Tribunal, or one with international characteristics, would require wide international support to have legitimacy as well as being based on existing legal mechanisms under international law. A tribunal which does not enjoy such support would have limited legitimacy, and any judgements it made would not be enforceable.

Yours ever,

A handwritten signature in blue ink, consisting of several fluid, connected strokes. The signature is positioned centrally on the page, above the printed name and title.

THE RT HON. JAMES CLEVERLY MP
Foreign, Commonwealth and Development Secretary