



Rt Hon Harriet Harman KC MP
Chair, Joint Committee on Human Rights
House of Commons
London
SW1A 0AA

MoJ ref: 110237

8 November 2023

Dear Harriet,

DAESH INQUIRY

Thank you for your letter of 13 October regarding the accountability of British citizens and residents for crimes committed by Daesh in Syria and Iraq. I appreciate the Committee's scrutiny on this important matter, and I have responded to the Committee's questions contained within your letter.

Questions One, Two and Three

Questions one and two seek to establish the number of returned Daesh fighters that have been prosecuted and convicted upon their return to the UK, and to identify the offences that were prosecuted and resulted in convictions. The Ministry of Justice (MoJ) does not hold this information as this is a matter for the Crown Prosecution Service (CPS). Question three asks about the number of individuals that have ever been charged, prosecuted or convicted of offences under the International Criminal Court Act 2001 (ICCA). Once again, the CPS is best placed to provide the information that the Committee requires.

Questions Four and Five

The Committee has asked for my view on the adequacy of the UK's legislative framework for prosecuting individuals involved in Daesh crimes that have returned to the UK. Through the ICCA, the UK criminalises acts of genocide, crimes against humanity and war crimes conducted abroad by UK nationals or residents. The Criminal Justice Act 1988 also enables the UK to prosecute individuals present in the UK for acts of torture. Many of the UK's terrorism offences also have extraterritorial jurisdiction, meaning that foreign fighters, including those who have committed offences such as being a member of a proscribed organisation, the preparation of terrorism or encouraging terrorism, can be prosecuted in the UK. Therefore, I consider that our legislative framework adequately allows for prosecuting individuals who may have committed crimes whilst associated with Daesh and have since returned to the UK.

The Committee has also sought my view as to what is preventing prosecutions of returned Daesh fighters for genocide, crimes against humanity and war crimes. Firstly, it is important to note that decisions to prosecute returned Daesh fighters are made independent of the Government by the Crown Prosecution Service. When deciding whether to initiate a prosecution, Prosecutors, as required by the Code for Crown Prosecutors, must be satisfied that there is a realistic prospect of conviction. It should be recognised that for international criminal cases, there are inevitable challenges in obtaining the evidence required to meet the evidential threshold for prosecution. Moreover, these challenges are exacerbated when evidence is located within war zones.

Question Six

Question six requested my view on whether the limitation of the ICCA to 'active personality' extraterritorial jurisdiction affects the UK's compliance with its international obligations. It is the view of the Government that the ICCA is in accordance with the UK's obligation to legislate domestically for crimes under the Rome Statute, including genocide, crimes against humanity and war crimes and is fully in compliance with the UK's international obligations.

Questions Seven and Eight

The Committee has questioned whether the MoJ has taken recent action to cooperate with states and other international partners to ensure that former Daesh fighters are held accountable for their crimes. The UK Government condemns the atrocities committed by Daesh and continues to collaborate with international partners to explore all avenues in pursuit of accountability. The UK's support for accountability efforts, which has included the establishment of the UN Investigative Team to Promote Accountability for Crimes Committed by Daesh (UNITAD), is led by the Foreign, Commonwealth and Development Office (FCDO). My department continues to align closely with the FCDO in our commitment to supporting the pursuit of accountability for international crimes.

Thank you again for your recent letter and the Committee's consideration of this challenging topic. I stand ready for further engagement with the Committee if required.

Yours sincerely,



RT HON ALEX CHALK KC MP

LORD CHANCELLOR AND SECRETARY OF STATE FOR JUSTICE