



Ministry
of Justice

Lord Ponsonby of Shulbrede
Parliamentary Under-Secretary
of State for Justice

Rt Hon Lord Alton of Liverpool
Chair, Joint Committee on Human Rights
House of Lords
London
SW1A 0PW

MoJ ref: SUB121315

5 February 2025

Dear Lord Alton,

ACCOUNTABILITY FOR DAESH CRIMES INQUIRY

Thank you for your letter of 10 January 2025 to the Lord Chancellor regarding the Joint Committee on Human Rights (JCHR) inquiry on Accountability for Daesh Crimes. I value your scrutiny on this vital issue and recognise the work that was previously undertaken by the JCHR prior to last year's General Election. I note that many of the questions you ask in your letter are a matter for other government departments; but MoJ's response is set out below.

Jurisdiction

Your first question asks to what extent I agree with the former Lord Chancellor's statement that those that fought or support Daesh should face justice through a fair trial in the most appropriate jurisdiction. The government remains committed to upholding the rule of law and the importance of accountability for those who commit serious crimes, including those perpetrated by Daesh.

Questions two and three probe what the most appropriate jurisdiction is for individuals that may have committed crimes as members of or fighters for Daesh. The UK approach to holding perpetrators of serious crimes accountable is to encourage action to pursue justice wherever possible and in conformity with the rule of law. It is vital that those suspected or accused of serious crimes are investigated, charged, and tried fairly and impartially at every stage. Where crimes are committed abroad, we also recognise that alleged offences are best investigated and prosecuted under local laws in the country in which they have taken place because this is where the victims of the crime and wronged community are located, and where evidence is likely to be found. Therefore, determining the most appropriate jurisdiction in a particular context depends on the location of the alleged offences, the availability of evidence, whether there is action to pursue justice and its conformity with the rule of law.

Evidence gathering

The MoJ does not gather evidence or investigate international crimes. Therefore, I refer to the responses of the Home Office and FCDO that relate to the issues raised within questions four to seven.

Prosecution of individuals

Questions eight and nine concern the UK's legislative approach to prosecutions for some international crimes and whether there are plans to amend the International Criminal Court Act 2001 (ICC Act). The UK legal system is built on the tradition that, as a general rule, the authorities of the State in whose territory an offence is committed are best placed to prosecute the crime, in particular because of the availability of evidence and witnesses, and the visibility of justice for victims. However, the UK's jurisdiction over certain crimes extends extraterritorially to accord with customary international law and to comply with the UK's international obligations as set out in various treaties, including the Geneva Conventions and the Convention Against Torture.

As an ICC State Party, the UK has made it a domestic crime to commit crimes in the Rome Statute, including genocide and crimes against humanity. Where such crimes take place in the UK, or are committed by UK nationals or residents overseas, they can be prosecuted before the UK courts. However, the UK view is that the authorities of the State in whose territory an offence is committed are best placed to prosecute the crime. Where it has jurisdiction to do so, the ICC also plays a valuable role in delivering accountability for international crimes, where the authorities in the State in whose territory an offence is committed are unable or unwilling to investigate and prosecute. The Government therefore has no plans to amend the ICC Act.

The Committee asks about the disparity between prosecutions for terrorism offences and international crimes. While prosecutorial decisions of the Crown Prosecution Service are made independent of the Government, it should be recognised that for international criminal cases, there are challenges in obtaining the evidence required to meet the threshold for initiating a prosecution. Understandably, this challenge is exacerbated when the evidence is located within conflict zones and may be unattainable or destroyed.

Question eleven asks whether the Government has plans to amend legislation to consider command or superior responsibility for all international crimes. The UK's legislative framework aligns with our international obligations and there are currently no plans to amend it. However, your question refers to torture as not being covered by the ICC Act. Torture is included as a crime against humanity in the Rome Statute (Article 7(1)(f)), meaning it is possible to prosecute someone who is responsible as a commander/superior under the ICC Act.

The Committee has sought my view on the benefit of prosecuting British Daesh fighters in the UK for international crimes committed overseas. I reiterate the point of the importance of accountability for international crimes committed by Daesh. Furthermore, as noted in response to questions eight and nine, the ICC Act enables domestic prosecutions of UK nationals or residents for international crimes committed overseas. Question twelve also probes whether prosecutions for international crimes could deter British citizens or residents joining international terror organisations in the future. There is a wide range of criminal and terrorism offences that

can be used to prosecute returning foreign fighters depending on the facts of the individual case, which carry the possibility of a sentence up to and including life imprisonment.

Question thirteen asks about the Government's position on the UK signing and ratifying the Ljubljana-The Hague Convention (the 'Convention'). As the FCDO has set out in their detailed response to the Committee, the UK has decided not to sign and ratify the Convention. The UK already has well-established legal frameworks to facilitate international cooperation on the investigation and prosecution of international crimes and remains committed to prioritising and progressing any request for cooperation from States in accordance with the framework. We will continue to work with our international partners to tackle impunity for international crimes.

Domestic Cooperation

Question fourteen asks how collaboration is encouraged across relevant agencies in the context of investigations into international crimes. The MoJ has a key role, working with its agencies and partners, including counterterrorism police, to manage the risks posed by terrorists across the Criminal Justice System in England and Wales. This includes managing risks in custody and supervision on license. However, the MoJ is not involved in investigative matters.

Syria Situation

Your final questions concern the change of administration in Syria, and how this interacts with the UK's policy on repatriation, accountability of Daesh fighters and the actions taken by this Government to ensure accountability, particularly in relation to those held in detention camps in Syria

Our priority is to ensure the safety and security of the UK. We will continue to do whatever is necessary to protect the UK from those who pose a threat to our security. The UK continues to advise against all travel to Syria due to the ongoing conflict and unpredictable security conditions. There is no consular support available to British nationals from within Syria. Each request for consular assistance from Syria 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 considerations.

Accountability is key to any sustainable transition. The UK will work closely with civil society and the international community to support a Syrian-led transitional justice and accountability programme to ensure that those responsible for war crimes and other atrocities are held to account. The UK remains committed to the people of Syria and fully supports a Syrian-led and Syrian-owned political transition process leading to an inclusive, non-sectarian and representative government. We have been very clear in early engagements with the interim authorities that we need to see action on inclusive governance, facilitation of humanitarian aid and cooperation on chemical weapons and countering the threat posed by Daesh to UK national security. The UK urges the interim authorities to adhere to these principles to build a more secure and peaceful Syria. We will continue to support partners who are playing a pivotal role in developing a credible evidence base to record atrocities committed by the former regime and

Daesh. This year alone, we have committed £1.15m to accountability and documentation-related programmes. We will continue to work with our international partners and civil society to advocate for and support mechanisms such as the UN International, Impartial and Independent Mechanism (IIIM) and Independent Institution for Missing Persons (IIMP) to ensure that accountability is a core part of the transitional process.

The UK Government is clear that those who have fought for, or supported Daesh, should wherever possible, face justice for their crimes in the most appropriate jurisdiction. Ultimately, any decision in relation to the continued detention, transfer or prosecution of detainees is ultimately a matter for authorities under whose jurisdiction the individuals are detained

Thank you once more for your correspondence and the Committee's engagement on this important topic.

Kind regards,

A handwritten signature in dark ink, appearing to read 'Ponsonby', is centered within a faint, light-colored rectangular border.

LORD PONSONBY OF SHULBREDE