

Coalition for Genocide Response submission to

The International Development Committee (IDC) inquiry into the effectiveness of the UK government's approach to atrocity prevention within and outside conflicts.

About

The Coalition for Genocide Response is a human rights coalition-building organisation that works towards a comprehensive response to genocide and other international crimes, engaging the UK, regional and international actors. We are independent of any government, political party, international institution, or faith group. Patrons include the renowned judge, the Hon. Michael Kirby AC CMG, founder of Genocide Watch; Professor Gregory H Stanton; and, Sir Geoffrey Nice QC. Members include the Aegis Trust, the All-Party Parliamentary Group on North Korea, Burma Campaign UK, European Centre for the Responsibility to Protect, Genocide80Twenty, Genocide Watch, Oxford Human Rights Hub, Queen Mary University of London Law and International State Crime Initiative, and Yazda, among others.

Genocide and atrocity crimes

Genocide is often referred to as the 'crime of all crimes'. The deliberate destruction, in whole or part, of an ethnic racial or religious group is unquestionably a heinous crime. Yet it should not be considered to the exclusion of other atrocity crimes, which deserve the same level of attention. In principle, at least, there is no hierarchy among atrocity crimes. Raphael Lemkin, when he coined the term genocide, envisioned it as 'first among equals'.

This submission focus principally on genocide prevention, but its arguments are relevant to other atrocity crimes.

Rising impunity

Atrocities are becoming more commonplace across the globe, and there appears to be a rising sense of impunity among perpetrators. Only one person has been convicted following atrocities committed against the Yazidi people; and so far no one has stood trial for the suspected atrocities committed against the Rohingya, Tigrayans or Uyghurs. Groups like Boko Haram continue to commit the most horrific crimes with little fear of accountability.

The international legal system has proven itself repeatedly unable to prevent or respond to atrocities. The UN is consistently paralysed by the UN Security Council veto, the threat of which has precluded referral to the International Criminal Court of alleged atrocities in China, Myanmar, Syria and elsewhere. Together with the jurisdictional limitations of the Rome Statute; and the absence of a robust mechanism to hold to account non-state perpetrators of atrocity crimes, the case for reform is overwhelming.

However, the responsibility to prevent atrocities occurring cannot merely be left to a broken international system. States, non-governmental actors and individuals all have a responsibility to protect those in harm's way, using whatever means we have. In the case of states, however, there is not only a moral obligation to respond and prevent, but often a legal duty, too.

The duty to prevent in the Genocide Convention

Outside of the 'Responsibility to Protect' the UK Government has a legal responsibility to 'prevent' genocide under the Genocide Convention. Whilst the Convention is largely silent on the parameters of state responsibility, the International Court of Justice has subsequently provided clarity. In its judgment in *Bosnia and Herzegovina v. Serbia and Montenegro*, the Court states that the duty to prevent:

...arise[s] at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent (dolus specialis), it is under a duty to make such use of these means as the circumstances permit. (Bosnia and Herzegovina v. Serbia and Montenegro, Application of the Convention on the Prevention and Punishment of the Crime of Genocide, International Court of Justice, 26 February 2007, 431)

This duty to prevent is universal, and, notably, applies that the moment that a state 'should normally have learned' of the existence of a serious risk of genocide. Measured against these Convention obligations, the UK Government is clearly failing. We cannot point to a single example of the UK Government having performed an analysis of 'serious risk of genocide' following the 2007 judgment, despite clear calls from the Houses of Parliament to recognise atrocities faced by Yazidis, Uyghurs, Tigrayans and Burmese.

The UK Government's current strategy

Currently, the UK government's approach to genocide prevention is to wait for a determination of genocide from a 'competent court' before accepting that our Genocide Convention obligations may be triggered. The lack of any competent court, and the government's unwillingness to create one, means that there is—in reality—no appropriate preventative action is being taken that is consistent with our Genocide Convention obligations. As the judgment referenced above said:

This obviously does not mean that the obligation to prevent genocide only comes into being when perpetration of genocide commences; that would be absurd, since the whole point of the obligation is to prevent, or attempt to prevent, the occurrence of the act. (Bosnia and Herzegovina v. Serbia and Montenegro, Application of the Convention on the Prevention and Punishment of the Crime of Genocide, International Court of Justice, 26 February 2007, 431.)

The need for coordinated atrocity prevention

Atrocity prevention is a complex issue spanning many Whitehall departments, from the Department for Trade, to Business, Energy and Industrial Strategy, and the Department of Health. It should not just be viewed in foreign or defence policy terms; it is not merely about diplomatic representations or threats of military force. Instead the government needs to utilise all the tools it has to diminish impunity and ensure accountability, ranging from ensuring that government supply chains are clear of slavery which may be indicative of atrocity crime, to ensuring that our aid spending is being utilised most effectively and guarantee that British businesses have clear guidance on operating in areas suffering—or at risk of suffering—atrocity.

A lack of coordination across government departments risks giving organisations and individuals complicit in atrocity crime a free pass. The recent [BBC report](#) into Burton's operations in the Uyghur region of China is one example. The lack of governmental action regarding businesses operating in Xinjiang, the refusal to impose import controls on the area are all germane to the point. With key allies legislating for a "rebuttable presumption" that all goods made in the Uyghur Region of China are tainted unless proven otherwise, the UK is falling badly behind.

FCDO's role in coordinating effective atrocity prevention

In order for all government departments to be able to ensure that their actions are not either directly or indirectly aiding or abetting the prosecution of atrocity crime, there needs to be clear guidance around where atrocities are occurring and who is involved. It is unclear whether or not the FCDO has a dedicated team responsible for assessing ongoing situations and indicating when they are approaching 'atrocity' levels. There ought to be such a team - An Atrocity Risk Assessment Unit - tasked with engaging civil society groups, FCDO officials, academics, media organisations and other stakeholders to assist them in their determination. Recommendations from this group should be made public, including assessments of how the potential crimes impact different government departments.

Moreover, there should be a clear policy on how and who can trigger an investigation by the FCDO, as well as timings for any reports after investigations. To ensure that atrocity prevention is not subjugated to other foreign policy considerations, it is crucial that Parliament should retain a role in the triggering and reporting aspects of determinations.

The UK Government [framework](#) for preventing mass atrocities, therefore, should be updated so that 'early warning mechanisms to identify countries at risk of instability, conflict and atrocities' includes a mechanism to document and disseminate broad-ranging advice to governmental departments on areas found to be at risk of, or currently suffering, atrocity crimes. In order for this to be effective, the FCDO should set out a clear policy on how evidence is collected, stored and analysed, and what impact any decisions will have on UK policy and advice.

Ongoing assessment of situation and impact of governmental response

Preventing atrocity crimes is not a static endeavour. Atrocity situations often evolve rapidly, especially when linked to conflict. Correspondingly, effective preventative interventions will need to adapt.

Therefore, it is crucial that UK Government risk assessment tools are capable of deploying quickly, and that the relevant officials possess the necessary training to assess the impact of any preventative actions the government may wish to take.

Recommendations

- The UK Government framework for preventing mass atrocities should be updated so that early warning mechanisms are in place and officials equipped to disseminate broad-ranging advice across government and internationally where appropriate. .
- The FCDO should create a clear and comprehensive framework for gathering, collating and analysing information surrounding developing situations, with a linked

framework showing the cascading impact of suggested actions.

- The UK Government should push for reform of the UN Security Council veto, so that referrals to the International Criminal Court can be made by consensus, and not blocked by an accused state.
- The FCDO should create a dedicated Atrocity Risk Assessment Unit, tasked with identifying and assessing potential atrocities, in line with the requirements of the Genocide Convention and other instruments of international law, and relevant jurisprudence.
- The UK Government should review its policy on genocide, which is plainly inoperable and arguably unlawful insofar as it does not cohere with the requirements of the Genocide Convention regarding the obligation to prevent.
- BEIS advice to businesses should be updated to include a dynamic map of developing atrocity crimes and a list of which industries may be affected so as to inform UK companies of the risks associated with sourcing products from certain areas.