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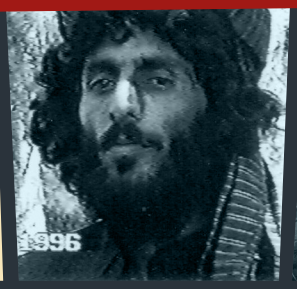
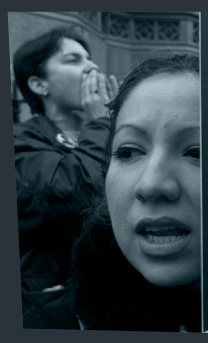
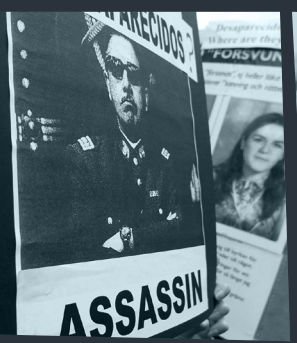
GLOBAL BRITAIN, GLOBAL JUSTICE:

STRENGTHENING ACCOUNTABILITY FOR INTERNATIONAL CRIMES IN ENGLAND AND WALES

REPORT SUMMARY







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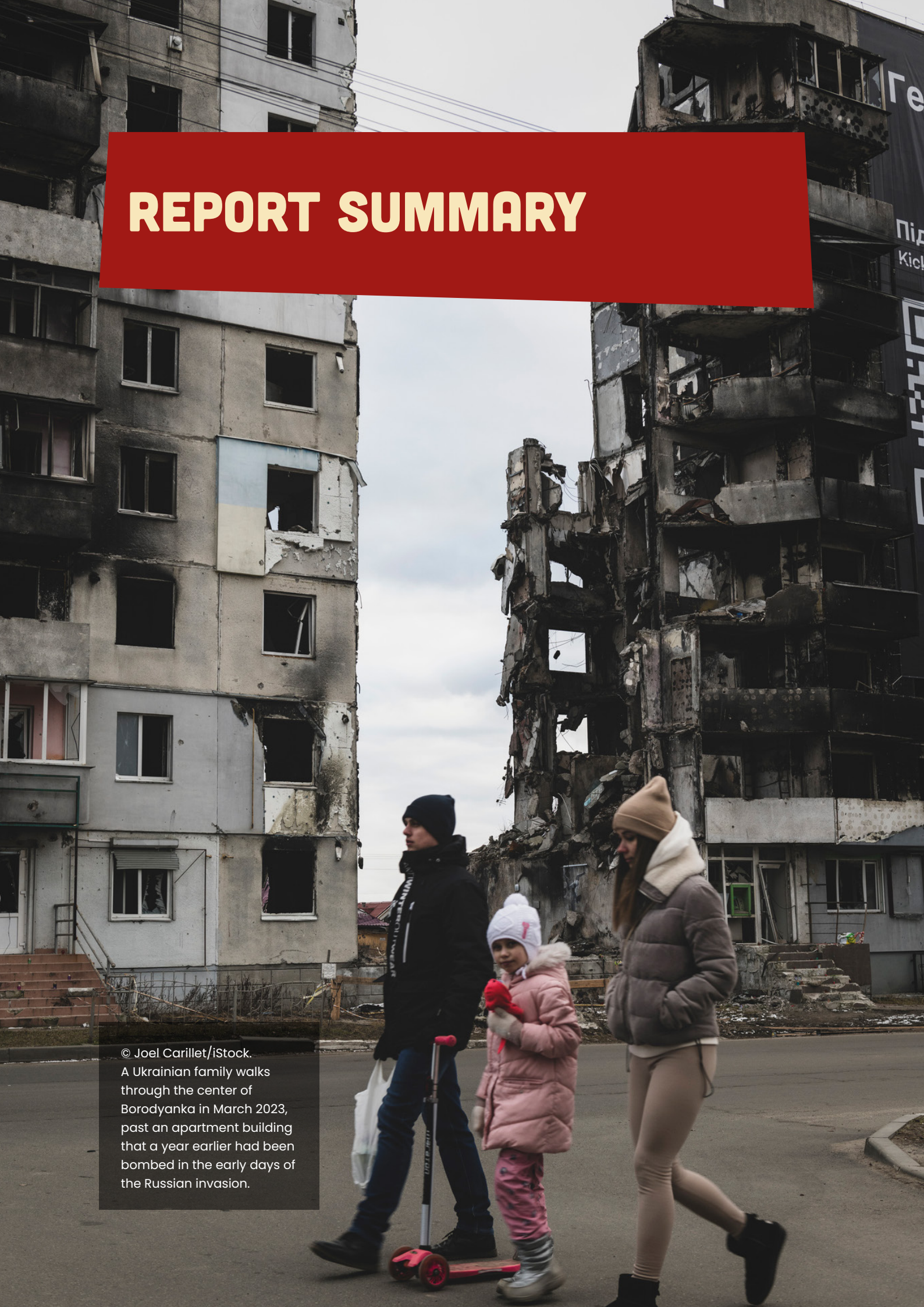

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A Ukrainian family walks through the center of Borodyanka in March 2023, past an apartment building that a year earlier had been bombed in the early days of the Russian invasion.

Following Russia's invasion of Ukraine in February 2022, the UK has joined countries around the world in denouncing war crimes and calling for accountability.[1] But while the UK[2] has celebrated its role at the "forefront of the global response",[3] the reality is that if a Russian general suspected of crimes against humanity in Ukraine were to visit the UK today, he would be free to do so without fear of prosecution.[4] It is time to change this.

Although the reach of national criminal law is typically territorial, more than 150 legal systems around the world provide for some form of "universal jurisdiction" – meaning that they can try suspects for serious international crimes – like war crimes, crimes against humanity and genocide – regardless of where these crimes occur.[5] The rationale behind the principle is that some crimes "so deeply shock the conscience of humanity" that every State has an interest in holding the perpetrators accountable, no matter where the crimes occur, and no matter what the nationality of the victim or perpetrator.[6]

At present, English law includes a limited form of universal jurisdiction. English courts can exercise universal jurisdiction over the crimes of torture, hostage-taking, and a small number of war crimes known as "grave breaches" of the Geneva Conventions[7] if the perpetrator is present in the UK. English courts also have jurisdiction over genocide, crimes against humanity, and war crimes[8] but only if the perpetrator is present in the UK *and* is either a UK national or a legal resident.[9] This means that non-citizens and non-

1 Attorney General's Office, 'UK Attorney General Signs Statement of International Unity in Securing Justice for War Crimes in Ukraine' (UK Government 2022).

2 Note that the use of the term United Kingdom (UK) in this report refers to England and Wales, but not Scotland. This is because Scotland as a jurisdiction has a distinct legal system that is not examined here, and to which these observations and recommendations do not necessarily apply.

3 Attorney General's Office, 'UK Attorney General Signs Statement of International Unity in Securing Justice for War Crimes in Ukraine' (UK Government 2022).

4 Unless the general were subject to an international arrest warrant or were charged with specific war crimes that constitute grave breaches of the Geneva Conventions.

5 For more detail on which countries have adopted universal jurisdiction provisions, see the Clooney Foundation for Justice's 'Justice Beyond Borders' tool.

6 Rome Statute (2187 UNTS 3), Preamble. The Rome Statute opened for signature on 17 July 1998 and entered into force on 1 July 2002.

7 On torture, *see* Criminal Justice Act 1988; on hostage-taking, *see* Taking of Hostages Act 1982; on breaches of the Geneva Conventions, *see* Geneva Conventions Act 1957.

8 *See* International Criminal Court Act 2001, which gives effect to the Rome Statute in the UK. While States Parties to the Rome Statute activated the ICC's jurisdiction over the crime of aggression as its fourth core crime in 2018, the UK has not ratified the corresponding amendments to the Rome Statute: *see* International Criminal Court Act 2001, s 1(10), 'Explanatory Notes'. This report does not address accountability for the crime of aggression in the UK. For more detail on which countries have criminalised aggression, *see* the Clooney Foundation for Justice's 'Justice Beyond Borders' tool.

9 International Criminal Court Act 2001, s 51(2)(b). Under ICCA, "residents" include, amongst others, persons: (a) with indefinite leave to remain in the UK; (b) with leave to enter or remain in the UK to work or study; (c) who have made an asylum or human rights claim; or (d) who are detained in lawful custody. For the full list *see* Coroners and Justice Act 2009, s 70(4).

residents can come to London without fear of prosecution, even if they are reasonably suspected of committing genocide.[10]

In addition to legal challenges, a number of practical challenges have stymied convictions. Official data shows that between 2013 and 2015, 135 individuals were refused citizenship in the UK by the Home Office due to their alleged involvement in war crimes, crimes against humanity, genocide or torture.[11] Yet none of these cases were referred to the Metropolitan Police. Under existing guidelines, the police cannot begin investigations until they have a suspect, and that suspect is in the UK. As a result of this, and practical challenges in gathering evidence of crimes committed abroad, there have only been three successful prosecutions of international crimes in English courts – ever.[12] The last successful prosecution took place well over a decade ago.[13]

This record stands in stark contrast to jurisdictions such as Germany, France, Belgium and Sweden, whose domestic courts have seen a surge in the number of prosecutions initiated under universal jurisdiction laws in recent years. Courts in these countries have tried and convicted ISIS fighters for genocide in Iraq,[14] Assad's henchmen for torture in Syria,[15] and Rwandan genocidaires.[16] These national trials have often been the only meaningful chance to obtain some form of justice for survivors of international crimes and their families.

The Joint Committee on Human Rights of the UK Parliament has criticised the current "patchwork" of laws[17] on prosecuting international crimes in the UK and former Director of Public Prosecutions, Sir Ken Macdonald KC, has described these laws as "illogical".[18] This report sets out reforms that would close loopholes and allow for more successful cases to be brought against war criminals who come to the UK.

10 On the basis that their alleged crimes do not relate to an international armed conflict and the UK therefore cannot exercise its universal jurisdiction over grave breaches of the Geneva Conventions.

11 The requirement for a person to be of good character in order to be naturalised as a British citizen is set out in Schedule 1 to the British Nationality Act (BNA) 1981. Under Home Office guidance, a "person will not normally be considered to be of good character if […] there are reasonable grounds to suspect [that] they […] have been involved in or associated with war crimes, crimes against humanity or genocide, terrorism, or other actions that are considered not to be conducive to the public good".

12 *R v. Sawoniuk* [2000] Court of Appeal (Criminal Division), Crim. L. R. 506; *R v Payne* [2006] Military Court, H DEP 2007/411; *R v Zardad* [2007] Court of Appeal (Criminal Division), Crim. 279.

13 *R v Payne* [2006] Military Court, H DEP 2007/411 (a guilty plea before a court martial).

14 TRIAL International, 'Jennifer W. and Taha A.J.' (last modified 4 April 2022).

15 *See* Human Rights Watch, 'Germany: Conviction for State Torture in Syria' (13 January 2022); EJIL: Talk!, 'France's Highest Court Confirms Universal Jurisdiction' (1 June 2023).

16 *See* TRIAL International, '2022 Universal Jurisdiction Annual Review' (2023).

17 Joint Committee on Human rights, 'Closing the Impunity Gap: UK law on genocide (and related crimes) and redress for torture victims,' (House of Commons, 11 August 2009).

18 *Ibid.*, para. 28.

Legal challenges

UK law includes four major legal challenges that impede successful prosecutions.

(1) UK law limits prosecutions for most international crimes to suspects who are UK residents or citizens. Under the International Criminal Court Act 2001 (ICCA), UK courts can try cases of genocide, crimes against humanity and war crimes committed after a certain date.[19] But, as noted above, prosecutions can only be brought against UK *nationals or residents*, or those subject to the UK's service jurisdiction. In contrast, the Criminal Justice Act 1988 (CJA), which criminalizes acts of torture committed in or after 1988, does not require individuals to be residents or nationals of the UK; it is sufficient for them to be merely present on UK territory. There is no principled reason that UK courts should be able to prosecute non-citizens and non-residents for torture but not crimes against humanity, or war crimes and genocide – which can all be committed through torture when other elements are present.

(2) UK law is inconsistent about how far back prosecutions can go, leaving gaps in the ability to prosecute certain crimes. UK authorities can prosecute international crimes within inconsistent timeframes. Torture can be prosecuted if committed after 1998.[20] Genocide can be prosecuted if committed "on or after 1 January 1991".[21] But crimes against humanity and war crimes can be prosecuted if committed after 1 September 2001 "unless, at the time the act constituting that crime was committed, the act amounted in the circumstances to a criminal offence under international law".[22] Which crimes have been codified in customary law, and when, has however not been clarified by Parliament nor exhaustively addressed by the courts.[23] Meanwhile, grave breaches of the Geneva Conventions can be prosecuted if committed in the context of an international armed conflict as far back as 1957.[24]

19 *See* Legal Framework for Prosecuting Internationl Crimes in the UK, 'Relevant Legislation,' below.

20 Criminal Justice Act 1988, Introductory Text and s 171(6).

21 The ICCA came into force on 1 September 2001, criminalising acts of genocide, crimes against humanity, and war crimes committed after that date (*see* International Criminal Court Act 2001 (Commencement) Order 2001), but given that it repealed the Genocide Act 1991, the ICCA was later amended to retrospectively extend jurisdiction to acts of genocide occurring on or after 1 January 1991. *See* ICCA, s 65, inserted by the Coroners and Justice Act 2009. This ensured that genocidal conduct during the conflicts in the former Yugoslavia and Rwanda in the early 1990s could be criminalised in domestic law.

22 ICCA, s. 65A.

23 Kate Grady, 'International Crimes in the Courts of England and Wales' (2014) 10 *Criminal Law Review* 693.

24 The Geneva Conventions Act 1957 (GCA) criminalises grave breaches of the Geneva Conventions, some of which are also covered by ICCA. The GCA has effect from 31 July 1957 for grave breaches of the 1949 Geneva Conventions, 20 July 1998, for grave breaches of the Additional Protocol I, and 5 April 2010 and for grave breaches of the Third Additional Protocol to the Geneva Conventions. *See R v Jones and Milling,* [2006] UKHL 16, at paras.19 and 23 *per* Lord Bingham (finding that "a crime recognised in customary international law may be assimilated into the domestic criminal law" of the UK, that "the core elements of the crime of aggression have been understood, at least since 1945, with sufficient clarity to permit the lawful trial… of those accused of this most serious crime", but citing with approval the conclusion that "international law could not create a crime triable directly" in English courts). For a detailed review of the UK courts' approach to customary international law, *see* Lord Lloyd-Jones, 'International Law Before United Kingdom Courts: A Quiet Revolution' (2022) 71 I*nternational & Comparative Law Quarterly*.

(3) UK legislation does not recognise command and superior responsibility, two important modes of liability in international law, for some international crimes.[25] These modes of liability allow prosecutors who may not be able to prove beyond reasonable doubt that orders were given, to instead prosecute military commanders or civilian leaders for being negligent in failing to prevent or punish serious atrocities committed by their subordinates.[26] The ICCA has introduced these modes of liability into domestic law in relation to the crimes of genocide, war crimes and crimes against humanity. But they do not exist in relation to torture under the CJA.[27] Nor does the Geneva Conventions Act 1957 specifically incorporate these modes of responsibility for grave breaches of the Geneva Conventions into domestic law.[28] Recognition of these two forms of responsibility for international crimes is instrumental to overcome a common hurdle in the prosecution of international crimes: the linkage of commanders to crimes committed by their subordinates. Domestic forms of accessorial liability will often be insufficient because they do not address such omissions by military and political commanders.

(4) Granting "special mission immunity" to visiting officials obstructs the ability to prosecute them. By conferring "special mission immunity" on foreign government representatives sent on official business to the UK, the UK Government has on occasion prevented the arrest and trial in the UK of individuals suspected of international crimes. For example, the UK police refused to arrest an Egyptian General alleged to be responsible for torture after a violent coup[29] despite its obligation to criminalise torture under the UN Convention against Torture on an extraterritorial basis and investigate and prosecute acts of torture occurring abroad when alleged perpetrators are in the UK.[30]

25 "Command responsibility" as defined in ICCA means that a military commander, or a person effectively acting as a military commander, is responsible for offences committed by forces under their effective command and control or their effective authority and control, where: (a) they either knew, or should have known that the forces were committing or about to commit offences of genocide, crimes against humanity or war crimes; or (b) they failed to take all necessary and reasonable measures within their power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution: International Criminal Court Act 2001, s 65(3)(a). "Superior responsibility", meanwhile, confers responsibility on civilian leaders for offences committed by subordinates under their effective authority and control on a very similar basis, except that there is no expectation that they should have known about the activities of their subordinates; instead, it must be proven that they "either knew, or consciously disregarded information which clearly indicated" that the crimes were being committed: International Criminal Court Act 2001, s 65(3)(a).

26 William Schabas, *An Introduction to the ICC* (CUP 2020), pp. 234 – 235.

27 International Criminal Court Act 2001, s 65. *See* also Rome Statute, art 28.

28 When these crimes do not fall within the jurisdiction of ICCA. This includes breaches of additional protocols.

29 *R (on the application of Freedom and Justice Party) v The Secretary of State for Foreign and Commonwealth Affairs* [2016] EWHC 2010 (Admin), para. 9.

30 As recognised in *Pinochet (No. 3)* [2000] 1 AC 147.

Practical challenges

In addition to legal challenges, five major practical obstacles have stifled attempts to prosecute international crimes in the UK.

(1) Investigations into international crimes traditionally have not begun before a perpetrator has been identified and is present on UK territory.[31] Cases of alleged international crimes are referred to the Counter Terrorism Command of the Metropolitan Police (SO15). Existing guidelines advise the police not to begin investigations until they have an identifiable suspect, and that suspect is in the UK.[32] Waiting for a suspect to travel to the UK before launching an investigation can lead to situations in which investigators have little advance warning or time to gather evidence that would be sufficient to file charges.

(2) UK investigators face significant challenges in gathering evidence from foreign jurisdictions. Investigating international criminal cases often involves obtaining evidence from remote, sometimes conflict-riven, locations in countries that may not be open to cooperation. This task requires specialised expertise, dedicated resources, and contact with credible non-governmental organisations (NGOs) and survivors. NGOs are often the first to bring cases to the authorities' attention and may be the only entities on the ground with contacts to victims and witnesses. While the UK War Crimes Network provides a forum for exchange with NGOs, additional outreach and clear guidance from police and prosecutors on how to collect and submit evidence would improve the contribution that NGOs can make to prosecutions. Indeed, failures when it comes to evidence have led to acquittals in the few cases involving international crimes that have gone to trial. There is also inadequate support for witnesses who travel from abroad[33] and insufficient guidance about how to gather and share evidence in a manner that will be admissible in court.

(3) The UK lacks sufficient mechanisms for international cooperation in investigations. There is currently no international treaty setting out the obligations of States in relation to crimes against humanity. In addition, the UK no longer has access to the Schengen Information System, a database of alerts on people and objects entering EU territory. While it remains an observer of the EU Genocide Network, it is also no longer a member of Eurojust and Europol. It is a party to over forty bilateral mutual legal assistance (MLA) treaties, but there remains a lack of clarity on the exact scope of the duties

31 Crown Prosecution Service, 'War Crimes/Crimes Against Humanity Referral Guidelines' (7 August 2015), section A: Scoping Exercise (suggesting that a scoping exercise preceding the start of an investigation should take into account whether there is an "identifiable suspect" and that if there are no "reasonable means of obtaining evidence of identification […] then it will not be possible to identify the suspect and so an effective investigation cannot at this stage be carried out").

32 *Ibid.*

33 *See* 'UK investigators face significant challenges in gathering evidence from foreign jurisdictions' below.

and obligations of States to assist each other in the investigation and prosecution of international crimes.

(4) There is insufficient coordination between the UK's relevant national agencies. The UK War Crimes Network, a group of government agencies working to address international crimes, convenes bi-annually to discuss case work. Coordination between agencies could be improved, however. For instance, between 2013 and 2015, the Home Office refused citizenship to 135 individuals due to their alleged involvement in war crimes, crimes against humanity, genocide or torture. Yet none of these cases were referred to the Metropolitan Police for investigation.[34]

Universal jurisdiction is a critical weapon in the global fight to curb impunity for grave crimes. For the UK's commitment to achieving accountability for international crimes to move beyond rhetoric, steps must be taken to sharpen the legal and practical tools at the disposal of the UK authorities. The following recommendations are offered to strengthen the UK's response to international crimes, so that it can truly be at the forefront of the global fight to hold the perpetrators of atrocities to account.

Recommendations

Overcoming Legal Challenges

The UK Government should amend relevant laws as follows, to allow for more alleged perpetrators of international crimes to be prosecuted in the UK:

(1) The UK should remove the nationality and residence requirements for prosecutions for genocide, crimes against humanity and war crimes, so that any suspect present in the UK can be prosecuted there. This would standardise the UK's approach across international crimes[35] and enhance its ability to prosecute war criminals on its territory. To go one step further, the UK could remove the presence requirement for all international crimes to allow for even greater accountability, as is the case in countries such as Sweden and Germany.

(2) The UK should amend the ICCA to ensure that UK courts have jurisdiction over all crimes covered by the Rome Statute – genocide, crimes against humanity and war crimes – from at least 1991, and indicate which crimes could be prosecuted prior to this date under customary international law. The ICCA should be amended to ensure that UK courts have jurisdiction over all Rome Statute crimes – not just genocide, as per current law – from 1 January 1991, and even further back for any offences that were criminalised under customary international law before that date.

34 Freedom of Information Request held in REDRESS' files.

35 This would bring the provisions of the International Criminal Court Act in line with English law on torture under the CJA.

(3) The UK should amend relevant laws to recognise command and superior responsibility for all international crimes. The Geneva Conventions Act 1957 should explicitly recognise command and superior responsibility for grave breaches of the four Geneva Conventions and their Additional Protocols, as the ICCA does for international crimes covered by that Act. Similarly, the UK Government should amend the Criminal Justice Act 1988 to provide for superior command and superior responsibility for torture committed by subordinates.

(4) The UK should codify its approach to special mission immunity, including its scope under customary international law.[36] **The UK should refuse to accept an individual as being on a special mission, and potentially entitled to immunity, when there are reasonable grounds to suspect that the individual has been involved in or associated with international crimes including torture, war crimes, crimes against humanity or genocide.**[37] **Reasonable grounds include instances when the individual is identified as a suspect by the International Criminal Court, the UK authorities or a UN investigative mechanism.**[38] Creating a carve-out from such immunity for those credibly suspected of international crimes would satisfy the UK's obligations under the UN Convention against Torture, the Rome Statute, the UN Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions and other treaties. If and when the FCDO does grant special mission immunity, it should be more transparent: by publishing in advance of any grant of special mission immunity information including who it relates

36 *See* CAHDI, 'Replies by States to the questionnaire on 'Immunities of Special missions', CAHDI (2018) 6 prov, p116-117 ("Insofar as the immunity of special missions is part of customary international law, it is also a source of the common law… It is clear that persons on a special mission enjoy personal inviolability and immunity from criminal jurisdiction. It is likely that persons on a special mission would enjoy immunity from civil jurisdiction in so far as the assertion of civil jurisdiction would hinder them performing their official functions…However there are no recent judicial precedents…").

37 *See* Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 5.2, Dec. 10, 1984, 1465 U.N.T.S. 85 ("Each State Party shall … take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph I of this article."); Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the UN General Assembly, Res. 260 A (III), 9 December 1948, Article I ('The Contracting Parties confirm that genocide … is a crime under international law which they undertake to prevent and to punish'); Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field Article 50, Aug. 12 1949, 75 U.N.T.S. 31; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea Article 51, Aug. 12 1949 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War Article 129, Aug. 12 1949, 75 U.N.T.S. 135; Geneva Convention Relative to the Protection of Civilian Persons in the Time of War Article 146, Aug. 12 1949, 75 U.N.T.S. 287.

38 This is consistent with Home Office guidance, which provides that an individual will be refused citizenship if "there are reasonable grounds to suspect [that] they […] have been involved in or associated with war crimes, crimes against humanity or genocide, terrorism, or other actions that are considered not to be conducive to the public good".

to, for what mission and for what duration it will be granted.[39] This would ensure greater transparency and accountability.

Overcoming Practical Challenges

(1) UK authorities should continue to strengthen the concept of structural investigations for the effective investigation of international crimes and investigate suspects likely travel to the UK, even if travel is not imminent. Traditionally, the UK has not investigated a situation until a suspect is present in the UK.[40] But more recently, the UK has begun to adopt 'structural investigations', which allow investigators to compile contextual evidence of war crimes, crimes against humanity, or genocide before a potential perpetrator enters the country. War crimes units in other countries have already adopted this approach. For example, a structural investigation in Germany led to the recent landmark conviction of two former members of the Syrian Intelligence Service for crimes against humanity and torture, when they were identified on German territory after initial investigations had begun.[41] SO15 has recently announced the opening of structural investigations in each of the countries under investigation by the ICC,[42] and this practice should be continued and sufficiently resourced into the future. In addition, SO15 should interpret the requirement of a "reasonable prospect" that the suspect will enter the UK, as set out in the War Crimes/Crimes Against Humanity Referral Guidelines[43] broadly, to allow for investigations to progress in cases even when travel is not imminent.

(2) UK authorities should further collaborate with NGOs and survivors to gather evidence, provide appropriate support to survivors who provide evidence, and disseminate clear guidance on how NGOs should collect and submit evidence to ensure admissibility in UK courts. Both SO15 and the CPS should disseminate clear guidance on how NGOs should collect and submit evidence to ensure maximum trial efficacy, similar to the documentation guidelines published by the ICC Prosecutor,[44]

39 This is consistent with the policy that 'Embassies and High Commissions in London will be invited to inform the FCO of forthcoming visits in cases where they wish to seek the Government's express consent as a special mission. The FCO will respond with Government's consent or otherwise to the visit as a special mission. Any legal consequences would ultimately be a matter for the courts". Foreign and Commonwealth Office, 'Written Ministerial Statement: Special Mission Immunity (4 March 2013).There is also already a published list of "[r]epresentatives of Foreign States & Commonwealth Countries and their diplomatic staff [who] enjoy privileges and immunities under the Diplomatic Privileges Act (1964)". The London Diplomatic List is available online.

40 Crown Prosecution Service, 'War Crimes/Crimes Against Humanity Referral Guidelines' (7 August 2015), section A: Scoping Exercise.

41 TRIAL International, '2022 Universal Jurisdiction Annual Review' (2023).

42 Information provided by email on 8 June 2023. The ICC Office of the Prosecutor currently investigates 'situations' in the following countries: Democratic Republic of the Congo, Uganda, Darfur (Sudan), Central African Republic, Libya, Côte d'Ivoire, Mali, Georgia, Burundi, Palestine, Bangladesh/Myanmar, Afghanistan, the Philippines, and Venezuela.

43 Crown Prosecution Service, 'War Crimes/Crimes Against Humanity Referral Guidelines' (7 August 2015).

44 Office of the Prosecutor, Eurojust, 'Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisations' (September 2022).

and consistent with the Murad Code, a global code of conduct to improve the pursuit of justice for survivors of conflict-related sexual violence developed with UK support.[45] When a case advances to trial, practices such as the provision of testimony by video link should be considered where possible to alleviate certain challenges involving witnesses who are located abroad. Adequate resources should be made available for victim support to ensure their safety and uphold their rights to information, interpretation, and translation. Finally, authorities should improve survivor outreach to ensure that affected communities, especially victims and survivors, and other relevant stakeholders are adequately informed about accountability measures for international crimes in the UK.

(3) The UK should strengthen international cooperation in prosecuting international crimes, including by signing and ratifying the Ljubljana-Hague treaty and taking a leading role in advancing the Crimes against Humanity treaty. The Ljubljana-Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes Against Humanity, War Crimes and Other International Crimes (MLA treaty) was adopted in May 2023 and will be open for signature in 2024. It aims to clarify the duties of State Parties to assist one other in the domestic investigation and prosecution of cases of genocide, war crimes, and crimes against humanity. And, despite efforts by the UK and France to limit obligations under the treaty,[46] the treaty sets out the duty of States to prosecute or extradite suspects of international crimes under international law.

The UK should also adopt the proposed Convention on Prevention and Punishment of Crimes against Humanity. Currently, crimes against humanity (unlike genocide, war crimes and torture) are not codified in any international treaty governing national trials. A treaty drafted by the International Law Commission will be considered at the UN in 2024. If ratified in its current form, the treaty would impose a legal obligation on the UK and other State Parties to "prevent and punish" crimes against humanity through legislative and judicial measures, in cooperation with other States and organisations.[47] Article 7 of the draft treaty also provides that "[e]ach State shall also take the necessary measures to establish its jurisdiction over [crimes against humanity] in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite or surrender the person".[48] This means removing the nationality and residence requirement

45 *See* Murad Code: The Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence (2022).

46 Amnesty International UK, 'UK: Government seeks to water down treaty which could allow war criminals to go free' (18 May 2023).

47 If the UK failed to uphold its obligations, other countries may be able to file a case against it at the International Court of Justice. *See* International Law Commission, Draft articles on Prevention and Punishment of Crimes Against Humanity (2019), Arts 4, 15.

48 International Law Commission, Draft articles on Prevention and Punishment of Crimes Against Humanity (2019), Art 7.

under current legislation, and instead proceeding on the basis of a suspect's presence in the UK alone, as recommended in this report.[49]

(4) The UK's relevant national bodies, such as the Home Office, CPS and Metropolitan Police, should improve coordination amongst themselves and appoint a point person akin to an Ambassador-at-Large for Global Criminal Justice. Building on the UK War Crimes Network, increased coordination among bodies such as the CPS, SO15, the Attorney General's Office, immigration authorities, and the FCDO should improve the exchange of information and data relevant to prosecutions of international crimes (including on any asylum seekers or citizenship applicants who are suspected of such crimes). The UK Government should also create a role similar to the US Ambassador-at-Large for Global Criminal Justice to facilitate coordination amongst national bodies, and encourage a consistent policy approach towards international justice. The US Ambassador-at-Large heads the US Office for Global Criminal Justice, which advises the US Secretary of State and the US Under Secretary of State for Civilian Security, Democracy, and Human Rights on issues related to war crimes, crimes against humanity and genocide. The US Office for Global Criminal Justice also formulates national policy responses to atrocities, which ensures a degree of consistency in the national response to such crimes.[50] Establishing a similar centralising body in the UK would help ensure that the UK's responses to atrocities are consistent with the country's international obligations and enable it to bring war criminals to justice.

49 *See* Recommendation 1 above: The UK should remove the nationality and residence requirements for prosecutions for genocide, crimes against humanity and war crimes so that any suspect present in the UK could be prosecuted.

50 US Department of State, Office of Global Criminal Justice.

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