

# STRENGTHENING ACCOUNTABILITY FOR SERIOUS INTERNATIONAL CRIMES

## Improving the universal jurisdiction framework through amendment of the International Criminal Court Act 2001

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### SUMMARY

The Crime and Policing Bill presents a unique opportunity to close longstanding accountability gaps in the UK's universal jurisdiction laws and ensure that perpetrators of the world's most serious crimes can be brought to justice on British soil.

Our organisations propose an amendment to the Crime and Policing Bill that would amend the [International Criminal Court Act 2001](#) (ICCA) to remove the residency and nationality requirement so that anyone present in the UK can be prosecuted for genocide, war crimes, or crimes against humanity. At a time when such crimes are on the rise globally, these reforms – first published in a [joint report](#) by REDRESS and the Clooney Foundation for Justice<sup>1</sup> – would uphold the rule of law, enhance national security, and help build safer communities both at home and abroad.

#### What is universal jurisdiction?

UK courts can prosecute certain international crimes under the principle of '[universal jurisdiction](#)' – a legal framework that allows states to pursue justice for the most serious offences committed abroad, even when the case has no direct connection to their citizens or territory. These crimes include genocide, war crimes, crimes against humanity, and torture. Universal jurisdiction reflects the global consensus that such crimes are so grave that they demand accountability, wherever they occur.

At present, the UK's ability to prosecute grave international crimes under universal jurisdiction is limited. Under the ICCA, prosecutions can only be brought for genocide, war crimes and crimes against humanity where the suspect is a UK national or resident. As a result, individuals accused of serious international crimes can enter the UK without facing justice.

This legal gap has drawn strong criticism at a senior level. The Joint Committee on Human Rights (JCHR) has [criticised](#) the current legal framework for creating "barriers to accountability",<sup>2</sup> while the former Director of Public Prosecutions, Sir Ken Macdonald KC, has called it "[illogical](#)".<sup>3</sup> The practical consequence of these limitations is clear: only three successful prosecutions for

<sup>1</sup> Redress and Clooney Foundation for Justice, '[Global Justice, Global Britain: Strengthening Accountability for International Crimes in England and Wales](#)'. Proposals from the Clooney Foundation for Justice and REDRESS were endorsed at – and since – the launch of the report by a number of UK legal experts including Lord Macdonald of River Glaven KC, a former Director of Public Prosecutions; Lord Anderson of Ipswich KBE KC, a former Independent Reviewer of Terrorism Legislation; British judge Sir Howard Morrison KCMG CBE KC, a former judge at the International Criminal Court; and Lord Falconer of Thoroton PC KC, a former Lord Chancellor. See also: '[Amal Clooney and Rupert Skilbeck on why Britain fails to hold war criminals to account](#)' (The Economist, 19 October 2023).

<sup>2</sup> JCHR, '[Accountability for Daesh crimes](#)' (House of Commons, 13 May 2025), para. 47.

<sup>3</sup> JCHR, '[Closing the Impunity Gap: UK law on genocide \(and related crimes\) and redress for torture victims](#)' (House of Commons, 11 August 2009), para. 28.

international crimes have ever been brought before the English courts.<sup>4</sup> This record stands in stark contrast to jurisdictions such as Germany, France, Belgium, the Netherlands and Sweden, whose domestic courts have seen a rise 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](#), [Assad's henchmen for torture in Syria](#), and [Rwandan genocidaires](#).

To address this, the JCHR has proposed, in both its [Crime and Policing Bill](#) and [Accountability for Daesh Crimes](#) reports, using the Crime and Policing Bill 2025 to make targeted amendments to the ICCA. The International Development Committee has [recommended](#) the same. Such an amendment would for the first time allow for the prosecution of anyone present in the UK for genocide, war crimes and crimes against humanity, regardless of their nationality or residency status.

### Why are domestic criminal prosecutions not always sufficient?

Atrocities continue to be committed in conflicts around the world and universal jurisdiction is often the only meaningful chance for survivors of international crimes and their families to obtain justice. Domestic prosecutions alone are often inadequate to deliver justice for the most serious international crimes. In many conflict-affected or authoritarian contexts, local legal systems may be unwilling or unable to investigate and prosecute atrocities due to insecurity, lack of resources, political interference, or systemic breakdown. For survivors and their families, this means that the hope of accountability in their home country may be entirely out of reach. Survivors might well be refugees fleeing atrocities and therefore unable to travel back or file a complaint in their home country. In such situations, prosecutions in third-party countries under universal jurisdiction often represent the only realistic pathway to justice. Universal jurisdiction allows national courts to act when other systems fail, ensuring that perpetrators of crimes such as genocide, war crimes, and crimes against humanity do not enjoy impunity simply because they committed crimes outside the prosecuting state's borders.

This briefing supports the proposed recommendation from the JCHR and the International Development Committee and outlines the practical consequences if the law is not reformed. Adopting these amendments would close a loophole, empower prosecutors to more effectively exercise universal jurisdiction, and help the Government in ensuring that the UK does not become a safe haven for those accused of international crimes.<sup>5</sup>

**These reforms would reaffirm the UK's commitment to international justice and the global fight against impunity, while maintaining existing procedural safeguards** that allow the Government to retain oversight of the number and nature of prosecutions brought. If the UK is serious about its commitment to international justice, it must be consistent and ensure that its own legal framework is equipped to support universal jurisdiction cases.

## LEGAL CHALLENGES AND MISSED OPPORTUNITIES FOR ACCOUNTABILITY

**The ICCA limits prosecutions for crimes against humanity, war crimes and genocide to suspects who are UK residents or citizens, or those under UK service jurisdiction.** In contrast, the Criminal Justice Act 1988 allows prosecutions for torture committed in or after 1988 based solely

<sup>4</sup> *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.

<sup>5</sup> The UK Prime Minister told the INTERPOL General Assembly in November 2024: "[W]e want to send a clear message to the world's most hardened criminals: there is no safe haven. There is no place that you can hide from justice." [PM speech to the INTERPOL General Assembly: 4 November 2024](#), Prime Minister's Office, 10 Downing Street.

on the suspect's presence in the UK, regardless of nationality or residency, and the Geneva Conventions Act 1957 allows prosecutions for grave breaches of the Geneva Conventions committed in the context of an international armed conflict dating back to 1957, based on presence alone. There is no clear justification for why UK courts should be able to prosecute non-citizens and non-residents for torture, but not crimes against humanity, or war crimes and genocide. This discrepancy restricts the effective use of universal jurisdiction, particularly given the gravity of these crimes, and the fact that torture can amount to these wider violations when the relevant elements are present.

### What are crimes against humanity, war crimes and genocide?

Crimes against humanity and genocide are amongst the most serious violations of human rights. [Crimes against humanity](#) involve specific crimes committed in the context of a widespread or systematic attack targeting civilians, regardless of their nationality. These crimes, which may include murder, torture, sexual violence, enslavement, persecution and enforced disappearance, are distinguished from "ordinary crimes" by how widespread or systematic the violations are, and by who is targeted (civilians). While they may involve acts of torture, they don't necessarily have to, and unlike war crimes, they can occur during peacetime.

[War crimes](#) are serious violations of international humanitarian law committed during armed conflict. These crimes include targeting civilians, torture, murder, sexual violence, taking hostages, or intentionally attacking humanitarian personnel or facilities. Unlike crimes against humanity or genocide, war crimes must occur in the context of an armed conflict, whether international or non-international. While some acts may overlap with crimes against humanity, war crimes do not require a widespread or systematic attack, nor do they need to be directed at civilians specifically, though many are.

[Genocide](#), meanwhile, is defined by the specific intent to destroy, in whole or in part, a national, racial, ethnic or religious group. While some acts of genocide (such as killings or sexual violence), can also constitute war crimes and crimes against humanity, they amount to genocide only when committed with the specific intent to destroy a group.

As a result of the legal gap, suspects of genocide, war crimes, or crimes against humanity who are not UK nationals or residents are free to visit and transit through the UK, potentially for long periods of time, without any fear of prosecution by UK authorities.<sup>6</sup> For example, **if a senior Russian official accused of committing torture and enforced disappearances on a systematic, widespread basis against civilians in Ukraine — amounting to crimes against humanity — were to visit the UK, they could not be prosecuted under the current law for that crime.** The same would apply to an Iranian official responsible for widespread repression against women in Iran, or a member of Sudanese government forces accused of ethnic cleansing in Darfur. These are not merely hypothetical scenarios.

<sup>6</sup> With the exception of grave breaches of the Geneva Conventions, over which UK courts do exercise universal jurisdiction. Note, however, that the concept of grave breaches has traditionally only applied to international armed conflicts, and not to non-international armed conflicts. See e.g. ICTY, [Prosecutor v. Dusko Tadic](#), Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction (2 October 1995); Marko Divac Oberg, ['The absorption of grave breaches into war crimes law'](#), 91 *International Review of the Red Cross* (March 2009) 873.

### Case Study: Former Rwandan General James Kabarebe linked to M23 rebel group visits London to speak at a UN peacekeeping conference

In September 2016, former Rwandan General James Kabarebe visited London [to speak at a United Nations \(UN\) peace keeping](#) conference. Then-Prime minister Boris Johnson reportedly granted him [special mission immunity](#) for the duration of his visit.

In a [UN report published in 2012](#), General James Kabarebe was [identified](#) as “effectively directing” the Rwandan-backed [M23 rebel group](#), which has been implicated in widespread war crimes, [including](#) summary executions, rapes, and forced recruitment in the Democratic Republic of the Congo (DRC). Kabarebe allegedly had [command control over the group](#) during its capture of Goma, the capital of North Kivu province in the DRC. The attack reportedly left over [140,000 people displaced](#) and Human Rights Watch [documented](#) at least 24 summary executions and 26 rapes committed by M23 fighters during the occupation.

Kabarebe, now Rwanda’s Minister of State for Regional Integration, [reportedly](#) still serves as a liaison to the M23 and was sanctioned by the [U.S.](#) in February 2025 for his alleged role in directing the rebel group’s operations and human rights abuses in eastern DRC.

Despite the gravity of the allegations, Kabarebe could not have been prosecuted under the ICCA during his 2016 visit to the UK, even without special mission immunity. As he is neither a UK national nor a resident, UK courts would have lacked jurisdiction under the Act’s current provisions.

### Case Study: Herzl Halevi’s UK Visit Raises Accountability Concerns

On 25 November 2024, then-Chief of General Staff of the Israel Defence Forces (IDF) Herzl Halevi, [visited the UK to discuss](#) “the ongoing conflicts in Lebanon and Gaza”, meeting senior UK officials from the Ministry of Defence, the FCDO and the Attorney General. The FCDO granted Halevi [special mission diplomatic immunity](#).

[Described](#) as the “public face” of Israel’s military offensive in Gaza since 7 October 2023, Halevi commanded the IDF and is [implicated](#) in numerous war crimes and crimes against humanity. According to a June 2024 UN [report](#), these crimes include starvation as a method of warfare, murder or wilful killing, deliberate attacks against civilians and civilian objects, forcible transfer, sexual violence, torture, arbitrary detentions and outrages upon personal dignity. The report specifically names Herzl Halevi as one of the leaders of the IDF who bears utmost responsibility for these crimes, violations, and abuses. According to Palestinian health authorities, the offensive in Gaza has now [claimed](#) over 65,000 lives.

Were Halevi to return to the UK without immunity, he could not be prosecuted under the ICCA since he is not a UK national or resident.

## PROPOSED AMENDMENTS TO THE CRIME AND POLICING BILL

To close the loophole, the UK Government should adopt the following amendment to the Crime and Policing Bill, as proposed by the JCHR and International Development Committee in their recent reports. This amendment, which in turn amends the ICCA, removes the current nationality and residence requirements for prosecuting genocide, war crimes and crimes against humanity. Adopting this amendment would standardise the UK’s approach across most international crimes and strengthen its ability to pursue justice for these offences when suspects are present on its territory.

This amendment is not a reactive response to any one current conflict, but part of a long-standing and principled attempt to address gaps in accountability under UK law. As early as 2009,

the JCHR recommended reforming the UK's approach to universal jurisdiction, noting in its report "[Closing the Impunity Gap](#)" that existing nationality and residency requirements created unnecessary barriers to justice for crimes such as genocide and crimes against humanity. The current proposal builds on these long-recognised concerns and reflects a sustained commitment to strengthening the UK's ability to respond to serious international crimes, wherever they occur.

### **What oversight does the Government have over prosecutions?**

The UK's existing legal framework already contains robust provisions to ensure prosecutions are tightly controlled. This includes, for example, the requirement for the Attorney General's consent<sup>7</sup> before proceedings can be initiated for offences such as torture committed outside the UK, war crimes, hostage-taking, grave breaches of the Geneva Conventions, and ICCA crimes. Similarly, the Director of Public Prosecutions must consent to the issuance of a private arrest warrant for suspects accused of grave breaches of the Geneva Conventions, hostage-taking and torture. Also, the Foreign Commonwealth and Development Office may grant Special Mission Immunity, providing temporary protection for individuals on official diplomatic missions. These measures enable the Government to rigorously scrutinise cases and retain oversight of the number and nature of prosecutions brought, including where diplomatic sensitivities may arise.<sup>8</sup>

The proposed amendments are as follows:

### **"New Clause – Universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes and ancillary conduct (England and Wales)"**

- (1) The International Criminal Court Act 2001 is amended as follows.
- (2) In section 51(1) —
  - "(a) After "person", insert ", whatever his or her nationality,"
  - (b) After "war crime", insert "in the United Kingdom or elsewhere."
- (3) Omit section 51(2).
- (4) In section 52(1) —
  - "(a) After "person", insert ", whatever his or her nationality,"
  - (b) After "conduct", insert "in the United Kingdom or elsewhere."
- (5) Omit section 52(4).

**Explanatory note:** This new clause would amend the International Criminal Court Act 2001 to provide for the exercise of universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes, and ancillary conduct. This would allow for the authorities in England and Wales to prosecute persons suspected of these crimes without any requirement for a connection to the UK, consistent with the jurisdiction over the crimes of torture and grave breaches of the Geneva Conventions.<sup>9</sup>

### **Universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes, and ancillary conduct (Northern Ireland)**

<sup>7</sup> Section 53(3) of the International Criminal Court Act 2001 (ICCA).

<sup>8</sup> Both requirements also introduce the potential for political influence over prosecutions, raising concerns that cases could be blocked where broader diplomatic interests may be at stake (see Redress and Clooney Foundation for Justice, '[Global Justice, Global Britain: Strengthening Accountability for International Crimes in England and Wales](#)', October 2023, pages 31, 36 and 38 to 39).

<sup>9</sup> Corresponding amendments would also need to be made to s.58 and 59 of the ICCA, with respect to Northern Ireland.

- (1) The International Criminal Court Act 2001 is amended as follows.
- (2) In section 58(1) –
  - a. After “person”, insert “, whatever his or her nationality,”
  - b. After “war crime”, insert “in the United Kingdom or elsewhere.”
- (3) Omit section 58(2).
- (4) In section 59(1) –
  - a. After “person”, insert “, whatever his or her nationality,”
  - b. After “conduct”, insert “in the United Kingdom or elsewhere.”
- (5) Omit section 59(4).

***Explanatory note:*** This new clause would amend the ICC Act 2001 to provide for the exercise of universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes, and ancillary conduct. This would allow for the authorities in England and Wales to prosecute persons suspected of these crimes without any requirement for a connection to the UK, consistent with the jurisdiction over the crimes of torture and grave breaches of the Geneva Conventions.