WRITTEN EVIDENCE SUBMITTED BY REDRESS

(CPB0010)

SUMMARY

Topic 1: Amend the International Criminal Court Act 2001 and the Criminal Justice Act 1988 to strengthen universal jurisdiction in the UK

1. The Crime and Policing Bill provides a timely opportunity to reform the United Kingdom (**UK**)'s outdated approach to prosecuting international crimes under universal jurisdiction (**UJ**). Despite the commission of widespread atrocities worldwide, to date the UK has secured only three successful prosecutions due to legal gaps and overly restrictive jurisdictional rules.

2. One key proposal is to amend the International Criminal Court Act 2001 (**ICCA**) so that anyone present in the UK—regardless of nationality or residency—can be prosecuted for genocide, war crimes, or crimes against humanity. The current law allows prosecutions for these crimes only against UK nationals or residents, leaving the UK vulnerable to becoming a safe haven for alleged perpetrators, as seen in visits of officials from Sri Lanka and Rwanda accused of these crimes (as detailed below at paragraphs 19 to 25). Additionally, the ICCA's temporal scope only allows for prosecutions of crimes against humanity and war crimes 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 crime under international law". This restriction risks excluding pre-2001 atrocities from prosecution, such as crimes against humanity committed during the Liberian civil wars (see below at paragraphs 30 to 34). Meanwhile, genocide can be prosecuted under the ICCA if committed "on or after 1 January 1991". Aligning the cut-off date for all international crimes to 1991 would enable justice for a broader range of historic abuses and ensure consistency in the UK's application of international law.

3. A further proposal addresses the absence of command and superior responsibility in UK law for torture as a standalone crime. While the ICCA incorporates this principle in line with the Rome Statute, it does not apply to torture offences under the Criminal Justice Act 1988 (**CJA**). This loophole prevents, for example, the prosecution of commanders who failed to prevent or punish torture by their subordinates. Amending the CJA to extend command and superior responsibility to all acts of torture would fill this accountability gap.

4. Collectively, these reforms would strengthen the UK's commitment to the rule of law by ensuring accountability for perpetrators of international crimes and compliance with the UK's obligations under international law.

Topic 2: Amend the Proceeds of Crime Act 2002 to facilitate reparation to survivors

5. The Crime and Policing Bill offers a critical opportunity to strengthen the UK's ability to provide reparation for survivors of serious human rights violations by reforming the Proceeds of Crime Act 2002 (**POCA**). While the Bill already proposes stronger asset

confiscation and improved compensation for victims in domestic cases, further amendments are needed to address international abuses.

6. The first proposal is to broaden the definition of "gross human rights violations" under Section 241A of POCA, which currently applies only to a narrow set of cases involving whistle-blowers and human rights defenders. At a minimum, this definition should match the definition of the term used under the Global Human Rights Sanctions Regulations 2020 (**GHRS**) to include serious violations of the right to life, freedom from torture and cruel treatment, and freedom from slavery and forced labour and remove the requirement for the victims to be whistle-blowers or human rights defenders. Extending the definition with the broader standard adopted in other UK legislations, including the GHRS, or under international law, would allow UK authorities to target assets linked to a wider range of internationally recognised human rights violations and enhance consistency across UK laws.

7. The second proposal is to enable confiscated assets to be repurposed as reparations for victims, including those outside the UK. Currently, recovered funds—such as the approximately £800,000 linked to Russian individual Petr Aven—are directed to the UK's general budget or split between enforcement agencies, with no mechanism to support affected communities. In practice, it means that the UK profits from its policing of financial crime, including sanctions violations. Amending the Bill to give courts discretion to allocate a proportion of proceeds for public interest or social purposes would allow funds to be used to support survivors, including through existing international funds and mechanisms, such as the Register of Damage for Ukraine of the Council of Europe and the International Criminal Court Trust Fund for Victims. Drawing on successful models in the United States (**U.S**.) and the European Union (**EU**) (see below at paragraphs 60, 61 and 64), this reform would help ensure that asset recovery contributes directly to accountability and reparation.

INTRODUCTION

8. This submission responds to Question 12 of the Joint Committee on Human Rights' call for evidence: "*Are there any other human rights issues arising from the Bill that you wish to draw to the attention of the Committee*?" (Question 12)

9. REDRESS is an NGO that pursues legal claims on behalf of survivors of torture and human rights violations in the UK and around the world to obtain justice and reparations.

10. Since 1998, REDRESS has been instrumental in advancing the use of universal jurisdiction in Europe, beginning with the Pinochet trial in the UK. REDRESS has supported multiple UJ investigations and prosecutions across Europe, emphasising victims' rights. Over the years REDRESS's research and analysis has influenced key policy and led to the creation of war crimes units in Germany, France and Norway, as well as to the establishment of the EU Genocide Network. In 2023, REDRESS together with the Clooney Foundation for Justice, released a ground-breaking report highlighting the UK's failures in prosecuting international crimes and proposing reforms that would allow for more successful cases to be brought against suspects of international crimes in UK courts.

11. Under our Financial Accountability Project, REDRESS advocates for targeted financial sanctions to combat human rights abuses and corruption and seeks to have illicit financial proceeds repurposed as reparation for survivors. We investigate abuses, submit evidence to sanctions authorities and prosecutors and support NGOs across

the world in asset recovery. REDRESS has published a guide to financial accountability for human rights abuses and corruption and proposed innovative reform proposals to fund reparations. Additionally, we have led two high-profile campaigns calling on the UK Government to:

a) engage civil society including victim and survivor groups on the repurposing of £2.5 billion following Roman Abramovich's sale of Chelsea Football Club; and

b) redirect the £783,827 recovered from sanctioned Russian oligarch Petr Aven to support survivors of the conflict in Ukraine.

12. This submission outlines how the Crime and Policing Bill presents a crucial opportunity to:

a) amend the International Criminal Court Act 2001 to strengthen the UK's UJ laws;

b) amend the Criminal Justice Act 1988 to extend command and superior responsibility to torture as a stand-alone crime; and

c) amend the Proceeds of Crime Act 2002 to enable the repurposing of proceeds of crimes as reparation for victims and survivors of internationally recognised human rights abuses.

13. REDRESS is happy to provide draft legislative amendments to support the proposals set out in this submission upon request.

TOPIC 1: REFORMING THE UK'S UNIVERSAL JURISDICTION FRAMEWORK THROUGH THE CRIME AND POLICING BILL

14. The Crime and Policing Bill presents a critical opportunity to reform the UK's approach to prosecuting international crimes by strengthening its UJ laws. Currently, the UK lacks the robust legal framework necessary to hold perpetrators of international crimes accountable in domestic courts. The Joint Committee on Human Rights has previously criticised the current "patchwork" of laws on prosecuting international crimes in the UK,[1] and former Director of Public Prosecutions, Sir Ken Macdonald KC, has described them as "illogical".[2] The difficulty of applying these laws is evidenced by the fact that there have only ever been three successful prosecutions of international crimes in UK courts.[3]

15. This submission proposes three legal reforms to amend the ICCA and the CJA and close existing loopholes that allow perpetrators to evade prosecution in UK courts. These reforms would allow for more prosecutions under UJ, stop the UK from being a 'safe haven' for perpetrators, and reinforce its commitment to justice and accountability. Importantly the proposed reforms have been described as uncontroversial by UK prosecutors.[4]

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[1] 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).

[2] Ibid., para. 28.

[3] *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.

[4] For example, in her oral evidence to the Joint Committee on Human Rights Inquiry into Daesh (15 November 2023), Bethan David, the Head of the Counter Terrorism Division in the Special Crime and Counter Terrorism Division, stated in response to Q40: "The REDRESS and Clooney Foundation's recent report has made a number of recommendations about legal and practical challenges. On the legal challenges (….), the CPS supports a number of the recommendations that strengthen the scope of the legislation. In particular, we support the recommendations to remove the nationality and residence requirements, which would streamline things and make it a lot easier for prosecutors to provide advice on jurisdiction. (…) [The report] makes a recommendation

16. The Crime and Policing Bill provides an ideal legislative vehicle for these reforms. Part 15, which addresses international law enforcement data-sharing agreements, already underscores the importance of cross-border cooperation and consistency in ensuring accountability. This presents a timely opportunity to align UK law with international standards and ensure perpetrators cannot evade justice.

(1) The International Criminal Court Act 2001 limits prosecutions for most international crimes to suspects who are UK residents or citizens.

17. Under the ICCA, prosecutions can only be brought against UK nationals or residents, or those subject to the UK's service jurisdiction. In contrast, the CJA, which criminalises acts of torture committed in or after 1988, does not require individuals to be residents or nationals of the UK, and 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 for crimes against humanity, or war crimes and genocide, particularly given the gravity of such crimes, and the fact that torture can amount to these wider violations when the relevant elements are present.

18. As a result of this 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.[5]

19. For instance, if a senior Wagner official accused of crimes against humanity by Russia in Ukraine or an Iranian official responsible for widespread repression against women in Iran were to visit the UK, they could not be arrested and charged with crimes against humanity in UK courts. This possibility is not merely hypothetical.

Case Study 1: Former Major General of the Sri-Lankan army, Prasanna De Silva, in London serving as Defence Attaché to the Sri Lankan High Commission

20. Major General Prasanna De Silva, a former senior officer of the Sri-Lankan army, served as Defence Attaché at the Sri Lankan High Commission in London from at least 2010 to 2012. During the final stages of the Sri Lankan civil war, De Silva commanded the 55th Division,[6] which has been accused of serious violations of international humanitarian law, including extrajudicial killings, enforced disappearances, torture and targeted attacks on civilians and hospitals. While posted in the UK, De Silva enjoyed diplomatic immunity due to his official status.

21. In January 2012, the European Centre for Constitutional and Human Rights, supported by the Society for Threatened Peoples Switzerland, and TRIAL International, submitted a 28-page dossier to the UK Foreign Office detailing De Silva's alleged involvement in these atrocities. The organisations urged the Government to declare him *persona non grata* and initiate a criminal investigation. Although the dossier was subsequently referred to the Metropolitan Police, no further action was taken during De Silva's time in the UK.

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to the timings, which again we fully support and I think it is a fairly uncontentious matter. Finally, they make a recommendation recognising command and superior responsibility, which again will be of benefit to prosecutors".

[5] 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.

[6] Report of the UN Secretary General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, at para. 62.

22. The case resurfaced in February 2025, when De Silva's daughter, singer Yohani, performed at a London venue, drawing renewed public attention to his alleged crimes. However, De Silva would still be beyond the reach of the ICCA if he returned today as he is neither a UK national nor a resident.

Case Study 2: Former Rwandan General James Kabarebe linked to M23 rebel group visits London to speak at a UN peacekeeping conference

23. 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.

24. 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 had allegedly 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.

25. 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.

26. Despite the gravity of the allegations, Kabarebe could not have been prosecuted under the ICCA during his 2016 visit, 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.

27. **Recommendation**: Amend sections 51, 52, 54, 58, 59 and 61 of the ICCA to make it "an offence against the law of England and Wales for a person, whatever his nationality, to commit genocide, a crime against humanity or a war crime."

(2) The ICCA is inconsistent about how far back prosecutions can go, leaving gaps that make it difficult to prosecute certain international crimes

28. The ICCA is inconsistent about how far back prosecutions can go, leaving gaps that make it difficult to prosecute certain crimes. Under the ICCA, genocide can be prosecuted if committed "on or after 1 January 1991". However, crimes against humanity and war crimes can be prosecuted only 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".[7] In contrast, grave breaches of the Geneva Conventions can be prosecuted if committed in the context of an international armed conflict as far back as 1957.[8]

29. The question of which crimes have been codified in customary international law, and when, has not been clarified by Parliament and the courts have not resolved the issue, and are not likely to do so soon.[9] The failure to address this endangers prosecutions

[7] ICCA, s.65A.

[8] 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.

for crimes against humanity and war crimes pre-2001: the courts are likely to face serious challenges in establishing the existence of historical customary international law,[10] especially since custom itself is unresolved in this area.

30. The impact of this temporal bar hinders prosecutions for war crimes and crimes against humanity linked to major internal conflicts that occurred before 2001. This includes atrocities committed during the conflicts in Liberia, Syria, Iran and Afghanistan, all relating to crimes occurring in the 1980s and 1990s. In this regard, the UK's legal framework falls behind other countries that have already begun prosecuting suspects for these atrocities, creating significant accountability gaps. This situation is inconsistent with the UK's stated commitment to uphold the rule of law, prioritise human rights and apply international law consistently.

Case Study: Liberian Kunti Kamara convicted in France for crimes against humanity

31. Liberia's two civil wars, from 1989-1997 and 1999-2003, resulted in the deaths of 250,000 people, the displacement of 1.3 million, and widespread violations of international human rights and humanitarian law, including mass killings, rape, torture, mutilation, and the use of child soldiers. Despite the magnitude of these atrocities, Liberia has not prosecuted anyone for these crimes, leaving a legacy of impunity.

32. While Liberia has not yet held perpetrators accountable domestically, countries like France and Switzerland have started to step in. Notably, in 2024, France upheld the conviction of Kunti Kamara, a former commander of the Liberian rebel group ULIMO, for complicity in crimes against humanity and "acts of torture and inhuman barbarity", including cannibalism, sexual slavery and forced labour during Liberia's first civil war. Kamara's 30-year sentence marked the first conviction related to the 1989-1997 conflict and highlighted the systemic use of sexual violence as a tool for terror.

33. However, despite its significance, in the UK, Kamara's conviction may not have been possible given that the ICCA prohibits prosecutions of crimes against humanity pre-2001 unless it constituted "an offence under international law at the time". As highlighted by the defence in Kamara's case, rape was not thought to constitute a crime against humanity under international law in 1994.[11]

34. This legal void is exacerbated by the presence of alleged Liberian war criminals in the UK. For example, in August 2020 and September 2022, the BBC reported arrests of suspects alleged to have committed war crimes during the Liberian civil wars. However, these investigations have subsequently been closed, and no further action has been taken.[12]

35. Even where cases were brought forward, like the prosecution of Agnes Taylor,[13] the ICCA's temporal bars meant the case charging Agnes Taylor for torture as a war crime or a crime against humanity during the Liberian civil war could not proceed.[14]

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[9] K. Grady, 'International Crimes in the Courts of England and Wales' (2014) 10 *Criminal Law Review* 693

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

[11] The Akayesu case was the first judgment finding the defendant criminally responsible for the crime of rape and qualifying it as a crime against humanity. See ICTR, *Prosecutor v. Akayesu,* Case No. ICTR-96-4-T, Trial Chamber, Judgment, 2 September 1998.

[12] Examples seen in https://trialinternational.org/resources/universal-jurisdiction-tools/universal-jurisdiction-annual-review-ujar/ (2024 report, case no. 113 and 114)

[13] *R v. Reeves Taylor* [2019] UKSC 51.

[14] *R v. Reeves Taylor* [2019] UKSC 51 [20]

36. **Recommendation**: Extend the temporal jurisdiction for crimes against humanity and all war crimes under the ICCA to at least 1991 on the basis that these offences were already recognised as criminal in international law by 1991. This can be done by removing subsections 65A(2) and 65A(6) of the ICCA which prevent prosecutions for crimes against humanity and war crimes for offences committed before 1 September 2001.

(3) The CJA does not recognise command and superior responsibility for torture

37. Command and superior responsibility are critical aspects of ensuring accountability for international crimes within military, political and organisational structures. While the terms are sometimes used interchangeably, command responsibility refers to the legal responsibility of commanders,[15] while superior responsibility refers to the responsibility of civilian leaders for the acts of their subordinates.[16] Both doctrines reinforce the idea that leadership not only comes with authority but also a duty to uphold the laws of war and protect human rights.

38. The ICCA, implementing Article 28 of the Rome Statute, is the first piece of legislation to incorporate command and superior responsibility in UK domestic law, supplementing the modes of liability available for ordinary crimes. But it does not extend to certain international crimes such as torture under section 134 of the CJA.

39. This means that, in relation to torture as a standalone crime, a superior or commander whose subordinates have committed isolated acts of torture not constituting crimes against humanity or war crimes cannot be held responsible under current UK law. To date, no commander has been prosecuted in the UK for failure to prevent or punish the crimes of their subordinates. This is despite Article 4 of the UN Convention Against Torture (**UNCAT**) requiring States Parties to not only criminalise the direct perpetrator of torture but also those who are directly or indirectly involved, including individuals involved in the chain of command.[17] Thus, under UNCAT, officials who order or instruct others to carry out torture must be made criminally responsible by national law.[18]

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[15] ICCA, s.65(2): "A military commander, or a person effectively acting as a military commander, is responsible for offences committed by forces under his effective command and control, or (as the case may be) his effective authority and control, as a result of his failure to exercise control properly over such forces where (a) he either knew, or owing to the circumstances at the time, should have known that the forces were committing or about to commit such offences, and (b) he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution."

[16] Ibid., s 65(3): "With respect to superior and subordinate relationships not described in subsection (2), a superior is responsible for offences committed by subordinates under his effective authority and control, as a result of his failure to exercise control properly over such subordinates where (a)he either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such offences, (b) the offences concerned activities that were within his effective responsibility and control, and (c) he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution."

[17] M. Nowak (ed.) et. al, The United Nations Convention Against Torture and its Optional Protocol: A Commentary (2nd Edition), Oxford University Press (December 2019), Chapter 7, para. 20.

[18] e.g. CAT/C/SR.93, para 42; CAT/C/SR.247, para 16. See also Inter-American Court of Human Rights *Case of Women Victims of Sexual Torture in Atenco v. Mexico,* Judgement of 28 November 2018, para. 294: "The Court notes that Article 3 of the Inter-American Convention against Torture establishes that "[a] public servant or employee who acting in that capacity orders, instigates or induces the use of torture, or who directly commits it or who, being able to prevent it, fails to do so" shall be held guilty of this crime. This means that, as indicated in the expert opinion of Susana SáCouto, "in cases of torture the obligation to investigate under the[American Convention] supplemented by the [Inter-American Convention against Torture] extends not only to the direct

40. While it is possible that a UK court could apply command responsibility for torture as customary international law (applicable in both international and non-international armed conflict), this has not yet been fully tested.[19]

41. **Recommendation:** Amend section 134 of the CJA to extend command and superior responsibility for torture as a stand-alone crime. Recognition of these forms of responsibility for torture is instrumental to overcome a common hurdle in the prosecution of international crimes: the linkage of commanders to crimes committed by their subordinates.

TOPIC 2: AMENDING POCA TO FACILITATE THE REPURPOSING OF PROCEEDS OF CRIME TO VICTIMS OF THE UNDERLYING VIOLATIONS OVERSEAS

42. The Crime and Policing Bill presents a significant opportunity to enhance reparation for victims and survivors of human rights violations overseas by strengthening civil recovery and compensation mechanisms within POCA. The right of victims to an effective remedy and to reparation is well-established in international human rights law and international humanitarian law and is enshrined in various international instruments, including Article 8 of the Universal Declaration of Human Rights, Article 2 of the International Covenant on Civil and Political Rights as well as Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

43. Part 11: Proceeds of Crime and Other Property Connected with Criminal Behavior of the Crime and Policing Bill already includes amendments to POCA to strengthen asset confiscation, making it easier to seize assets from those with a "criminal lifestyle" and increase victim compensation when a confiscation order is increased. As such, the Bill acknowledges the importance of using confiscated assets for victim compensation, providing a unique platform to introduce further reforms to support reparation for human rights violations. Below, we propose two amendments to POCA that would enable proceeds from criminal behavior, including serious human rights violations, to be recovered and repurposed to support survivors of the abuses.

(1) Broadening the definition of "gross human rights violations" under section 241 of POCA

44. POCA provides a powerful tool for tackling serious crime by allowing law enforcement to seize assets derived from criminal activities. Under Part 2, UK courts can issue confiscation orders after a criminal conviction. However, to obtain a criminal confiscation order, the prosecution must establish beyond reasonable doubt that the person from whom the assets are to be confiscated committed a crime under UK law. Such prosecutions are difficult and costly and are unlikely to be successful against perpetrators who are not in the UK.

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perpetrator but also to the State officials who order, instigate or incite its perpetration, or who, being in a position to prevent it, fail to do so." The UN Committee against Torture indicated the same, when stating that it was "a matter of urgency that each State party should [take] measures to investigate, […] with particular attention to the legal responsibility of both the direct perpetrators and officials in the chain of command", UN Committee against Torture, General Comment No. 2, January 24, 2008, Doc. UN CAT/C/GC/2, para. 7.

[19] See *R v. Jones and Milling* [2006] UKHL 16; R. May and S. Powles, 'Command Responsibility - A New Basis of Criminal Liability in English Law?' [2002] Criminal Law Review 363. 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 International & Comparative Law Quarterly 503.

45. In contrast, Part 5 of POCA allows for 'civil asset recovery', enabling confiscation based on the lower 'balance of probabilities' standard. A claim for 'civil asset recovery' targets assets derived from 'unlawful conduct', including gross violations of human rights occurring outside of the UK, regardless of whether the asset holder committed the crime.[20] As such, civil asset recovery can provide a particularly efficient route to confiscate ill-gotten wealth stored in the UK.

46. Section 241 of POCA defines 'unlawful conduct' as conduct which is unlawful under the criminal law in the part of the UK where it occurred or, if it occurs in another country, is contrary to the criminal law of that country and would be unlawful under the criminal law of a part of the UK (if it occurred in that part).

47. Section 13 of the Criminal Finances Act 2017 expanded this definition to include conduct by a public official outside the UK that 'constitutes (or is connected with) the commission of gross human rights violations' - regardless of whether such conduct is contrary to the criminal law of the country in which it occurred. This means that for 'gross human rights violations', the standard dual criminality requirement will not apply.

48. However, section 241A of POCA currently limits the definition of 'gross human rights abuse or violation' to torture or cruel, inhuman, or degrading treatment, or punishment of a person because they sought to obtain, exercise, defend, or promote human rights or expose illegal activity by a public official. Crucially, the 'gross human rights violation' must be carried out in consequence of the person having sought to do these things.

49. This definition does not correspond to the meaning of 'gross human rights violations' under international law, which recognises a broader range of violations, including the right to life and the right to physical and moral integrity.[21] It is generally assumed that genocide, slavery, extrajudicial executions, enforced disappearances, torture or other cruel, inhuman or degrading treatment or punishment, prolonged arbitrary detention,

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[20] However, civil asset recovery proceeds are not intended to replace criminal conviction-based confiscation. In cases where it is possible to prosecute and obtain a conviction, the conviction should be obtained.

[21] See for example, International Commission of Jurists, 'A Practitioners' Guide to the Right to a Remedy and Reparation for Gross Human Rights Violations', October 2018. This Guide further notes that Deliberate and systematic deprivation of essential foodstuffs, essential primary health care or basic shelter and housing may also amount to gross violations of human rights. In international humanitarian law, 'serious violations' are to be distinguished from 'grave breaches'. The latter refers to atrocious violations that are defined in international humanitarian law but only relating to international armed conflicts. The term 'serious violations' is referred to but not defined in international humanitarian law. It denotes severe violations that constitute crimes under international law, whether committed in international or non-international armed conflict. The acts and elements of 'serious violations' (along with 'grave breaches') are reflected in article 8 of the Rome Statute of the International Criminal Court under 'war crimes'"; See also, Redress, 'Implementing Victims' Rights: A Handbook on the Basic Principles and Guidelines on the Right to a Remedy and Reparation', March 2006; and UN Office of the High Commissioner for Human Rights, 'Rule-of-Law Tools for Post-Conflict States. Reparations Programmes', 2008, HR/PUB/08/1. See also, Amnesty International, 'Comments and Observations on the Draft Articles on Immunity of State Officials from Foreign Criminal Jurisdiction by the International Law Commission', 8 April 2025, at pages 3 to 5: "Amnesty International reiterates its support for the proposal made by the special rapporteur, including in light of the ILC's acknowledgment that the prohibitions on the international crimes of aggression, slavery and the slave trade have attained the status of peremptory norms of general international law (jus cogens) (…) At the same time, the organization agrees with those states that have highlighted the importance of keeping the list of crimes under international law included in draft article 7 as non-exhaustive, a position shared by the special rapporteur. For example, Amnesty International has previously argued that the crime under international law of extrajudicial executions should also be included in this provision".

deportation or forcible transfer of population, and systematic racial discrimination, among other crimes, fall into this category.[22]

50. The definition is also narrower than the definitions adopted in other UK legislations, including the GHRS. Article 4 of the GHRS defines serious human rights violations to include breaches of the right to life, the prohibition against torture and cruel, inhuman or degrading treatment, and the right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour – regardless of whether such acts are committed by State actors.

51. States' obligations to ensure accountability and reparation apply equally to all such violations and victims of them, not only to whistle-blowers and human rights defenders. The narrow definition of 'gross human rights violations' under POCA therefore risks that victims of these violations are not afforded with the same protections and remedies under UK law. This is particularly problematic when such violations are not considered criminal in the country where they occurred. In this case, perpetrators of human rights violations - other than those involved in torture against whistle-blowers and human rights defenders - would fall through the gap between section 241 and section 241A of POCA.

52. **Recommendation**: Amend the Crime and Policing Bill to expand the definition of 'gross human rights violations' under section 241A of POCA. At a minimum, this should match the definition of the term under the GHRS and remove the requirement for the victims be whistle-blower or human rights defenders.

53. These amendments would bring existing POCA provisions in line with international law, make domestic law more consistent, and improve the ability of UK authorities to seize assets linked to serious and widespread human rights violations.

(2) Repurposing proceeds of criminal or unlawful conduct as reparation for victims and survivors of human rights violations overseas

54. Even where assets have been successfully recovered or confiscated under POCA, there is currently no mechanism under the legislation to repurpose these funds as reparation for victims or survivors affected by the violations.

55. For example, in July 2024, the Westminster Magistrates Court approved the forfeiture of approximately £800,000 allegedly linked to sanctioned Russian individual Petr Aven for breaches of UK Russia sanctions.

56. Unfortunately, rather than being used to assist those ultimately affected by sanctions violations – including survivors of Russia's war in Ukraine – the confiscated proceeds are ultimately transferred to the UK's general bank account. There is no clear mechanism to direct a portion of these funds to address the harm caused by Russia's aggression.

57. REDRESS understands that the Aven's £800,000 forfeiture will likely be distributed under the Home Office's Asset Recovery Incentivisation Scheme (**ARIS**), which splits proceeds from recovered assets 50:50 between the Home Office and relevant enforcement agencies. However, there appears to be no intention to use these funds to support survivor communities in Ukraine, who are suffering the most from attempts to undermine the effectiveness of Russian sanctions, and who the sanctions are designed to protect.

[22] Ibid.

58. Moreover, although UK courts can order victim compensation from assets confiscated following a criminal conviction, the criteria are limited to "clear and simple cases"[23], where victims are easily identifiable and losses straightforward to measure. This narrow definition excludes the broader impact felt by communities impacted by human rights violations and economic crime, such as sanctions violations, where often it is not easy to identify all victims or where losses are not easily quantifiable.

59. Further, under civil recovery and forfeiture there is no automatic mechanism for victim compensation to be paid, although under legislation introduced in 2023 'victims and other owners' claiming that money subject to freezing and forfeiture proceedings belongs to them can apply for it to be released.[24] To overcome these obstacles, legislative reform is needed to enable courts to direct at least a portion of confiscated assets towards broader social or public interest uses, including reparations for human rights violations.[25]

Case Study: Russian Oligarch Charged with U.S. Sanctions Violations

60. Repurposing confiscated or recovered assets for reparation is not a new concept. In April 2022, the Russian oligarch, Konstantin Malofeyev, was indicted by a New York court for violations of US Russia sanctions. Along with the indictment, the US issued a seizure warrant for US investments that Malofeyev allegedly conspired to transfer out of the US in violation of sanctions issued against him in relation to Russia's 2014 invasion of Ukraine. In November 2022, the US initiated a civil forfeiture action to confiscate US$5.4 million from a US bank account belonging to Malofeyev.

61. On 2 February 2023, a US federal judge ordered the funds to be forfeited. A day later, Attorney General Garland announced that he had ordered that these funds be sent to the US Department of State for dispersal in Ukraine in accordance with the new legal authority granted under the 2023 Consolidated Appropriations Act. This Act provides the Attorney General with authority to transfer the proceeds from certain forfeited asset to "provide assistance to Ukraine to remediate the harms of Russian aggression towards Ukraine". In May 2023, Garland announced that he had authorised the transfer of the funds to support war veterans in Ukraine.

62. **Recommendation:** Amend the Crime and Policing Bill to give courts the discretion to allocate a portion of confiscated or recovered proceeds under POCA for "public interest or social purposes". This would enable the redirection of funds as reparation for those impacted by serious human rights violations, including survivors and victims in Ukraine.

63. Such funds could support existing and future international mechanisms that assist countries affected by situations prompting UK sanctions, including the Register of Damage for Ukraine, the Trust Fund for Victims at the International Criminal Court, and the Global Survivors Fund. The UK Foreign, Commonwealth and Development Office, together with civil society and survivor groups could provide guidance on how such contributions are distributed.

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[23] *R v. Michael Brian Kneeshaw* (1974) 58 Cr App R 439

[24] Amendment to Part 5 of the Proceeds of Crime Act 2002 in the Economic Crime and Corporate Transparency Act 2023, (26 October 2023), Section 303Z17A.

[25] See e.g. REDRESS, 'Innovative Avenues to Finance Reparation in the UK: Briefing Paper' January 2024; Global Survivors Fund, 'Reparations are affordable: Pathways to financing reparations owed to survivors of conflict-related sexual violence'.

64. This proposed change draws from Article 19(1) and (2) of EU Directive 2024/1260, which encourages EU Member States to "take the necessary measures to allow the possibility of using confiscated property, where appropriate, for public interest or social purposes", including by contributing to "mechanisms to support third countries affected by situations in response to which" EU sanctions have been adopted. This reflects both the feasibility of the proposed change and its alignment with the approach taken by the UK's international allies.

(April 2025)