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LEGAL BRIEFING

GENOCIDE DETERMINATION BILL 2023-24

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ACCOUNTABILITY
UNIT

COALITION FOR
**GENOCIDE
RESPONSE**

LEGAL BRIEFING

GENOCIDE DETERMINATION BILL 2023-24

A. EXECUTIVE SUMMARY

1. The **Genocide Determination Bill** 2023 would provide for the Senior Courts of the United Kingdom to make preliminary determinations as to what constitutes genocide in accordance with the United Kingdom's obligations under the UN Convention on the Prevention and Punishment of the Crime of Genocide ("**Convention**"). It would also introduce an independent and impartial mechanism for such determinations to be referred to available international courts and tribunals.
2. A preliminary determination and/or referral would only be permitted following a response of the Secretary of State to findings of a responsible committee, of either House of Parliament, stating that there is a serious risk of genocide or that genocide is being, or has been, committed outside the UK.
3. Genocide is a crime as defined and codified in the Convention. The prohibition, prevention and punishment of genocide constitute binding international obligations on the UK as well as all other States.ⁱ
4. The Genocide Determination Bill seeks to give meaningful, and actionable, effect to those obligations and contribute to the future prevention and punishment of genocide through tangible policy responses, and without placing a fetter on foreign policy.

B. BACKGROUND

5. Genocide never happens suddenly. It is typically preceded by discriminatory practices against a national, ethnic, racial or religious group, and patterns of human rights violations and abuses.ⁱⁱ
6. The instant a State learns, or should have learned, of a "serious risk of genocide", it must use "all means reasonably available" to prevent a possible genocide.ⁱⁱⁱ If genocide is ongoing, the duty to prevent remains engaged. In addition, a State: must also not aid or assist possible perpetrators; should cooperate to bring to an end a situation in which genocide is occurring; and should not recognise as lawful the situation created by the breach of the law relating to genocide.^{iv} The obligation, and consequent duty, are greater on a State that has a greater capacity to "effectively influence" a situation.^v
7. In recent years there is growing, and credible claims in the public domain, that the UK Government, and individuals and businesses in the UK, have continued to engage in economic, military or other forms of trade or cooperation with alleged perpetrators in regions of States where international crimes, including genocide, slavery and/or crimes against humanity, are ongoing.^{vi} Existing UK laws including those relating to supply chains, such as the Modern Slavery Act 2015 and Transparency in Supply Chain legislation, have failed to prevent such co-operation and are insufficiently robust or inclusive.^{vii}
8. If conduct by the Government, or UK legal persons, in any way aids, assists or otherwise furthers the commission of prohibited acts of genocide then such procurement could be in stark violation of the Convention and customary international law.

9. The Genocide Determination Bill would bring the UK a small step-closer to developing an independent, comprehensive and impartial framework in responding to, and assessing, credible allegations of genocide, and other serious violations of international law, and meaningfully engage its obligations to prohibit, prevent and punish (perpetrators of) genocide. It would do so without placing a fetter on executive decision-making or curtailing the discretion of the Secretary of State.
10. A full and proper assessment by the Government, which would include due diligence and risk assessments, would also ensure legal persons in the UK are not criminally responsible when engaging with actors overseas including procuring goods/services.
11. The character of certain serious violations under international law (which are called peremptory norms and include genocide, crimes against humanity, torture, slavery, apartheid and racial discrimination) are such that States must ensure they are not committed; States generally owe the duties and obligations to the international community of states to prohibit such crimes and protect individuals from them.^{viii}
12. To date, however, the Government has failed to establish any framework to comprehensively discharge its obligations in respect of peremptory norms (including under the Convention). The Genocide Determination Bill should, therefore, be a welcome first-step to empower victims and survivors, and potential victims and survivors, of mass atrocity crimes with a real and meaningful chance for justice using available national and international mechanisms.

C. PROCEDURAL AND SUBSTANTIVE HISTORY

13. The Genocide Determination Bill is a precursor to several similar private members bills and/or amendments to major pieces of primary legislation; all laid with strong cross-party support since 2016.^{ix}
14. The last version of the Genocide Determination Bill [HL] 2022–23, sponsored by Lord Alton of Liverpool (a Crossbench Peer), had its second reading in the House of Lords on 28 October 2022, but was given no further parliamentary time by the Government.^x
15. The most recent iteration of an amendment, relating to genocide, of a Government Bill was the Genocide Amendment to the Health and Care Bill 2021-2022 which required that a Minister of the Crown would have had to carry out an assessment of a serious risk of genocide in States credibly accused of the crime by a Parliamentary committee and from which the UK procured medical goods or services (“NHS Genocide Amendment”).^{xi} The first iteration was the Genocide Amendment to the Trade Bill 2019-2021^{xii} which would have allowed survivors and victims^{xiii} of genocide to make an Application to the High Court for a Preliminary Determination on whether a current or prospective UK trading partner was committing or had committed genocide.^{xiv} That amendment, which underwent numerous revisions, was opposed by the Government and was ultimately defeated by a rival amendment moved by Sir Bob Neill (the “Neill Amendment”).^{xv}
16. The Neill Amendment, which remains unimplemented, proposed to ‘empower’ parliamentary committees to make genocide determinations after which a vote may be held in Parliament on the Government’s proposed course of action, if any.^{xvi} The Neill Amendment, even if implemented, would bring the Government no closer at all to a comprehensive atrocity prevention framework, for the following reasons:
 - i. it only applies to States that are negotiating bilateral free trade agreements with the UK in the future. Other agreements or existing agreements are not caught; and
 - ii. it does not apply to any situation in which credible allegations of genocide have been made in the State with which the UK already has bilateral relationships.
17. In supporting the Neill Amendment, the Government changed course on a 50-year policy, which incidentally had no basis in international law, that genocide could only be determined by courts or

tribunals and such determinations were necessary before the UK Government's duties to prohibit, prevent or punish were engaged.

18. Since the passing of the Neill Amendment, and despite the fact it remains unimplemented, the Government has reverted to its original position that genocide could only be determined by 'competent' courts or tribunals. It is a position which is paradoxical. The duty to prevent is an obligation which is engaged where there is a serious risk of genocide i.e, before genocide occurs. There is no court or tribunal, anywhere in the world to date, which has entertained the jurisdiction to determine whether the duty to prevent has been breached by a State until genocide has actually occurred, which is, of course, too late. The Government, therefore, has given itself a free pass by refusing to say whether there is a serious risk of genocide or whether genocide is occurring, and passed the matter to courts or tribunals which are not actually seized of jurisdiction, so as to evade their immediate obligations.
19. The Government, to date, has also consistently refused to utilise the courts or tribunals, which are competent, available, and can make a difference. For instance, the International Court of Justice has jurisdiction to adjudicate on the application, interpretation and fulfilment by States of the provisions of the Genocide Convention. It also has powers to institute provisional measures where there is a plausible risk of genocide, pending a full determination on the question of breach.

D. HOW THE GENOCIDE DETERMINATION BILL WORKS

20. The Genocide Determination Bill places a duty on the Secretary of State to respond in writing to a report produced by the responsible committee of the House of Commons or House of Lords if it concludes that there exists credible evidence of a serious risk of genocide or that genocide is being, or has been, committed outside the UK (a "Response"). *(Clause 4)*
 - i. The Secretary of State, in such a Response, must explain how the Government intends to respond to the allegations, in light of its international obligations, and make available all due diligence relevant to making their decision. *(Clause 4(3)(b))*
 - ii. The Secretary of State's response would be legally reviewable, on the question of whether the Secretary of State believes that genocide is occurring or there is the serious risk of it. *(Clause 4(2))*
21. Following a Response, a person or group belonging to a national, ethnic, racial or religious group, or an organisation representing such a person or group, may make an application to a Senior Court for a preliminary determination, that evidence presented to the Court is sufficient to find that there is a serious risk of genocide or that genocide is being, or has been, committed (an "Application" and "Preliminary Determination", respectively). *(Clause 1)*
 - i. An Application must only concern the crime of genocide. *(sub-section (1), Clause 1)*
 - ii. An Application must relate to a genocide that has occurred or is occurring or is at risk of occurring after the Genocide Amendment comes into force. *(sub-section (1), Clause 6)*
 - iii. The Secretary of State may make regulations which specify the form, content, and criteria for reasonable admissibility of Applications, and the procedure to be followed. *(Clause 2)*
 - a. The procedures and rules may permit the admission of contradictory and exculpatory evidence to allow for full investigation of an Application. The Government may make provision for the form that takes. *(Clause 2(2)(b)-(c))*
 - iv. It is for the Government, to decide whether the legal interests of other States are affected. A conflict of interests, including related to trade, is for the Government to resolve not the Court.
22. An Application for a Preliminary Determination to a Senior Court will provide an independent and impartial mechanism by which it may be established whether the UK's obligations under the Genocide Convention are engaged.^{xvii}

23. Where genocide is determined, by the Senior Court, to have occurred, or is at serious risk of occurring, the Secretary of State is required to make a referral to the International Criminal Court, the International Court of Justice, and/or other relevant international mechanisms - where they exist and have jurisdiction - including for final determination of any international dispute. *(Clause 3)*
24. The Genocide Determination Bill would ensure the following:
 - i. That the Government creates an enforceable legal mechanism to carry out due diligence and risk assessments, as well as exercise a duty of care, to ensure the conduct of the UK Government, or its nationals, does not violate international law relating to mass atrocity crimes and hold perpetrators accountable;
 - ii. That there is a backstop to prevent the Government from reverting to its previous position that only courts and tribunals must determine genocide before obligations are engaged and ensure courts and tribunals are utilised where they exist and have jurisdiction;
 - iii. That the Government responds to credible allegations of genocide as early as possible to prevent genocide and not wait for other courts or tribunals or anyone else; and
 - iv. That there are not *lacunae* in UK economic, diplomatic or military arrangements, creating a permissive environment for genocide, as clearly existing legislation is inadequate.
25. The Genocide Determination Bill does not preclude or prevent the Government from taking complementary or further action in ensuring a comprehensive framework for fulfilling international obligations relating to mass atrocity crimes. This can only be encouraged.

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This legal briefing, drafted by [Aarif Abraham](#), is provided as an explanatory note only. Gratitude is owed to other experts in international law for their helpful external reviews.

The work relating to the Genocide Determination Bill is conducted jointly with [Dr Ewelina Ochab](#) and the [Coalition for Genocide Response](#).

Aarif Abraham, Acting Director of [Accountability Unit](#) and Barrister at [Doughty Street Chambers](#), advises widely on international criminal law and public international law matters.

Accountability Unit
Reg. Charity No: 1166018
website: accountabilityunit.org
twitter/X: [AU_Feed](#)

Coalition for Genocide Response
Reg. Charity No: 1192979
website: genocideresponse.org
twitter/X: [Coalition4GR](#)

FREQUENTLY ASKED QUESTIONS (FAQS)

Why does the Genocide Determination Bill not directly refer to all alleged ongoing genocides?

The Genocide Determination Bill (Bill) does not concern any specific or particular situation, past or present. The purpose of it is to create a legal mechanism which enforces a state's binding international legal obligations in an independent and impartial manner. Political expediency, political affiliation, or individual identity ought not to be relevant to the question of state responsibility or individual criminal responsibility for genocide, as defined in the relevant international instruments.

As such, a letter which was signed by leading legal luminaries and sent to the UK Prime Minister and Foreign Secretary on 15 April 2024, does not associate the Bill with any particular situation but makes reference, by way of illustration only, to three situations where the body of publicly available and credible evidence (spanning several years) suggests there is an ongoing genocide.

More recent allegations were not included in the letter of 15 April 2024 but they can readily be found in respected sources such as leading human rights NGOs or bodies/organs of the United Nations.

Why are other crimes such as war crimes and crimes against humanity not covered by the Bill?

The Bill is a starting point and the Government is welcome, and encouraged, to take a broader approach to the prevention of international crimes. There are no hierarchies when it comes to core international crimes such as genocide, war crimes and crimes against humanity. The reason why the Bill focuses exclusively on genocide, is that there is a binding and enforceable legal obligation under treaty, the Genocide Convention, on all states to prevent genocide the "instant it learns of the serious risk" and which requires it to use "all means reasonably available to it" in order to prevent harm or stop ongoing harm.

War crimes and crimes against humanity have several underlying crimes within their scope which are very broad and, as yet, there is no firm international consensus on how far a duty to prevent would go. Although there are some duties under customary international law for these crimes including to 'prevent', there are no agreed treaty provisions relating to preventing them, aside from under the Convention against Torture.

The Bill, the first of its kind, provides a concrete and tangible mechanism to prevent genocide. If the current international initiative to create a convention on preventing and punishing crimes against humanity is successful then, of course, parliamentarians can and should consider expanding the scope of any future Act to include a duty to prevent thereof (particularly where there is an agreed treaty provision relating to prevent).

How does the Bill work, in summary, and what is it intended to achieve?

The hope, with the mechanism in the Bill, is that there is a deterrence effect. The Bill would encourage the executive to exercise its discretion to act the instant it "learns of the serious risk" of genocide, to avoid a relevant Parliamentary committee scrutinising allegations of genocide and then even more onerous (for a Government) having a UK court review the executive decision by making a 'preliminary determination' (solely on whether there is genocide or the risk of it), if the Government fails to act on credible allegations coming from a committee.

Only when the Government refuses to act will this mechanism ever be utilised and where there is some consensus in Parliament for action. If the question of whether there is genocide or the risk of genocide, gets to a UK Court, and a preliminary determination on genocide is positive (i.e. the Court determines that there is a “serious risk” of genocide, that genocide is ongoing or it has occurred), then it triggers the procedure in Clause 3 of the Bill (the text is available [here](#)) requiring the Government to use available international mechanisms to prevent genocide and hold alleged perpetrators accountable.

So, if for instance, the International Court of Justice has jurisdiction, it would require the Government to file an application, or intervention, or seek to utilise the other available international mechanisms. If it does not, then Parliament could compel the Government.

If all governments exercised their discretion to prevent genocide sincerely, we would have no need for this mechanism at all. But there is no downside to having it and it will finally operationalise the duty to prevent and act as a backstop to inaction.

A [short step plan on how the Bill works](#) is as follows:

Step 1: The Secretary of State ideally exercises - as required by the Genocide Convention - their discretion to prevent genocide the instant they learn of the serious risk of genocide by making a determination and ‘using all reasonable means to prevent’ in the language of the jurisprudence. Or, a genocide is ongoing, and again, ideally, the Secretary of State makes a determination, and uses all means reasonably available to prevent further harm and bring the situation to an end. [End of Steps]

Step 2: Step 1, of course, may not happen so a responsible committee of Parliament, on its own initiative, can make a finding of genocide or a serious risk of genocide.

Step 3: Following a positive finding of a responsible committee, the Secretary of State must respond setting out whether they accept that genocide is occurring or there is serious risk of it. If they accept, they must set out what they will do. [End of Steps] If the Secretary of State does not accept the finding of genocide or its serious risk then it opens up possibility of Step 4.

Step 4: Those affected (survivors/victims) can bring an action for a preliminary determination before a UK Court which will determine whether genocide is occurring or there is a serious risk of it. The Court will only decide on the question of genocide or the serious risk of it; it will not review other aspects of a Government decision.

Step 5: If there is a positive preliminary determination by the Court, then the Secretary of State must set out what reasonable steps they will take and which available referral mechanisms they will use. [End of Steps] If the Secretary of State fails to use available means/referrals, then it opens up the possibility of Step 6.

Step 6: By resolution of either House, the Secretary of State could be compelled to utilise available means/referrals such as engaging the International Criminal Court, the UN Security Council *and so forth*. [End of Steps]

What happens next to the Bill?

The Bill is a Private Member’s Bill and was, at the time of writing, at second reading stage in the House of Lords. Once it has had a second reading, and if the Government agrees to give it parliamentary time, then it will move to committee stage. Without that agreement of the Government’s Whips Office, the Bill will likely stall. Furthermore, as 2024 is an election year, there are growing calls from civil society,

international stakeholders, and parliamentarians for political parties to make manifesto commitments to pass the Bill or a closely-related and workable version of it in the next session of Parliament.

Work on the Genocide Determination Bill is not being done in isolation. There is a related bill called the [Genocide \(Prevention and Response\) Bill](#) [HL], sponsored by Baroness Helena Kennedy LT KC, going through Parliament, which is part of a wider initiative trying to get UK Government engagement on a comprehensive atrocity prevention policy and associated legislation.

Who supports the Bill?

The Bill is sponsored by [Lord David Alton](#) who has been the principal lead and driving force behind the Bill in Parliament. He has often been supported by several cross-party co-sponsors including leading lawyers such as Baroness Helena Kennedy LT KC.

The Bill, and previous iterations of it, have always had very strong cross-party support in both Houses of the UK Parliament. This remains the case. A short background to the Bill can be found in this Legal Briefing above.

[END]

REFERENCES

- i Those obligations to prohibit, prevent and punish genocide, bind States Parties to the Convention and also bind all States under customary international law. In recognising the customary nature of the Genocide Convention, the International Court of Justice (ICJ) held: “The origins of the Convention show that it was the intention of the United Nations to condemn and punish genocide as ‘a crime under international law’ involving a denial of the right of existence of entire human groups, a denial which shocks the conscience of mankind and results in great losses to humanity, and which is contrary to moral law and the spirit and aims of the United Nations [...]. The first consequence arising from this conception is that the principles underlying the Convention are principles which are recognized by civilized nations as binding on States, even without any conventional obligation. A second consequence is the universal character both of the condemnation of genocide and of the co-operation required ‘in order to liberate mankind from such an odious scourge’. (ICJ, *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion (1951) ICJ Reports, p.23. See, further: ICJ, *Croatia v. Serbia*, Application of the Convention on the Prevention and Punishment of the Crime of Genocide, International Court of Justice, February 3, 2015, para. 95; ICJ, *Case Concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)* (Judgment) [2006] ICJ Rep 911 (hereafter *Congo v. Rwanda*), 31–32, para. 64); and UN Security Council, Report of the Secretary-General Pursuant to Paragraph 2 of the Security Council Resolution 808 (1993), UN Doc. S/25704, 3 May 1993 (hereafter UN Secretary-General Report on ICTY), para. 45. A peremptory norm is “a norm accepted and recognised by the international community of States as a whole as a norm from which no derogation is permitted” (Art 53, VCLT). Genocide is a peremptory norm. The prohibition of genocide is also an obligation ‘*erga omnes partes*’ which means the duty is a collective treaty obligation as well as an obligation (‘*erga omnes*’) to the international community as a whole as a matter of general international law (Art 48, ILC Articles). The reason for this is the commission of genocide affects the interests of all States and all States have an interest in seeing obligations under peremptory norms being applied, properly interpreted and fulfilled. *Reservations to the Genocide Convention*, 23. See further *Bosnia and Herzegovina v. Serbia and Montenegro*, Preliminary Objections, ICJ, July 11, 1996, at pp. 595, 611–612 para. 22 and 616 para. 31; International Law Commission, Fifty-second Session, J. Crawford. 2000. *Third Report on State Responsibility*. UN Doc. A/CN.4/507. The duty to punish genocide is not seen as entailing extra-territorial obligations, which means only the State in which the commission of genocide occurred has a formal obligation to prosecute and punish perpetrators. As such, there is no basis to suggest that customary international law provides for ‘universal’ jurisdiction over acts of genocide.
- ii United Nations, Framework of Analysis for Atrocity Crimes, 14-58530, 2014.
- iii *Bosnia and Herzegovina v. Serbia and Montenegro*, Application of the Convention on the Prevention and Punishment of the Crime of Genocide, International Court of Justice, 26 February 2007, 430: “[...] it is clear that the obligation in question is one of conduct and not one of result, in the sense that a State cannot be under an obligation to succeed, whatever the circumstances, in preventing the commission of genocide: the obligation of States parties is rather to employ all means reasonably available to them, so as to prevent genocide so far as possible. A State does not incur responsibility simply because the desired result is not achieved; responsibility is however incurred if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide. In this area the notion of “due diligence”, which calls for an assessment in concreto, is of critical importance. Various parameters operate when assessing whether a State has duly discharged the obligation concerned. The first, which varies greatly from one State to another, is clearly the capacity to influence effectively the action of persons likely to commit, or already committing, genocide. This capacity itself depends, among other things, on the geographical distance of the State concerned from the scene of the events, and on the strength of the political links, as well as links of all other kinds, between the authorities of that State and the main actors in the events. The State’s capacity to influence must also be assessed by legal criteria, since it is clear that every State may only act within the limits permitted by international law; seen thus, a State’s capacity to influence may vary depending on its particular legal position vis-à-vis the situations and persons facing the danger, or the reality, of genocide. On the other hand, it is irrelevant whether the State whose responsibility is in issue claims, or even proves, that even if it had employed all means reasonably at its disposal, they would not have sufficed to prevent the commission of genocide. As well as being generally difficult to prove, this is irrelevant to the breach of the obligation of conduct in question, the more so since the possibility remains that the combined efforts of several States, each complying with its obligation to prevent, might have achieved the result — averting the commission of genocide — which the efforts of only one State were insufficient to produce.”
- iv Arts 16, 40-41, International Law Commission, ‘Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries’, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1.

- v *Ibid.*
- vi See, for instance, the following: BEISC, House of Commons, Uyghur forced labour in Xinjiang and UK value chains, 17 March 2021; BHRC, Briefing Paper: Responsibility of States under international law to Uyghurs and other Turkic Muslims in Xinjiang, China, 2020; BMA, Statement on the abuse of Uyghurs in China, 7 December 2021; BMA, Labour rights abuse in global supply chains for PPE through COVID-19 – issues and solutions, July 2021; UNISON, UNISON demands higher human rights standards in PPE, 25 January 2022; Guardian, UK sourced PPE from factories secretly using North Korean slave labour, 20 November 2021; NYT, China Is Using Uighur Labor to Produce Face Masks, 13 August 2020.
- vii BEISC, House of Commons, Uyghur forced labour in Xinjiang and UK value chains, 17 March 2021; BHRC, Briefing Paper: Responsibility of States under International Law to Uyghurs and other Turkic Muslims in Xinjiang, China, 2020.
- viii A *jus cogens* or peremptory norm is a norm accepted and recognised by the international community of States as a whole, from which no derogation is permitted. (Art 53, 64 VCLT 1969); According to the International Law Commission (ILC), ‘Those peremptory norms that are clearly accepted and recognised include the prohibitions of aggression, genocide, slavery, racial discrimination, crimes against humanity and torture, and the right to self-determination’ (ILC, ‘Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries’, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1., pp. 112-113.)
- ix The first version of the Genocide Determination Bill was laid in the House of Lords in June 2016 (Session 2016-17), available [here](#).
- x Lord Alton has raised the subject of genocide, and the UK’s duties to address it as a ratifying State to the Genocide Convention, more than 300 times in the House of Lords. He has also introduced similar private member’s bills in previous parliamentary sessions, none of which progressed to their second reading.
- xi UK Parliament, 2022. Lord Blencathra’s Amendment After Clause 70, Health and Care Bill, Report Stage, available [here](#).
- xii UK Parliament. 2020. Lord Alton of Liverpool’s Amendment After Clause 2 (9) Trade Bill 2019-2021, Report Stage, available [here](#).
- xiii Legal representatives of survivors or victims, or groups representing them, would make Applications.
- xiv The Genocide Amendment was moved by Lord David Alton of Liverpool and sponsored by Baroness Kennedy QC of The Shaws, Lord Forsyth of Drumlean, and Baroness Falkner of Margravine. It received [significant support](#) of 287 to 161 in the U.K. House of Lords on December 7, 2020. The Genocide Amendment was rejected by MPs in the House of Commons by a vote of 318 to 309 on 19 January 2021. The revised Genocide Amendment was re-tabled on 20 January 2021 in the House of Lords and was passed on 2 February 2021. On 22 March 2021, the House of Commons voted 319 to 297, majority 22, to disagree with the Lords amendment to the Trade Bill.
- xv In its original form the Genocide Amendment allowed survivors and victims of genocide to make an Application to the High Court for a Preliminary Determination on whether a current or prospective UK trading partner is committing or has committed genocide.
- xvi Relevant committees, such as the Foreign Affairs Committee (FAC), already have powers of assessment and recommendations. The FAC found credible evidence of genocide in its reports on the Daesh atrocities (2016), Burmese’s military atrocities (2016), alleged CCP atrocities (2020). In relation to the Yazidis, a motion was passed in Parliament. The UK Government did not follow up.
- xvii There is no basis in international law to suggest only international courts or tribunals can determine genocide. Such a position would render meaningless the obligations under international law on States to prohibit, prevent and punish perpetrators of genocide. The duty would fall on State officials to provide a credible mechanism for a determination in order that obligations are fulfilled. Allowing national courts to determine the issue depoliticises and formalises a mechanism which should already be in existence.