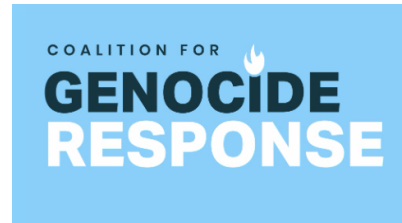




Human Rights
Institute



Genocide (Prevention and Response) Bill

Briefing for the Committee Stage (House of Lords)

29 April 2024



This briefing comments on the Genocide (Prevention and Response) Bill (the Bill) currently before the House of Lords. The Bill had its second reading on 22 March 2024. It received unanimous support from all members contributing to the debate, and the Minister.

The Bill has its committee stage on 29th April 2024.

The committee stage involves a detailed line-by-line examination of the separate parts (clauses and schedules) of a bill.

I. Genocide (Prevention and Response) Bill

The Genocide (Prevention and Response) Bill is to introduce mechanisms that would ensure the Government is better equipped to prevent and respond to genocide and other atrocity crimes.¹

The below provides an analysis of the Bill, clause by clause.

Clause 1: Genocide monitoring team

- (1) The Secretary of State must, within the period of six months beginning with the day on which this Act is passed, establish a genocide monitoring team
To—
 - (a) monitor developments throughout the world that heighten the risk of genocide and atrocity crimes;
 - (b) identify countries at serious risk of genocide or atrocity crimes, including most likely pathways to violence, specific risk factors, potential perpetrators, and at-risk groups;
 - (c) identify what they consider to be issues in the Government’s foreign policy concerning regions or particular countries related to genocide and atrocity crime prevention and response; and
 - (d) facilitate the development and implementation of policies to enhance the Government’s capacity to prevent and respond to genocide or atrocity crimes worldwide.
- (2) The genocide monitoring team must provide the Minister of the Crown, appointed under section 2, with regular recommendations to improve policies, programmes, resources, and tools, related to genocide and atrocity crime prevention and response.

***Explanation:* Clause 2 requires the Government to establish a special team tasked to monitor early warning signs of atrocity crimes globally, identify countries at risk of atrocity crimes, identify responses and facilitate their implementation. A step in this direction has been taken by the Government. However, it is not on a statutory basis and also, the newly established Hub is not provided with the resources that they need. This is explained below.**

The Foreign Office contends that they take up monitoring and assessment of the risk of genocide, through their geographic departments, who,

‘lead work on monitoring and assessing the risk of atrocities, in close partnership with UK Embassies and High Commissions overseas. They have the agility and flexibility

¹ Genocide (Prevention and Response) Bill (As Introduced), available at: <https://bills.parliament.uk/publications/53094/documents/4039> (accessed on 13 March 2024).

to respond to particular risks and opportunities in their regions and the necessary context-specific knowledge. They are supported by technical advisers and analysts across the Foreign, Commonwealth and Development Office, such as research analysts, human rights officers or conflict advisers.’²

However, it is not clear what framework for assessment of atrocity crimes they follow, and whether and how Embassies’ and High Commissions’ staffers are being trained to be able to identify early warning signs and the procedure to follow in such cases.

The Government does not analyse situations and make determinations of atrocity crimes. The Government’s longstanding policy is that any judgment on whether a genocide has or is being perpetrated is a matter for competent courts to determine. These include international courts and competent domestic courts.

The Government argues that the Joint Analysis of Conflict and Stability (JACS) undertakes an analysis of atrocity crimes. It is unclear how this is being done. Reportedly, a section on atrocity crimes was added to JACS only a couple of years ago. However, the JACS guideline is not publicly available and neither are the country assessments. As such, it is impossible to know the findings and challenge the findings or recommendations if they are flawed. Even the Parliament was refused restricted access to JACS, despite several requests. Furthermore, there is no trigger for JACS. For example, in the case of the Tigray War that started in 2020, the assessment was not conducted until mid-2022, and this was only after several Parliamentary requests.

Over recent years, the Government established a **Mass Atrocity Prevention Hub, within FCDO’s Office for Conflict, Stabilisation and Mediation (OCSM)**. The Hub is to have the central policy ownership of the Government’s approach to mass atrocity prevention in both non-conflict and conflict settings and work closely with thematic and geographic teams. However, the Hub does not have the capacity or resources to be able to do the monitoring and assessment as needed to implement the UK’s obligations under the Genocide Convention. Furthermore, the Hub does not have a statutory footing, and as such, it could be abolished at any point. Furthermore, the Hub does not monitor early warning signs globally.

Clause 2: Minister for Genocide Prevention and Response

- (1) The Secretary of State must, within the period of six months beginning with the day on which this Act is passed, appoint a Minister of the Crown to lead the Government’s work on genocide and atrocity crime prevention and response, including through—
 - (a) the publication of annual reports on the risk of and responses to genocide and atrocity crimes, as per section 4;

² See:

www.davidalton.net/2022/04/22/foreign-office-minister-responds-to-challenge-about-the-uk-governments-approach-to-assessing-the-risk-of-and-preventing-genocide-and-atrocity-crimes/

- (b) outreach, including annual consultations with representatives of nongovernmental and civil society organisations dedicated to genocide and atrocity crime prevention and response; and
 - (c) a review the work on genocide and atrocity crimes every three years and making a statement to Parliament on the review.
- (2) The Minister of the Crown appointed under subsection (1) is to provide a statement on their work to Parliament at least twice per year.

Explanation: Clause 2 is to ensure that the Government has a designated minister to oversee the Government's work on genocide and atrocity crimes prevention and response, including through transparency - with regular publication, outreach and engagement with civil society, and regular review and assessment of the work done by the Government.

Currently, there is no Minister with a specific focus on genocide and atrocity crimes, even if certain aspects are covered by, for example, Minister Ahmad (especially PSVI).

Clause 3: Training for civil servants

- (1) The Minister of the Crown must facilitate regular training for civil servants on genocide and atrocity crimes, including instruction on—
- (a) recognising patterns of escalation and early warning signs of potential genocides and other atrocity crimes;
 - (b) methods of preventing and responding to genocides and other atrocity crimes, including assessment methods;
 - (c) peace-building following genocide or atrocity crimes;
 - (d) mediation for prevention;
 - (e) early action and response; and
 - (f) transitional justice measures to address genocide and other atrocity crimes.
- (2) Civil servants under subsection (1) include civil servants at the Foreign, Commonwealth and Development Office and staff at all embassies and overseas missions.

Explanation: Clause 3 requires the Government to provide training to civil servants on genocide and atrocity crimes prevention. This is crucial to ensure that civil servants, especially in embassies around the world, have basic knowledge and can identify early warning signs as they monitor the situation in the country and/or receive information from victims/survivors, witnesses, experts, civil society organisations etc.

Clause 4: Reporting on the risk of genocide

- (1) The Minister of the Crown appointed under section 2 must, within six months of their appointment, and annually thereafter, lay a report before Parliament including information on—

- (a) the assessment of ongoing genocides and other atrocity crimes, including the findings of such assessments;
 - (b) countries and regions at risk of genocide and other atrocity crimes, including most likely pathways to violence, specific risk factors, potential perpetrators, and at-risk target groups;
 - (c) an action plan for responding to the risk of genocide and other atrocity crimes;
 - (d) steps taken to respond to identified serious risks of genocide and other atrocity crimes.
- (2) The Minister of the Crown must make a statement on the report within 60 days of its publication.

Explanation: Clause 4 imposes a requirement on the Minister to regularly report on its work to Parliament. The proposed oversight and transparency will help to ensure the right responses and enable Parliamentarians to challenge the responses if they are not adequate.

Clause 5: Genocide Response Fund

The Secretary of State must, within a period of six months beginning with the day on which this Act is passed, establish a fund to support programmes and activities to prevent or respond to potential genocide and atrocity crimes.

Explanation: Clause 5 calls for the establishment of a special fund that could be used to provide assistance to victims of genocide and other atrocity crimes.

II. Mechanisms Deployed by Other Countries

The below explains a few good examples of mechanisms introduced around the world.

1. United States

The Elie Wiesel Genocide and Atrocities Prevention Act of 2018 codifies the US' own atrocity prevention efforts and creates certain legislatively required mandates that serve as a foundation for atrocity prevention strategy, including:

- the regular inter-agency cooperation of relevant U.S. Government officials;
- the explicit statement that atrocity prevention is in the national interest of the United States;
- a United States Government-wide strategy to identify, prevent, and respond to the risk of atrocities;
- the training of US Foreign Service Officers (FSOs) headed to countries experiencing or at risk of mass atrocities; and
- the annual report by the Administration to Congress on its efforts.

2. Great Lakes Region

In the Great Lakes Region, several States established domestic mechanisms to give effect to the Genocide Convention and the International Conference on the Great Lakes Region Protocol for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination (ICGLR Protocol).³ The ICGLR Protocol reaffirms the obligations of its Member States to address genocide, crimes against humanity and war crimes, and calls upon them to establish a regional committee to help with this task. The Regional Committee subsequently called upon the ICGLR Member States to establish their own National Committees.⁴

Among others, in 2012, Kenya, Tanzania, and Uganda established the National Committee for the Prevention and Punishment of the Crimes of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination. Furthermore, in Kenya, the establishment of the mechanism was followed by a two-day workshop on genocide prevention, the creation of a twelve-month work plan for the Kenyan National Committee, and the announcement of a public campaign ‘the Public Awareness and Advocacy Programme on the Prevention of Genocide and Mass Atrocities.’⁵

For example, the mandate of the Kenyan National Committee includes:

- 1) Regularly reviewing situations at the national level for the purpose of preventing [genocide, crimes against humanity, war crimes], and provide early warning advice to all the relevant arms of government and the ICGLR Executive Secretariat through the International Conference on the Great Lakes Region (ICGLR) Regional Committee;
- 2) Collecting and analysing information related to the above crimes at the national level;
- 3) Alerting the government in a timely fashion in order to take urgent measures to prevent the above crimes;
- 4) Contributing to raising awareness and education on peace and reconciliation through regional and national programs;
- 5) Suggesting specific measures to effectively fight impunity for the above crimes;
- 6) Recommending policies and measures to guarantee the rights of victims of the above crimes to truth, justice and compensation, as well as their rehabilitation, taking

³ Available at:

<https://www.icglr-rtf.org/publication/view/protocol-for-the-prevention-of-the-crime-of-genocide-war-crimes-and-crimes-against-humanity-and-all-forms-of-discrimination/>.

⁴ Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, Republic of South Sudan, Sudan, Tanzania and Zambia.

⁵ *Office Of The Great Lakes Region (OGLR), Kenya National Committee On Prevention and Punishment of the Crime Of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination Sensitization. Workshop for the Provincial Security Team and Community Leaders from Coast Province, 2013, Kenya.*

into account gender-specific issues and ensuring that gender-sensitive measures are implemented;

7) Monitoring, where applicable, national and/or regional programs on disarmament, demobilisation, rehabilitation, repatriation and reinstallation for former child soldiers and ex-combatants; and

8) Carrying out any other tasks that the government and the ICGLR Regional Committee may entrust to the National Committee.⁶

While the mechanisms have been a powerful tool to unite representatives of government, non-governmental bodies, and civil society, the bodies are not formally institutionalised which ultimately affects their effectiveness.⁷ Without this formal status and without being fully integrated into government structures, they are particularly vulnerable to changing government priorities.

Despite this shortfall, over recent years, the Kenyan National Committee has been focusing on addressing the issue of electoral violence, while the Tanzanian National Committee on identity-based violence.⁸ The Ugandan National Committee, having reviewed the domestic prevention capacity shortfalls, has been working on a 'Prevention of Genocide Bill.' Among others, the bill is to criminalise genocide and other atrocity crimes and to institutionalise the Ugandan National Committee.

3. Argentina

The Government of Argentina began the process of developing its National Mechanism for the Prevention of Genocide. The mechanism is to focus on:

- Risk detection and early warning, including the development of procedures for the circulation and exchange of information within the government and to interested external parties, including civil society organisations and academic institutions, on various cases and situations posing a possible risk of atrocity. (...)

- Systemic prevention and awareness, including the implementation of seminars and training on topics related to human rights, international humanitarian law, transitional justice, and other related topics under the prevention umbrella. This also provides for the implementation of standardized training curricula on anti-discrimination and atrocity prevention for public academic institutions, as well as institutions training civil servants. Lastly, it entails the development of an evaluation process for content in the

⁶ The Auschwitz Institute, National Mechanisms for the Prevention of Genocide and other Atrocity Crimes: Effective and Sustainable Prevention Begins at Home (2015). Available at: http://www.auschwitzinstitute.org/wp-content/uploads/2015/06/AIPR_National_Mech_Booklet_2015.pdf.

⁷ Ashley L. Greene, and Ashad Sentongo, 'Assessing National Mechanisms for Atrocity Prevention in Africa's Great Lakes Region' (2019) 14 Journal of Peacebuilding & Development 193–205.

⁸ Ibid. See also: Samantha Capicotto and Rob Scharf, 'National mechanisms for the prevention of atrocity crimes' (2018) 11 Genocide Studies and Prevention: An International Journal 5.

media and mass communications.

- Collaboration and information exchange, including the establishment of procedural mechanisms for data processing and communications with the United Nations, as well as regional organizations, such as the Latin American Network for Genocide and Mass Atrocity Prevention.⁹

The national mechanism was established by a Presidential Decree with the aim of ensuring interagency coordination among the various entities of the National State and Provincial States with related skills pertinent to the prevention of genocide. The National Mechanism consists of a Coordinating Committee, Genocide Prevention Council and Nederal Network For Prevention of Genocide.¹⁰

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⁹ Samantha Capicotto and Rob Scharf, 'National Mechanisms for the Prevention of Atrocity Crimes' (2018) 11 Genocide Studies and Prevention: An International Journal 3: 6-19.

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