



HL Bill 13 of 2023–24

Genocide (Prevention and Response) Bill [HL]

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The House of Lords is due to debate the [Genocide \(Prevention and Response\) Bill \[HL\]](#) at second reading on 22 March 2024.

The bill is a private member's bill sponsored by Baroness Kennedy of The Shaws (Labour). It would make provision about how the government monitors and reports on activities to prevent and respond to genocide and other atrocity crimes, by requiring the government to:

- appoint a minister to lead its work on genocide and atrocity crime prevention and response
- establish a genocide monitoring team, which would have to regularly report to the ministerial lead on genocide and atrocity crime prevention and response, including with recommendations to improve policies, programmes, resources, and tools
- facilitate regular training on genocide and atrocity crimes for Foreign, Commonwealth and Development Office (FCDO) civil servants and staff at all UK embassies and overseas missions
- regularly report to Parliament, including on ongoing genocides and other atrocity crimes and countries and regions at risk of such crimes
- establish a fund to support programmes and activities to prevent or respond to potential genocide and atrocity crimes

Baroness Kennedy has argued that these measures would follow similar changes adopted in the United States and help to ensure that the UK government was better equipped to prevent and respond to genocide and other atrocity crimes.





I. What is the background to the bill?

The Convention on the Prevention and Punishment of the Crime of Genocide was the first instrument of international law to codify the crime of genocide.¹ It was adopted in 1948 and came into force in 1951. The UK acceded to the convention in 1970.

The convention defines genocide as any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group:²

- killing members of the group
- causing serious bodily or mental harm to members of the group
- deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- imposing measures intended to prevent births within the group
- forcibly transferring children of the group to another group

Article I of the convention confirms that genocide, “whether committed in time of peace or in time of war”, is a crime under international law which the contracting parties “undertake to prevent and to punish”. The UN explains what this means in practice:

Importantly, the convention establishes on state parties the obligation to take measures to prevent and to punish the crime of genocide, including by enacting relevant legislation and punishing perpetrators, “whether they are constitutionally responsible rulers, public officials or private individuals” (article 4). That obligation, in addition to the prohibition not to commit genocide, have been considered as norms of international customary law and therefore, binding on all states, whether or not they have ratified the genocide convention.

There are several other agreements to prevent genocide to which the UK is a signatory. Agreements include the Rome Statute of the International Criminal Court, the responsibility to protect principle, and the Accountability, Coherence and Transparency Group’s ‘Code of

¹ United Nations Office on Genocide Prevention and the Responsibility to Protect, [‘Ratification of the genocide convention’](#), accessed 14 March 2024.

² United Nations, [‘Convention on the Prevention and Punishment of the Crime of Genocide’](#), as entered into force 12 January 1951.



conduct regarding security council action against genocide, crimes against humanity and war crimes'.³

The UK officially acknowledges five instances where genocide has occurred: the Holocaust, the Rwanda genocide, the Srebrenica genocide, and acts of genocide in Cambodia and against the Yazidi people.⁴ The House of Commons has resolved that several other actions constitute genocide, including the treatment of Uyghurs and other groups in Xinjiang, China, and the actions of Saddam Hussein against Iraqi Kurds in 1988.⁵ However, the government maintains that the UK's position has "always been that determinations of genocide should be made by competent courts, rather than by governments or non-judicial bodies".

This position has come under pressure from some quarters in recent years. For example, giving evidence to the Joint Committee on Human Rights in October 2023, Dr Ewelina Ochab, programme lawyer at the International Bar Association's Human Rights Institute, gave her view of what the genocide convention required of state parties:

Starting with the duty to prevent genocide, the convention itself does not explain what it means or how this duty is to be implemented, but there is a very important judgment from the International Court of Justice from 2007, which talks about what prevention actually means. Paraphrasing, we do not have to wait until we see baddies on the streets, because then we are not talking about prevention. We have to act much earlier.

The International Court of Justice confirmed that the duty to prevent arises the instant a state learns, or should normally have learned, of a serious risk of genocide. That is the trigger point for the duty to prevent genocide. Unfortunately, that is one of the duties that is not implemented pretty much anywhere in the world. In order to implement this duty, states should have domestic mechanisms that will enable them to identify early warning signs and risk factors of genocide, and situations at serious risk of genocide, in order to trigger the duty to prevent genocide.⁶

³ International Criminal Court, '[United Kingdom](#)', accessed 14 March 2024; United Nations Office on Genocide Prevention and the Responsibility to Protect, '[Responsibility to protect](#)' and '[Security council](#)', accessed 14 March 2024.

⁴ Foreign, Commonwealth and Development Office, '[UK acknowledges acts of genocide committed by Daesh against Yazidis](#)', 1 August 2023.

⁵ House of Commons Library, '[UK acknowledges Yazidi genocide by Daesh/Islamic State](#)', 9 August 2023.

⁶ Joint Committee on Human Rights, '[Uncorrected oral evidence: Daesh](#)', 18 October 2023, HC 1922 of session 2022–23, Q5. Baroness Kennedy is director of the Human Rights Institute. See: International Bar Association, '[IBA heads of departments](#)', accessed 14 March 2024.



Dr Ochab continued by arguing that the UK's monitoring operations could be both stronger and more transparent:

In the UK, there is no such mechanism. The Bishop of Truro's review⁷ recently recommended ensuring that there is a mechanism for monitoring early warning signs of atrocities to come. In response, the government established a small team of, I believe, three individuals who are monitoring the situation. Unfortunately, we are not seeing any results of this work at this stage.

Then, of course, the government have the JACS—joint analysis of conflict and stability—assessment. Unfortunately, this assessment is not available to anyone. It is only for the government's eyes. Even Parliament cannot check whether the government are following their own advice identified in this assessment, which is very concerning. At least parliamentarians should have access to it in order to know whether the government are doing what they have identified for themselves to respond to atrocities.

Dr Ochab continued by highlighting the US State Department's monitoring work in this area:

In the US, much more work is being done to monitor early warning signs, especially with the Elie Wiesel Act, which was adopted some years ago, and there is annual review of situations of concern and identification of the steps taken by the US government in response to those situations. That provides more clarity and transparency. It is not perfect, but it is a great start on implementing the duty to prevent genocide.

Baroness Kennedy has described her bill as a means to strengthen the UK's genocide monitoring work. During a House of Commons Foreign Affairs Committee oral evidence session on Xinjiang, China, held in February 2024, she explained:

My private member's bill, the Genocide (Prevention and Response) Bill, would introduce mechanisms to ensure that the UK government are better equipped to prevent and respond to genocide and other atrocity crimes.

⁷ Bishop of Truro, '[Independent review for the foreign secretary of FCO support for persecuted Christians: Final report and recommendations](#)', 2019. See also: Foreign, Commonwealth and Development Office, '[Independent assessment of FCDO support for persecuted Christians around the world: FCDO's response to the findings](#)', 4 July 2022.



When we have a discussion with senior officials in the Foreign Office, they say, “But every embassy from around the world is considering questions of what is going on there and whether there might be a genocide in the offing. That’s being considered all the time. We’re all protecting this”. The truth is, however, when everyone is doing it, no one is doing it. That is the problem with those general responsibilities to weigh up what is happening in the nation in which they are a diplomat and sending reports back to government.

My bill therefore suggests the creation of a special hub within the Foreign Office, which will monitor and do precisely the things that Kate Ferguson [another witness, co-executive director and head of research and policy at the Protection Approaches charity] was describing—evaluate processes and keep in touch with developments taking place and the research being done—to see whether there are reductions or increases in certain kinds of conduct. I do think that you need a specialist unit for this.⁸

Baroness Kennedy continued by commenting on the US’s monitoring initiatives in the context of the country’s trade policy:

You will remember the very remarkable holocaust survivor called Elie Wiesel. Elie Wiesel ended up living his life mainly in the United States. He was a remarkable man in reminding us of the horrors that the human condition can lead us into. The United States introduced legislation based on his recommendation, a sort of Elie Wiesel Act, which was to do precisely this. Within the State Department there would be a special unit that had the responsibility of looking at geopolitics, monitoring what was happening inside nations and looking for the indicators—there are indicators—of whether we are seeing the signs and signals that we could be seeing a trajectory towards genocide. It is that business of being so well versed in it that you can have good monitoring, in depth. Certainly that is what happens in the United States.

I think that it probably has meant better responses to this by the United States, because we have seen that in relation to its own trading relations with China, the monitoring of what is coming out of Xinjiang province and its own reintroduction, for example, of the manufacturing of polysilicon in the United States. Perhaps we should be doing that here in Britain. I hesitate as to whether it is good for the environment; I don’t know, but I think that we would have to look at it.

⁸ House of Commons Foreign Affairs Committee, [‘Oral evidence: Follow-up to Xinjiang inquiry’](#), 6 February 2024, HC 541 of session 2023–24, Q2.



She concluded:

I certainly think that there should be specialists within the Foreign Office monitoring this, and that is what the bill that I am promoting seeks to achieve, but we know the fortunes of private members' bills. I suspect that it might fall on dry soil, but of course it's for the Commons, all of you, to see whether there is any benefit in this and to be arguing for it to be included, perhaps, in legislation that any government might put through.

Baroness Kennedy later reiterated her call for strengthened monitoring activity during a debate in the House of Lords on foreign affairs held on 5 March 2024. She said:

I would like to see the strengthening of the atrocity crimes unit in the Foreign Office, because it needs greater resources, and it should monitor indicators of genocide. The noble Lord, Lord Alton [of Liverpool (Crossbench)], and I argue for that in relation to the issues to which we [have] often drawn this House's attention, including the position of the Uyghurs. The unit should look at whether there is a trajectory towards genocide, which should be monitored in a sophisticated way, and resources are needed for that.⁹

2. What would the bill do?

The bill would make provision about how the government monitors and reports on activities to prevent and respond to genocide and other atrocity crimes. It comprises seven clauses and does not contain any delegated powers.¹⁰

Clause 1 would require the government to establish a genocide monitoring team within six months of the bill receiving royal assent. The team would be mandated to:

- monitor developments throughout the world that heighten the risk of genocide and atrocity crimes
- identify countries at serious risk of such crimes, including most likely pathways to

⁹ [HL Hansard, 5 March 2024, col 1530](#).

¹⁰ House of Lords Delegated Powers and Regulatory Reform Committee, '[3rd report of session 2023–24](#)', 8 December 2023, HL Paper 26 of session 2023–24, p 12.



violence, specific risk factors, potential perpetrators, and at-risk groups

- highlight potential issues in the government's foreign policy concerning regions or particular countries related to genocide and atrocity crime prevention and response
- facilitate the development and implementation of policies to enhance the government's capacity to prevent and respond to genocide or atrocity crimes worldwide

The team would have to regularly report to an appointed ministerial lead on genocide and atrocity crime prevention and response, including with “recommendations to improve policies, programmes, resources, and tools”.

Clause 2 would require the government to appoint a minister to lead its work on genocide and atrocity crime prevention and response. This would include:

- the publication of annual reports on the risk of and responses to genocide and atrocity crimes
- outreach, including annual consultations with representatives of non-governmental and civil society organisations dedicated to genocide and atrocity crime prevention and response
- reviewing the government's work on genocide and atrocity crimes every three years and making a statement to Parliament on the review

The ministerial lead would also have to provide a statement on their work to Parliament “at least twice per year”.

Clause 3 concerns training for civil servants. It would mandate the ministerial lead to facilitate regular training for civil servants on genocide and atrocity crimes, including instruction on:

- recognising patterns of escalation and early warning signs of potential genocides and other atrocity crimes
- methods of preventing and responding to genocides and other atrocity crimes, including assessment methods
- peace-building following genocide or atrocity crimes



- mediation for prevention
- early action and response
- transitional justice measures to address genocide and other atrocity crimes

Staff in scope of this training requirement would include “civil servants at the Foreign, Commonwealth and Development Office and staff at all embassies and overseas missions”.

Clause 4 would require the ministerial lead to lay a report before Parliament within six months of their appointment, and annually thereafter. The report would have to include information on:

- the assessment of ongoing genocides and other atrocity crimes, including the findings of such assessments
- 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
- an action plan for responding to the risk of genocide and other atrocity crimes
- steps taken to respond to identified serious risks of genocide and other atrocity crimes

The minister would also be required to make a statement on the report within 60 days of its publication.

Clause 5 would mandate the government to establish a fund to support programmes and activities to prevent or respond to potential genocide and atrocity crimes within six months of the bill receiving royal assent.

Clause 6 would define terms used in the act as follows:

- “genocide” has the meaning given in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide
- “atrocity crimes” refers to “crimes against humanity”, as defined in article 7 of the Rome Statute of the International Criminal Court, and to “war crimes”, as set out in article 8 of the Rome Statute of the International Criminal Court



Clause 7 would provide for the bill to extend UK-wide and for its provisions to commence on the date of royal assent.

3. What is the government's position?

Responding to a written question in January 2024, the government reiterated that it is the UK's "longstanding position" that:

[...] determining whether a situation amounts to genocide is an issue for competent national and international courts after consideration of all of the available evidence, rather than a decision [for] governments or non-judicial parties.¹¹

During an earlier debate in the House of Lords on the Ukrainian Holodomor, Minister of State at the FCDO Lord Ahmad of Wimbledon had explained the rationale for this position:

[...] my response reflects the fact that the government's position on genocide determination has not changed: it remains legal rather than political. The government's long-standing position—indeed, the position of successive governments—has been that any judgment on whether genocide has or has not occurred is a matter for a competent court, after consideration of all the evidence. The approach also ensures, I would add, that our genocide determinations are independent of politics and above perceived political or national interest. It is my belief that it also allows, importantly, for legal legitimacy and underpinning.¹²

Lord Ahmad continued by highlighting what the government was doing in response to alleged atrocity crimes by Russian forces in Ukraine, including "supporting the office of Ukraine's prosecutor-general to help them investigate and prosecute alleged war crimes".

Earlier in November 2023 the government filed a joint declaration of intervention with several partners at the International Court of Justice in The Gambia's case alleging Myanmar

¹¹ House of Lords, '[Written question: Sudan: Genocide \(HL1199\)](#)', 2 January 2024. See also: Foreign, Commonwealth and Development Office, '[UK acknowledges acts of genocide committed by Daesh against Yazidis](#)', 1 August 2023.

¹² [HL Hansard, 23 November 2023, cols 899–903.](#)



had perpetrated genocide against the Rohingya.¹³ The declaration set out the government's interpretation of the relevant provisions of the genocide convention before the court and recognised that the “genocide convention requires states parties to prevent the crime of genocide and hold those responsible to account”.¹⁴

4. Read more

- Debate on ‘Foreign affairs’, HL Hansard, 5 March 2024, [cols 1439–99](#) and [1510–48](#)
- US State Department, ‘[2023 report to Congress on section 5 of the Elie Wiesel Genocide and Atrocities Prevention Act 2018](#)’, 2 August 2023
- House of Lords Library, ‘[Universal Declaration of Human Rights: Promoting the declaration’s principles 75 years on](#)’, 7 December 2023; and [Debate on ‘Universal Declaration of Human Rights’](#), HL Hansard, 11 December 2023, cols 1782–800
- House of Commons Library, ‘[75th anniversary of the Universal Declaration of Human Rights and the UN Convention on Genocide](#)’, 6 December 2023; and [Debate on ‘Universal Declaration of Human Rights and UN Convention on Genocide’](#), HC Hansard, 7 December 2023, cols 155–84WH
- House of Lords Library, ‘[Ukrainian Holodomor](#)’, 17 November 2023; and [Debate on ‘Ukrainian Holodomor’](#), HL Hansard, 23 November 2023, cols 888–904
- House of Lords Library, ‘[Genocide Determination Bill \[HL\]](#)’, 2 August 2022; and [Second reading of the ‘Genocide Determination Bill \[HL\]’](#), HL Hansard, 28 October 2022, cols 1696–722
- House of Lords Library, ‘[Genocide: Bringing perpetrators to justice](#)’, 21 May 2021; and [QSD on ‘Genocide: Bringing perpetrators to justice’](#), HL Hansard, 27 May 2021, cols 165–82GC
- [Written questions on genocide](#) answered since the beginning of the 2023–24 session by the Foreign, Commonwealth and Development Office

¹³ House of Lords, ‘[Written question: Myanmar: Rohingya \(HL600\)](#)’, 11 December 2023; and ‘[Written question: Myanmar: Rohingya \(HL1209\)](#)’, 3 January 2024.

¹⁴ Foreign, Commonwealth and Development Office, ‘[Intervention by UK and partners in The Gambia v Myanmar ICJ case: Joint statement](#)’, 16 November 2023.

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