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Note Verbal No. 259

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to submit its response to communication OL GBR 16/2025, further to the letter dated 28 October 2025 from the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 05 August 2026

Special Procedures Branch
Office of the High Commissioner for Human Rights



UK Mission
Geneva

United Kingdom of Great Britain and Northern Ireland

Response to Special Procedure communications AL GBR 16 2025 of 28 October 2025 sent by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

Thank you for your letter of 28 October 2025 (“the Communication”) on the following five pieces of the United Kingdom’s legislation: National Securities Act 2023; Overseas Operations (Service Personnel and Veterans) Act 2021; Justice and Security Act 2013; International Criminal Court Act 2001; and the Criminal Justice Act 1988.

We are grateful to the Special Rapporteurs for sharing their concerns, which have been carefully considered. The United Kingdom is deeply committed to the international rule of law and is committed to its obligations under applicable international human rights law.

In this letter, the United Kingdom responds to the questions posed on pp. 12 – 14 of the Communication and explains how the provisions in various laws are in accordance with the United Kingdom’s obligations under international law, particularly with regard to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the right to life, the right to liberty and security of person, and the right of victims and their families to redress, and the duty to investigate and prosecute these violations.

a. National Security Act 2023

i. Does the Government intend to repeal section 30 of the Act which permits a defence for serious human rights violations overseas?

Section 30 of the National Security Act 2023 amended the Serious Crime Act 2007 by inserting a new section 50A into that Act. The Government does not intend to repeal section 50A.

Section 30 of the National Security Act 2023 is not a broad general immunity from prosecution and does not make any human rights violations legal. Rather it introduced a new defence into Part 2 of the Serious Crime Act 2007 which contains the offences of encouraging or assisting crime and can apply extraterritorially, in certain circumstances.

The defence ensures that individuals working for the Security Service, the Secret Intelligence Service and the Government Communication Headquarters (collectively known as the United Kingdom Intelligence Community or “UKIC”), and individuals carrying out intelligence functions of

the Armed Forces, have a special defence against the extraterritorial offences of encouraging or assisting crime.

Specifically, section 50A(1) of the Serious Crime Act 2007 restricts the defence to circumstances in which offences might be committed due to the extraterritorial application provided for in Schedule 4 of that Act. The defence is potentially available where, for example, UKIC or the Armed Forces share intelligence to assist the overseas activity of a trusted foreign partner.

Section 50A(2) and (3) makes clear that the individual would have to raise evidence that their act was necessary for the proper exercise of a function of an intelligence service or the proper exercise of the functions of the Armed Forces relating to intelligence.

The defence is therefore restricted to activity that is necessary for the proper exercise of the functions of UKIC or the Armed Forces, in response to specific operational issues that could affect their ability to keep the public safe. Any individual found to be acting beyond the proper functions of UKIC or the Armed Forces will remain liable for those actions.

Under Section 50A(4), the head of each intelligence service is required to have arrangements in place to ensure that any conduct of its members, which would otherwise amount to an offence by virtue of Schedule 4, is necessary for the proper exercise of its functions. A similar requirement is placed on the Defence Council under section 50A(5) in relation to acts of a member of the Armed Forces or a civilian subject to service discipline (as defined in the Armed Forces Act 2006). The Secretary of State must consider such arrangements are satisfactory (section 50A(6)).

The Government does not consider that section 30 of the National Security Act 2023 made any change to the United Kingdom's compliance with its international legal obligations, including obligations under the United Nations Convention 39/46 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("UNCAT") and obligations relating to assisting an unlawful act under Article 16 of the International Law Commission's Articles on State Responsibility for Internationally Wrongful Acts. The UK continues to comply with those obligations.

Please explain what constitutes necessity in the defence for intelligence services and armed forces.

The functions of UKIC and purposes for which those functions can be carried out are set out clearly in the Intelligence Services Act 1994 and the Security Service Act 1989. The functions and purposes of each agency are slightly different, but all relate to the protection of national security, the interests of the economic well-being of the United Kingdom and the prevention or detection of serious crime.

The functions of the Armed Forces are a matter of the Royal Prerogative rather than being statutorily defined. However, the functions of the armed forces clearly must relate closely to the defence of the realm, including the maintenance of national security.

What is necessary would have to be considered by the criminal court in light of all the facts of the particular case.

Please explain how section 30 adheres to the absolute prohibition on torture, and especially article 2(3).

As a matter of domestic criminal law, torture is prohibited by section 134 of the Criminal Justice Act 1988, which defines it as the infliction of severe pain or suffering by a public official in the performance of their public duties. That prohibition applies both within the United Kingdom and elsewhere.

The amendment made by section 30 of the National Security Act 2023 does not amend the prohibition on torture. Nor does it relate to, or amount to, “an order from a... public authority” which cannot be invoked as a justification for torture, as outlined in Article 2(3) of UNCAT. The Government is clear that individual officers, even at junior ranks, continue to bear responsibility for their own acts.

Robust internal policies and processes, including “The Principles”¹ (relating to the detention and interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees) and Overseas Security and Justice Assistance Guidance, exist to ensure that UKIC and Government officers do not knowingly support unlawful activity.

Paragraph 1 of The Principles states that: “The UK Government does not participate in, solicit, encourage or condone unlawful killing, the use of torture or cruel, inhuman or degrading treatment (“CIDT”), or extraordinary rendition. In no circumstance will UK personnel ever take action amounting to torture, unlawful killing, extraordinary rendition, or CIDT.”

ii. Does the Government intend to repeal sections 85-88 of the Act which permit reduction and/or denial of damages based on terrorist wrongdoing? What safeguards are in place to ensure victims of torture and other serious violations of international human rights law and international humanitarian law are not denied redress and compensation? Please explain how sections 85-88 are compatible with article 14 of the CAT and articles 2(3), 6, 7 and 9 of the ICCPR.

We are grateful to the Special Rapporteurs for sharing their concerns, which have been carefully considered. The Government fully recognises the absolute prohibition of torture and the obligations imposed by the Convention Against Torture (CAT), as well as the International Covenant on Civil and Political Rights (ICCPR), and believes that the legislation is drafted in a manner that respects these international commitments. The reforms on civil damages in the legislation were discussed at length in Parliament during the passage of the National Security Act 2023 and the Government also considered and responded to a report from the Joint Committee on Human Rights. The Government does not propose to repeal these sections.

These sections of the National Security Act do not grant blanket immunity for acts of torture, nor do they automatically deny redress to survivors. Rather, they establish a framework whereby any application to reduce or withhold damages is subject to rigorous judicial scrutiny. Courts retain full discretion in determining whether, and to what extent, damages may be reduced, if at all, and are empowered to assess the merits of each individual case. Furthermore, the right to appeal is preserved, ensuring that claimants have access to additional review by the courts should they disagree with a decision.

¹ [The Principles relating to the detention and interviewing of detainees overseas.pdf](#)

We believe it may be helpful for the Government to provide further clarification regarding the rationale behind the legislation and the safeguards which are built into it.

At present when damages are paid out to claimants involved in terrorism activity, a court is not required to consider whether damages should be reduced to reflect the claimant's involvement in wrongdoing. The Government believes that in certain exceptional cases of national security, questions of culpability of the claimants and defendants need to be considered in quantifying the damages payable.

The legislation addresses this exceptional context, and where an application is made courts will be formally required to consider whether to reduce or withhold damages awarded when they find in favour of the claimant in national security proceedings, as defined by s.84(1) of the National Security Act 2023. This measure is aimed at those cases where a claimant, often based overseas, makes a claim against the UK's security services that is based on or related to that claimant's own involvement in terrorist wrongdoing, as defined by s.85(3) of the National Security Act 2023.

With regard to Section 88/Schedule 16 to the Act, on freezing and forfeiture of damages, these measures aim to nullify the threat to the public where damages awarded to claimants in court cases may be used for terrorist purposes. These measures provide the court with complete discretion on whether to make a freezing or forfeiture order and allow the court to form an independent view, based on an objective assessment of the evidence provided by UK security services, and taking account of submissions made by the claimant. There will be a right of appeal to a higher court, and these matters will be determined upon established legal principles.

It is also worth noting that a forfeiture order will not automatically follow on from a freezing order. This is a decision for the court to make based on evidence presented by the Crown and the claimant. Furthermore, when applying for an extension to the freezing order the Crown must convince the court that there is a real risk of the damages being used for terrorism. The process provides multiple points at which the claimant can make their case to have access to any damages.

Protecting the public is a fundamental policy objective for all Governments. That is the context in which this reform should be viewed.

The Government believes it is essential to address situations where there is a risk that funds could be moved out of reach before other legal safeguards can be applied. Such risks should be managed through a dedicated legal regime, as established by this legislation. Existing legal frameworks designed to prevent damages or other funds from being used to support terrorism are not specifically tailored to litigation, where courts must consider complex issues unique to each claimant and their circumstances. Furthermore, these frameworks do not provide the protection of multiple freezing orders before assets are permanently confiscated. Applying less targeted measures from other regimes would fail to deliver proper justice for claimants.

iii. Please clarify what measures are in place to ensure that allegations of "terrorist wrongdoing" under sections 84 87 of the National Security Act 2023 are subject to fair and independent judicial scrutiny; particularly where such allegations originate from jurisdictions with documented patterns of using terrorism charges to suppress dissent

In relation to concerns about the approach taken towards allegations of "terrorist wrongdoing" particularly where such claims originate from jurisdictions with a known record of using terrorism charges to suppress dissent, the legislation provides protections to ensure fairness. Restrictions on compensation are never imposed automatically; instead, as detailed above, they remain subject to independent judicial scrutiny. Courts are required to examine all pertinent evidence and arguments comprehensively before making any determination. As a result, allegations of "terrorist wrongdoing", especially those arising from countries recognised for misusing terrorism laws against dissidents, are not, by themselves, deemed sufficient to justify a reduction or denial of compensation. The process is anchored in established due process principles. Courts will rigorously assess both the reliability and credibility of any evidence presented, and survivors maintain the right to appeal, securing the opportunity for additional judicial consideration.

Therefore, in applying these provisions courts will be able to ensure that the Government is not improperly excused from any culpability and will also be able to ensure that a claimant's conduct is only a factor where it is relevant to the consideration of the justice of an award of damages.

b. Overseas Operations (Service Personnel and Veterans) Act 2021

i. Does the Government intend to repeal the six-year limitation period for civilians to bring civil claims for personal injury or death related to overseas conduct by UK armed forces? Please explain how this limitation period is compatible with article 14 of the CAT and articles 2(3), 6, 7 and 9 of the ICCPR. Please explain why this limitation period applies to civilians and not members of the armed forces.

The Government has no plans to repeal the six-year limitation period for claims in respect of overseas operations.

The Overseas Operations Act helps to reduce the uncertainty faced by our Service personnel and veterans in relation to historical allegations and claims arising from overseas operations. The UK judges that the best way to protect veterans from repeated, intrusive investigations into future operations is to improve our ability to investigate promptly and effectively soon after the events. This also provides a mechanism for civilians to receive compensation to rebuild their lives after incidents in which wrongdoing has occurred.

The six-year limitation longstop applies only to civil compensation claims and does not restrict investigations or prosecutions for serious offences, which remain fully available. Torture, war crimes, genocide, crimes against humanity and grave breaches are expressly excluded from the Act's protections and remain fully prosecutable. The six-year window, supported by the "date of knowledge" safeguard, ensures claimants retain a realistic opportunity to seek redress and is considered compatible with the UK's obligations under CAT and the ICCPR.

For clarification, the six-year limitation period for personal injury or death is defined as follows:

- claims for personal injury must be brought within six years of the incident, or six years of the date of knowledge of the incident (whichever is later).
- claims for death must be brought within six years of the death, or six years of the date of knowledge of the person for whose benefit the claim has been brought (whichever is later).

The six-year absolute limitation longstop applies uniformly to all claimants—civilians, serving personnel and veterans alike—where claims arise from overseas operations. It does not prevent civilians from bringing claims against the MOD in connection with overseas operations within a reasonable timeframe.

ii. Please provide information on how your Excellency's Government ensures that the restrictions introduced by the National Security Act and the Overseas Operations Act do not impede the ability of UK courts to scrutinise and remedy unlawful State practices, including those of a systemic or policy-driven nature.

The measures in the Overseas Operations Act and National Security Act are proportionate and strike an appropriate balance between victims' rights and access to justice on the one hand, and fairness to those who defend their country on the other. The measures do not seek to prevent victims of alleged offences by Service personnel or other UK personnel acting overseas from bringing forward their allegations, which will be investigated and, where appropriate, prosecuted. Service personnel and other UK personnel who break the law can still be held to account for wrongdoing.

The Government will also continue to abide by its obligations under domestic and international law, including the Human Rights Act 1998.

c. Justice and Security Act 2013

i. Please explain what safeguards in the CMP process are in place to protect claimants who have alleged torture by the government and ensure they are entitled to their rights to redress, rehabilitation, and compensation under article 14 of CAT.

The Justice and Security Act 2013 (JSA) expanded the use of Closed Material Procedure (CMP) to the civil courts, enabling courts to consider sensitive material in a way that protects national security while safeguarding individuals' rights to have their interests represented.

CMP allows all relevant material to be considered by the court, ensuring that decisions are based on the full facts and enabling effective judicial scrutiny of the executive. This ensures that cases can proceed where they might otherwise collapse, including cases involving allegations of torture, which are examined by an impartial judge on the basis of all relevant material.

Where CMP is used, all material relevant to the case is put before the court, including material that may support the claimant's case. A Special Advocate is appointed to represent the claimant's interests in the closed element of proceedings, ensuring that fairness is maintained and the claimant's interests continue to be advanced, including where allegations of torture are made. While the claimant does not see the closed material, the Special Advocate plays a vital role in testing the evidence and maintaining the fairness of the proceedings.

The use of CMP is subject to strict judicial safeguards. Under section 6 of the JSA, a court may permit CMP only where disclosure of sensitive material would damage national security. Section 7 requires the court to keep any declaration under review and revoke it if the statutory conditions are no longer met. Section 8 requires the court to consider whether a summary of the material can be provided wherever possible. CMP is therefore a tightly controlled process, used sparingly and only where strictly necessary.

CMP therefore does not impact a claimant's rights to redress, rehabilitation, and compensation under Article 14 of the Convention Against Torture. CMP affects how some evidence is considered, not whether a claimant can pursue or obtain redress under Article 14.

d. International Criminal Court Act 2001

i. Does the Government intend to amend the Act to include persons merely present in the territory of the United Kingdom to be prosecuted? Please explain the reasons for the restriction on the status of the perpetrator in this Act. Please explain the difference between this Act and the Criminal Justice Act 1988 which permits the prosecution of perpetrators or torture who are merely present in the UK. Please take into account jurisdictional obligations for offences of torture under article 4 of CAT.

ii. Please explain if there have been any steps taken to clarify when crimes amounted to criminal offences under customary international law.

At present, the Government has no plans to amend the International Criminal Court Act (2001).

With reference to genocide, war crimes, and crimes against humanity, the International Criminal Court Act (2001) states that 'Courts will have jurisdiction over these offences when committed in England and Wales, or when committed overseas by UK nationals, UK residents or persons subject to UK Service jurisdiction.' This approach is informed by the view that, in general, serious international crimes are best investigated and prosecuted close to where they are perpetrated, due to the advantages in securing evidence and the witnesses necessary for a fair investigation and prosecution, as part of a credible judicial process. It is also designed to ensure that those suspected or accused are investigated, charged, and tried fairly and impartially at every stage, with access to all available evidence, in accordance with local, constitutional and legal frameworks.

As outlined in the Criminal Justice Act (1988), UK courts have jurisdiction over alleged instances of torture, regardless of the status of the alleged perpetrator. The UK Government unreservedly condemns the use of torture, and those responsible must be held to account. Ultimately, questions as to whether universal jurisdiction should apply to a particular crime are best approached collaboratively between States and through treaties, and it is of fundamental importance that issues of domestic and international accountability - such as universal jurisdiction - continue to be discussed seriously and collaboratively by the international community.

Whilst customary international law can be a source of law for the development of the common law, if the courts were to recognise a criminal offence created under customary international law alone that would raise constitutional concerns (including in relation to its implications for the rights of the accused), unless Parliament had recognised such an offence in legislation and provided a basis

for the jurisdiction of the UK courts over it. In this respect we would respectfully refer you to the judgment of Lord Bingham in *R v. Jones (Margaret)* [2006] UKHL 16.

e. Criminal Justice Act 1988

i. Does the Government intend to repeal sections 134(4) and (5) of the Act? Please explain how the defence available under these sections adheres to the absolute prohibition on torture, and in particular article 2(3) of CAT

The Government does not intend to repeal sections 134(4) and (5) of the Criminal Justice Act 1988 ("the Act").

It is still the Government's view, as identified in the letter, that the broad nature of the offence requires the defences as set out in the Act. Appropriate safeguards exist in domestic legislation and are set out in the Human Rights Act 1998, which prohibits public authorities from acting incompatibly with the rights protected by the European Convention on Human Rights ("the Convention"). These include Article 3 of the Convention, which provides that no one shall be subjected to torture or inhuman or degrading treatment or punishment. In 1998, following a broader consultative piece reviewing legislation on offences against the person, the Government found that the defences contained in sections 134(4) and (5) of the Criminal Justice Act 1988 did not conflict with Article 3 of the European Convention on Human Rights². The Government has no plans to revisit these considerations or to reform these provisions.

² Violence: reforming the Offences Against the Person Act 1861: consultation paper (includes draft bill). HO. 1998. Ref: Dep/3 6023