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## Britain: a refuge for the unspeakably evil

**We finally have a chance to pass laws so that those who have committed genocide or war crimes can be prosecuted here**

Ken Macdonald

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What is it about arresting people for war crimes that the Government doesn't like? After Iraq, you'd think an administration that may be in legacy mode would want to stamp some late-term legitimacy on its 12 years in office. But rumours are growing in Whitehall that Jack Straw is about to turn his back on bringing suspected mass murderers to justice in UK courts. Apparently ministers think it would be too expensive, or that it might offend our allies.

The latter seems unlikely, since on this issue it is once again our freshly re-energised and most important friend, the US, that is leading the moral charge. Three weeks ago, Senator Dick Durbin, President Obama's doughty old colleague from Illinois, introduced the Crimes against Humanity Act into the Senate. Like the US Genocide Accountability Act (which passed through Congress without any difficulty), it has a simple presence requirement for prosecution: if you are a war criminal and you don't want to spend years in prison, the Americans say, don't travel to the United States — because if you do and we find you here, we will surely put you in a court. Senator Durbin's Bill is widely expected to pass into law.

Unfortunately, a few thousand miles east of the US Capitol, things seem a little more complicated. Perhaps it's something in the air, but over here the senator's approach somehow feels too ambitious for a British government to contemplate without a fit of nerves.

Tomorrow the House of Lords will debate Lord Carlile of Berriew's amendments to the Coroners and Justice Bill. These broadly replicate the US legislation. It would finally become possible to prosecute through our national courts those responsible for all genocide, war crimes and crimes against humanity committed anywhere in the world. Critically, and following the American model, with enough evidence the simple presence of a suspect in the UK would be sufficient to trigger arrest and prosecution.

But the Government is hesitating. It's worried that mere presence on our soil shouldn't be enough to bring a case. Perhaps we should require more. Maybe we should only consider going after people who are living here more permanently as UK residents. That way we wouldn't risk embarrassing Israeli generals, or even former US secretaries of state, innocently shopping in Bond Street. Apparently, if the law is changed, these vulnerable jet-setting visitors could be lifted from Harrods at any moment. Drop the bath salts, you're nicked.

But perhaps we shouldn't be surprised if the public lose faith in the intelligence of British criminal justice, when the Government appears to hold it in such contempt.

Of course a law can easily be crafted to protect our national sense of decency, while at the same time avoiding vexatious and foolish litigation at the expense of a batch of ageing Henry Kissingers. Indeed, we already have laws that allow us to arrest visiting torturers and hostage takers. They have been applied sensibly and haven't led to diplomatic meltdown. Why should we be able to prosecute visiting torturers but not war criminals and *génocidaires*? The simple device of requiring the Director of Public Prosecutions to consent to the instigation of proceedings would prevent abuses and ensure that only appropriate cases can be brought. Too often policymakers seem to delight in raising false barriers to what is otherwise obviously right. It's the job of strong ministers to see beyond these seductive mirages and to barrel through bureaucratic caution. The Justice Secretary should rise to this challenge.

The consequences of his failing to do so are frankly unappealing. According to a report in *The Times* in 1999, the individual suspected of supplying, on an industrial scale, most of the machetes used in the Rwandan slaughters stopped over in Britain on holiday. If the law is not changed, this unusual tourist is safe to return at any time.

Recent research by the Aegis Trust has also carefully documented the scores of suspected war criminals who are believed to be present in the UK. They include suspects from Iraq and Zimbabwe, warlords from Somalia and Afghanistan, and suspected *génocidaires* from Rwanda. As you would expect, since they cannot be prosecuted here, these men calmly arrive for a wide variety of reasons. Some come for medical treatment and others to do business but, unsurprisingly, they take care to avoid residency. They're not stupid and they know that they risk nothing more alarming than deportation — where that is even possible.

But all too often it isn't and we find ourselves caught in a devil's trap. We cannot prosecute these men because they're not UK residents, but our courts won't deport them either in case they face mistreatment on their return. Certainly the human rights of suspects must be respected, but the dilemma becomes very stark in the face of atrocity crime. They end up living among us while their victims wait for justice.

If the Government opposes the Carlile amendments, our message to war criminals will be a good deal less stern than Washington's. And the people who have committed these ghastly crimes will continue to haunt us. But an important part of making the world a safer place for innocent people is to make it a lot less safe for their tormentors. Our law should stop providing comfort to international criminals.

Anyone can understand the pressures and constraints on choices to be made in public life. The burdens of office are, indeed, heavy. But sometimes it's simpler just to do the right thing. When it comes to mass murder, where is the downside?

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