

## Written evidence from Protection Approaches (UMF 13)

### Public Administration and Constitutional Affairs Committee

### The Role of Parliament in the UK Constitution: Authorising the Use of Military Force inquiry

#### Executive summary

- 1. This submission addresses the questions set out in the terms of reference regarding the extent has the involvement of Parliament in authorising the use of military force affected the conventions governing its deployment; the role, if any, should Parliament have in the authorisation of military force; and how this role might be assured.**
2. This submission addresses these questions in relation to contexts where the use of UK military force is considered in relation to humanitarian or protective objectives, specifically when populations are at risk of mass atrocities (genocide, ethnic cleansing, crimes against humanity and war crimes). Since 2003, there appears to be a convention whereby the UK Government seeks approval from the House of Commons for any proposed military action. These votes on British military action in Libya, Syria, and Iraq have at times taken place amid confusion regarding the consistency of seeking Parliamentary approval and the ensuing Parliamentary process including timing of votes and sharing of information.
3. This confusion, lack of clear process, and absence of transparent information sharing pertinent to the decision making process (including but not limited to Government and independent legal advice, wider Government strategy regarding their humanitarian or protective objectives, evidence from the field, the positions of the affected communities, recommendations from the United Nations) has at different times distracted attention away from the issue at hand; encouraged parliamentary parties to play politics with decision making; and hindered timely decision making. There are also reasonable questions regarding reputational impact the lack of procedural clarity has beyond Britain's borders.
4. Deciding whether to sanction the use of military force beyond national borders must be considered one of the most complex, grave, and contested aspects of modern democracy. In contexts where the use of UK military force is considered in relation to humanitarian or protective objectives, these decisions can be even more challenging. This submission makes four simple recommendations that would provide greater clarity and encourage a more evidence-based decision-making process.

## About Protection Approaches

5. Protection Approaches works to assist the UK in better predicting and preventing identity-based violence, particularly mass atrocity crimes (genocide, ethnic cleansing, crimes against humanity and war crimes). Protection Approaches is registered charity in England and Wales, charity number 1171433 For more information please see [www.protectionapproaches.org](http://www.protectionapproaches.org).
6. This submission was prepared by Dr. Kate Ferguson, Director of Research & Policy. Dr. Ferguson is an experienced analyst in the fields of atrocity prevention, violent extremism, and civilian protection. She Chair of Policy at the European Centre for the Responsibility to Protect. She is a member of the Centre for Science & Policy's Network for Evidence and Expertise at the University of Cambridge and the British Academy Network on the Responsibility to Protect. She is an Honorary Research Fellow at the University of East Anglia. She holds a PhD from UEA on the dynamics of modern mass atrocities, and an M.Phil in Russian and East European Studies from the University of Oxford.
7. Dr Ferguson gave oral evidence to the Foreign Affairs Committee as part of their inquiry on Britain's Responsibility to Protect and Humanitarian Intervention on 1 May 2018. This submission builds on that evidence and the Committee's conclusions.<sup>1</sup>

### Recommendations:

8. **For circumstances where the use of UK military force is considered in relation to humanitarian or protective objectives, Parliament should establish a transparent process of consultation, debate and, when necessary, meaningful votes. This process should involve statements from the Prime Minister, the Minister responsible for the UK's Atrocity Prevention Strategy (currently Lord Ahmed<sup>2</sup>), the Attorney General, as well as Secretaries of State for the Ministry of Defence, Foreign and Commonwealth Office, and the Department for International Development.**
9. **Parliament should, in line with recommendations of the Chilcot Inquiry, set out a transparent process to sharing of information and intelligence across parliament and, where appropriate, with the public**
10. **Members of Parliament should be given a free vote on matters of protective military action<sup>3</sup>**

---

<sup>1</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/foreign-affairs-committee/responsibility-to-protect-rtp-and-humanitarian-intervention/oral/82275.html>

<sup>2</sup> Letter dated 13 February 2019 from Lord Ahmed to the UK Civil Society Mass Atrocity Prevention Working Group

<sup>3</sup> These recommendations are based upon research undertaken by Protection Approaches. See [Maintaining momentum in a changing world: Atrocity prevention in UK policy](#), Kate Ferguson and Ben Willis, 2017

## Background and rationale

11. The legacy of the US-led invasion of Iraq in 2003 has undoubtedly left deep scars in the British political consciousness regarding the use of force overseas, and most especially in the Middle East region. Many of these sentiments have also been reinforced in the fallout from NATO intervention in Libya in 2011. But the question of protective military action is not black and white. We know now that relatively small military actions in Bosnia and Rwanda could have saved countless lives. The question of when and how to use force will always be one of the most difficult aspects of modern democracy but that does not obviate Britain's responsibility to protect.<sup>4</sup> The manner in which these decisions are taken are necessarily subject to the highest degrees of scrutiny however how Britain determines whether or not to sanction the use of its military force appears confused and ad hoc.
12. Recent years have seen a shift towards the principle of recalling parliament ahead of armed deployment. This tendency has meant that major decisions over whether to deploy UK troops abroad have been made by parliament rather than residing solely with the head of Government. This is a democratising process that provides the opportunity for all Members of Parliament to share in the responsibility of what is, and will always be, one of the most challenging decisions in contemporary politics. It opens debate and pluralises decision making. However, consulting Parliament leaves votes on how best to protect civilians from atrocities vulnerable to being excessively politicised, whether along party lines or according to the domestic pressures of electoral cycles and poll ratings. Such short-term constraints limit debate and have thus far inhibited more comprehensive long-term commitments to protection abroad.
13. In part as a result of both the legacy of Iraq and the recent parliamentary votes on protective intervention, political positions regarding the use of force to protect civilians have become binary and ideological, rather than evidence led and context-specific. As a result, 'it is common now to conflate complexity with interminability, and intervention with the use of force... foster[ing] the illusion that the UK can opt out of fundamental challenges facing our friends and allies, or vast swathes of people suffering in an ever-more connected world'.<sup>5</sup>
14. In some cases, military action may well be the right thing to do, in others alternative strategies may be more appropriate. Believing absolutely in the effectiveness of intervention, or rejecting the use of force in all circumstances, belies the complexity of those specific contexts where atrocities occur. Similarly, when the use of force to protect civilians is put to a whipped vote, party politics supersedes the primary issue: how best to protect people from the gravest crimes. In future, parliament should be given a free vote when protective military action is being considered.
15. Parliament, parliamentary parties, and Government would benefit if their decision-making process was clarified but also if the complexities involved were more clearly articulated. British parliamentary engagement with issues relating to the use of force and humanitarian, protective or human rights agendas have been fraught; they have also tended to produce debates determined along ideological rather than evidenced

<sup>4</sup> Paras 138-139, United Nations General Assembly, *60/1. 2005 World Summit Outcome*, 24 October 2005

<sup>5</sup> McGovern, A., Tugendhat, T., 'The Cost of Doing Nothing: The Price of Inaction in the Face of Mass Atrocities', Policy Exchange Report, January 2017

arguments. For matters of such moral financial magnitude this is acutely unsatisfactory.

### **The need for clarity, process and transparency from Government and in Parliament**

16. Poor management of the way in which Britain's forces have been committed to join military actions that have some kind of protective or humanitarian objective has been exacerbated by lack of clear process both in Parliament and in Government
17. HMG recently clarified its approach to mass atrocities, stating that atrocity prevention [AP] "is not firmly embedded in the day-today work across our internationally facing Departments. One of five core components in this cross-governmental approach (which includes DfID, FCO and MoD) is the use of defence tools; 'We also have the ability to use these tool, including the armed forces, to strengthen the rules-based international order including through conflict prevention and capacity building, support to humanitarian assistance and disaster response, conducting operations to restore peace and stability. Lord Ahmed now has ministerial oversight of HMG's Mass Atrocity Prevention Policy.
18. Further clarification of how HMG implements its Atrocity Prevention Strategy would be of immense public benefit, and would assist Members of Parliament and their constituents better understand the wider cross-cutting policy commitments that are closely related to questions regarding the advisability of use of force. However, the absence of Parliamentary process and how this relates to the UK's emerging Atrocity Prevention Strategy, means that when urgent situations arise the lack of clarity perpetuates uncertainty. Debate over parliamentary process during moments of urgent crisis attention is diverted from how best to protect populations from impending atrocities.

### **Recommendations for Parliament**

19. The recommendations of Sir John Chilcot's Iraq Inquiry can provide an important basis from which to strengthen parliamentary and governmental processes that guide the decision of whether to take military action.<sup>6</sup> Three important themes emerge from these recommendations that are especially permanent. First, if the potential for military action arises, the government should not commit to a firm objective before it is clear that this can be realistically achieved. Second, the sharing of information and intelligence must be better managed. As Sir Chilcot wrote, there is a 'need to be scrupulous in discriminating between facts and knowledge on the one hand and opinion, judgement or belief on the other.'
20. Codifying the recommendations of the Chilcot report in law or in Parliamentary process so as to ensure an appropriate framework guides decision-making on military action would improve procedural legitimacy in the eyes of the public and the wider international community.<sup>7</sup>

---

<sup>6</sup> HM Government, 'The Report of the Iraq Inquiry: Executive Summary – Report of a Committee of Privy Counsellors', 6 July 2016.

<sup>7</sup> Starmer, K., 'Chilcot's lessons on going to war must be enshrined in law', *The Guardian*, 6 July 2016.

21. An establish process of Government-led information sharing, debate and where necessary meaningful votes could help make explicit the criteria and process by which future decisions regarding deployments of UK forces in order to protect civilians are made. For circumstances where the use of UK military force is considered in relation to humanitarian or protective objectives, Parliament should establish a transparent process of consultation, debate and, when necessary, meaningful votes. This process should involve statement from the Prime Minister, the Minister responsible for the UK's Atrocity Prevention Strategy (currently Lord Ahmed<sup>8</sup>), the Attorney General, as well as Secretaries of State for the Ministry of Defence, Foreign and Commonwealth Office, and the Department for International Development. **Any such process would need to reflect existing national and international conventions on the use of force and meet standards of international law.**

*March 2019*

---

<sup>8</sup> Letter dated 13 February 2019 from Lord Ahmed to the UK Civil Society Mass Atrocity Prevention Working Group