On 8 November we received the Government response to the Foreign Affairs Committee report Global Britain: The Responsibility to Protect and Humanitarian Intervention. When you gave evidence to the Committee on 13 November we asked you to revisit this response and provide fuller answers to the conclusions and recommendations we presented. We have been asked by your staff to provide further detail of what we expect, and I write to provide that clarification.

In general the Committee felt that the substance and detail of the Committee’s recommendations were not engaged with fully in the response received by the FCO. Specifically, the Committee would like further comment on the following points:

1. The FAC report called for further clarification and definition in setting out the general conditions for when a humanitarian intervention can take place (para 19). The response did little to further clarify or define the three conditions which were published in its legal position in April and referenced in the report.

The Committee had expected the Government to provide more specific and detailed definitions in order to assist in the Committee’s understanding of when the Government considered a humanitarian intervention to be justified. This is significant for a number of reasons, not least because few other countries use or accept humanitarian intervention as a legal basis for unilateral military action and more precise definitions of when it applies may improve the understanding of its application.

For the purposes of the Committee’s report, later in the report (para 35) we note our concern as to why the UK Government chose to react to the chemical weapons attack in April 2018 but not to other chemical weapons attacks that occurred before that, or to the sustained and devastating use of conventional weapons, and other grave breaches of international humanitarian law, which have caused many more deaths and injuries. Having clearer definitions related to the conditions required to justify a humanitarian intervention may help to explain these apparent inconsistencies in the Government’s response in Syria, where it has responded to one attack but not others and we look forward to further explanation in this regard.

2. The Committee recommended in this report (para 18) and in our first report of the session on the Violence of Rakhine State that the Government should act urgently to produce a comprehensive atrocity prevention strategy. In its response the Government said “Given the extent to which the UK already seeks to prevent and to respond to atrocities, we do not believe that anything would be gained from collating this all under a new strategy on Atrocity Prevention.”
This suggests that the Government believes that there is nothing it can improve on its responses to current crises and seems to fail to acknowledge that some atrocities do not happen in places where there is no current conflict, such as in Myanmar. The Committee finds this response dispiriting in its lack of ambition. It also does not seem aligned with what the Foreign Secretary said in his recent speech at Policy Exchange where referencing the Committee’s report he acknowledged the Committee’s challenge to “do more within our budget on atrocity prevention, because there are times when far sighted action could potentially prevent some of the appalling things that do happen, so yes we are absolutely committed to doing that.”

In your response I would therefore like a more detailed explanation as to what that commitment to atrocity prevention referred to by the Foreign Secretary is.

3. The Committee recommended that the Government commit to implementing the French proposal to refrain from use of the veto where there is credible evidence of genocide. In its response the Government stated “Given the ACT Code of Conduct’s broader focus on all Security Council members (rather than the French initiative’s focus on the P5 alone), our decision to sign up to the ACT Code is the right one.”

The response suggests that signing up to one precludes signing up to the other, but this is not the case and many countries are signatories to both initiatives. It is my view that the Government response does not therefore adequately respond to the Committee’s recommendation in the report.

4. The final recommendation by the Committee was to establish an independent inquiry into the decision-making processes leading to, and the consequences of, non-intervention. In its response the Government highlighted the decision of Parliament in 2013 where it voted not to support a military intervention in Syria. However, the response does not address decisions not to intervene prior to that decision or subsequent to that decision. As the airstrikes in April demonstrated, and this was noted in the report, “when western Governments want to act, they can act.” An independent inquiry would therefore consider a range of key points in the conflict where the Government could have acted but failed to and the implications of those decisions. I would therefore ask you to refer this back to Ministers for further consideration; or at the very least a specific indication of how lessons will be learned in the absence of such an inquiry.

We look forward to hearing from you shortly and we will be placing this letter and your response in the public domain.

Tom Tugendhat MP
Chair
THE RESPONSIBILITY TO PROTECT AND HUMANITARIAN INTERVENTION

Thank you for your letter of 6 December (received by the FCO on 12 December), clarifying the Committee’s concerns with our written response to its report ‘Global Britain: The Responsibility to Protect and Humanitarian Intervention’. As I indicated during our discussion on 13 November, I have reviewed the FCO’s response of 8 November, and am able to provide the following additional detail to the Committee.

The UK’s long-standing position on humanitarian intervention is that it is consistent with international law if the three criteria are met. The three criteria are set out in full in the Government’s original response, alongside an explanation of each criterion and examples of the Government’s previous reliance on humanitarian intervention as a basis for action. The Government does not consider it prudent to amend or provide “more specific and detailed definitions” of the criteria. The criteria are already clearly drafted, tightly defined and consistently applied.

On the question of why the Government chose to respond to the chemical weapons attack in Syria in April 2018 but not to other attacks, the Government believes that we have already answered this question in our original response. As you are aware, the Government found that humanitarian intervention was an available legal basis for military action in August 2013 when the Asad regime deployed chemical weapons around Ghouta leaving over 800 people dead. However, after a lengthy debate in the House of Commons, MPs voted on 30 August 2013 against military involvement in Syria. It was for this reason that the UK did not intervene militarily. Whether or not humanitarian intervention will be available as a
legal basis for — and whether the government judges it appropriate to take — military action, will depend on the specific facts and circumstances as they exist at the time.

The UK Government has been at the forefront of diplomatic efforts to respond to chemical weapons attacks in Syria. The UK strongly supported the Organisation for the Prohibition of Chemical Weapons (OPCW)-UN Joint Investigative Mechanism (JIM), which concluded that the Asad regime used chemical weapons at least four times and Daesh at least twice, before Russia vetoed renewal of its mandate in November 2017. We did not let this stop our international efforts to uphold the prohibition on chemical weapons. As the then Foreign Secretary made clear in his Written Ministerial Statement of July 2018 [HCWS835/HLWS809], the UK led international efforts to secure effective action to protect the global norm against CW use, securing an overwhelming vote at the Conference of States Parties to the Chemical Weapons Convention (CWC) in June 2018 to empower the OPCW expressly to attribute responsibility for chemical weapons attacks in Syria. And as the Foreign Secretary reported in Written Ministerial Statement of December 2018 [HCWS1177], the UK was again at the forefront of the successful efforts in November to confirm funding for this attribution work. We support the International, Impartial and Independent Mechanism (IIIM) to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic. It was set up in March 2011 under a mandate from the UN General Assembly which collect and analyse information and evidence of international crimes committed in Syria to facilitate future prosecutions. We will continue to work with partners in the OPCW, UN and other relevant fora, to seek to identify and hold to account those responsible for using chemical weapons in Syria.

The FCO leads on the Government’s overall policy for Atrocity Prevention. Lord Ahmad of Wimbledon, Minister responsible for Human Rights policy, conflict prevention and matters relating to the UN, has Ministerial oversight of our Atrocity Prevention policy, and our Director of Multilateral Policy is the UK’s Focal Point for the Responsibility to Protect. The FCO works closely with the Department for International Development on programmatic aspects of Atrocity Prevention, and with the Ministry of Defence on the security/defence perspectives.

Linked to Atrocity Prevention, the UK focuses on a number of thematic agendas which contribute to building inclusive and stable environments, and help prevent conflict and possible atrocities. These priorities include Women, Peace and Security, Girls’ Education, Children and Armed Conflict, the Preventing Sexual Violence Initiative, tackling Modern Slavery, promoting Freedom of Religion or Belief, and — as articulated by the Foreign Secretary in his speech at the Policy Exchange in October — Freedom of the Media. Given that our policy approach to Atrocity Prevention is already mature and well-established, we do not believe it would be productive to divert finite resources away from these initiatives to develop a new strategy on Atrocity Prevention. A new strategy would be more appropriate for a new or developing policy initiative. Now that our Atrocity Prevention priorities are
embedded in day-to-day work across our internationally facing Departments, we have moved beyond the conception stage.

While it is not exclusively the case, it is clear that atrocities frequently occur in and around armed conflict. So the Government dedicates significant resources to preventing conflict as a means of reducing the risk of atrocities occurring, and Atrocity Prevention is integrated into the UK's overall approach to Conflict Prevention. More than half (57%) of countries that experienced a civil war between 1945 and 2009 have relapsed into violence, so it is vital that we continue to strive to prevent, reduce, and bring to an end conflict wherever we can. HMG activity in this field includes:

- **Early warning** mechanisms to identify countries at risk of instability, conflict and atrocities (the Government is currently finalising its Countries at Risk of Instability analysis for 2019);
- **Diplomacy** to help de-escalate tensions and resolve disputes;
- **Development/programmatic support** to help with upstream prevention work (further examples of HMG activity included in annex A); and
- **Defence** tools, including the armed forces, to strengthen the rules-based international order.

I would like to assure the Committee that the absence of a new Atrocity Prevention strategy does not mean that we will not strive to deliver more in the area of Atrocity Prevention. Indeed, our continued commitment to Atrocity Prevention is demonstrated by our decision to host the annual meeting of the International Atrocity Prevention Working Group in London in April 2019. This group of international partners\(^1\) takes a leading role in analysing and assessing the risks of atrocities occurring in a range of settings, and makes policy recommendations aimed at managing those risks through broader international action.

The Government continues to ensure that institutional arrangements across Whitehall are also fit for purpose in terms of preventing conflict and atrocities. Recent innovations include the Fusion Doctrine, the Stabilisation Unit (SU), the Conflict, Stability and Security Fund (CSSF), and DFID's cadre of conflict advisers. There are currently 67 accredited conflict advisers who are deployed across DFID country offices overseas, in DFID Headquarters in the UK, seconded to the FCO and the Stabilisation Unit, or embedded in international institutions. We will continue to look for opportunities to enhance the existing training we provide our staff in spotting risks of atrocities and conflict, and the continued development and use of early warning mechanisms.

In order to assist with **early warning**, and as outlined by the Foreign Secretary in his Policy Exchange speech, the FCO continues to expand its diplomatic network into new locations, including into regions at risk of instability. Insights from our

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\(^1\) Members are Australia, Canada, Denmark, Germany, the Netherlands, the United Kingdom and the United States.
diplomatic posts are vital to informing decisions by Ministers on where HMG engagement should be focused in terms of programme funding, diplomatic activity, and defence/military support. These decisions continue to take into account the risk of atrocities and how UK action can help to prevent them. The Foreign Secretary also referred in his speech to the redoubling of our efforts to defend the rules-based international order and its institutions such as the UN. The UK Government will continue to actively support the UN Secretary-General’s vision of Sustaining Peace, which seeks to strengthen and better co-ordinate the full range of UN instruments in support of conflict prevention and peacebuilding. This includes more effective, accountable and coordinated use of UN Special Political Missions, the Peacebuilding Fund (PBF), Peacekeeping and Mediation.

UK diplomatic engagement plays a crucial role in helping to prevent atrocities and conflict through field visits, support for mediation initiatives, and the use of international fora to cast a spotlight on potential flashpoints. Where there is a risk of atrocities we use diplomacy to highlight our concerns: bilaterally with the countries concerned and regional neighbours, and multilaterally through international organisations such as the UN, likeminded groups and others. We make full use of our influence in the UN Security Council, General Assembly and Human Rights Council through: monitoring missions; confidence-building measures and facilitation, including election monitoring; mediation, and assistance with the implementation of peace agreements; and more coercive measures, such as sanctions (diplomatic, travel bans, asset freezes, arms embargoes, and commodity interdiction).

Human rights abuses and violations, if left unchecked, can be a first step towards mass atrocities. The UK actively engages in the Universal Periodic Review (UPR) and has spoken at every UPR session and on every country since the UPR’s inception in 2008. The UPR is a unique peer review process, under the auspices of the Human Rights Council, where States report on the human rights situation in their country and other States raise questions and make recommendations. Bilaterally we raise human rights at the highest levels of government. In recent months the Prime Minister, Foreign Secretary, other Ministers and senior officials have raised human rights with for example, Aung San Suu Kyi of Burma, President Xi and Premier Li of China, the new Iraqi Foreign Minister Mohamed Al Hakim, and the Vice President and the Foreign Minister of Nigeria amongst others.

As the Strategic Defence and Security Review 2015 sets out, the UK also takes the opportunity to use defence tools, including the armed forces, to strengthen the rules-based international order including through conflict prevention and capacity building, training, support to humanitarian assistance and disaster response, and conducting operations to restore peace and stability. Each of these can have a positive impact in preventing atrocities.

On the question of the use of the veto in the UN Security Council, the UK is clear that we will not vote against a credible draft resolution which seeks to end or prevent mass atrocities. That is why in 2015 the UK signed up to the Accountability,
Coherence and Transparency Group’s Code of Conduct, which calls on all Council members not to vote against a credible draft resolution on timely and decisive action to end, or prevent, the commission of genocide, crimes against humanity or war crimes. We agree with the Committee that signing up to one option does not preclude agreeing to both. However, the French veto initiative is more complicated in its application than the ACT Code of Conduct; it focuses on the P5 rather than all Council members; and it includes a national qualifier, whereby a P5 member’s declaration not to veto would not apply where it considered its vital interests were affected. Other P5 members have not signed up to the French initiative (or to the ACT Code), and we do not believe that they will agree to this more complicated initiative when they have not signed up to the simpler ACT code. The UK has not used the veto on any text in the Security Council since 1989.

On the proposal for an **Independent Inquiry on Syria**, the circumstances of our decision not to intervene militarily in Syria in 2013 are well understood and summarised above. In terms of our policy more generally, the UK Government will consider which tools to deploy when dealing with a situation, depending on the specific circumstances at hand. These could include diplomacy, development, or the use of military force as a measure of last resort. In the case of Syria, the Government has constantly calibrated its actions according to events on the ground, and taken into account the responses of other international actors. While there have been many instances of violence in Syria before and after the 2013 and 2018 chemical weapons attacks, in considering a possible military response, the Government must weigh the potential risks of intervention (for example of widening the conflict, to civilians on the ground and to UK military assets involved in the action) against the potential benefits of intervening. And following the Parliamentary vote in 2013, it is clear that the political bar justifying military action has been set very high. In the case of the chemical weapons attack by the Syrian regime in Douma in 2018, the UK decided to take military action as an exceptional measure on grounds of overwhelming humanitarian necessity, against specifically identified targets in order to alleviate humanitarian distress by degrading the Syrian regime’s chemical weapons capability and deterring further chemical weapons attacks. It was necessary and proportionate, and therefore legally justifiable. Our decision to take military action followed repeated Russian vetoes of UNSC resolutions on chemical weapons use in Syria, and Syria’s refusal to engage in any meaningful way.

Yours sincerely,

Simon McDonald
ANNEX A

Further examples of UK **programmatic spend** include:

- Support in 2017/18 for the Joint UN Office on Genocide Prevention and the Responsibility to Protect on the development and strengthening of atrocity prevention and response mechanisms in countries and regions, including the Great Lakes region of Africa (Burundi, Democratic Republic of Congo, Kenya, Rwanda, Tanzania and Uganda).

- Funding helped them to organise a two-day meeting, which brought together community leaders, civil society and state officials from communities at risk of inter-communal violence in Africa, prior to elections in the region.

- Another project in the Middle East and North Africa region supported workshops for civil society actors to fill gaps in expertise (identified by them); to support action to prevent atrocities and the incitement by State and non-State armed actors; protect vulnerable populations; and build bridges/promote peace between communities affected by armed conflict. Participants have come from Egypt, Iraq, Lebanon, Libya, Syria and Tunisia.

- DFID is about to allocate up to £5 million towards strengthening civil society capacity to predict identity-based violence, including mass atrocities.

Further examples of **wider HMG spend on conflict prevention** include:

- The UK has been the second largest OECD donor supporting “civilian, conflict prevention and resolution” (on average between 2007 and 2016). In 2016, the UK spent $581 million (approx. £447m, up from $291m in 2008) on overall conflict, peace and security.

- Through the Conflict, Stability and Security Fund we support programmes in over 70 countries, worth £1.2 billion a year. This includes a contribution to peacekeeping costs.

- As a founding member and the third largest contributor to the UN, we provide over £2.2 billion per annum used to help incentivise reform in UN Agencies. This includes a recent doubling of our contribution to the UN Peacebuilding Fund of £20 million annually as a means of supporting international efforts aimed at building sustainable peace.