

# **A GUIDE TO NATIONAL PROSECUTIONS IN THE UNITED KINGDOM**

**FOR CRIMES COMMITTED IN SYRIA**



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# PURPOSE OF THIS DOCUMENT

If you experienced a serious violation of your rights in Syria, you might have an option to seek justice in the courts of the United Kingdom (UK).

In this document, you will find the basic information needed to file a complaint in the United Kingdom for criminal charges to be brought. This document provides a general overview of the UK's criminal process by focusing on England & Wales. It does not cover Scotland or Northern Ireland, which have legal systems distinct from England & Wales.

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*The Syria Justice and Accountability Centre (SJAC) is a Syrian-led, multilaterally supported nonprofit that envisions a Syria defined by justice, respect for human rights, and rule of law. SJAC promotes transitional justice and accountability processes in Syria by collecting and preserving documentation. The purpose of the documentation SJAC collects is to create a record of the conflict and to push for appropriate justice mechanisms that will respond to the needs and interests of Syrians.*

*The information in this document is true and complete to the best of SJAC's knowledge. This document is intended to provide helpful information on the United Kingdom legal system and is not meant to be used, nor should it be used, as a substitute for legal advice. It is highly recommended you contact a licensed lawyer with experience in UK law before initiating any proceedings. A frivolous complaint could lead to consequences, such as a defamation lawsuit or fines. Also, please be advised that litigation always carries costs and expenses. SJAC and the authors of this document are not responsible for legal actions taken in the United Kingdom and are not liable for any costs or negative consequences incurred by any persons reading or following the information of this document.*

# 1 | DETERMINING JURISDICTION

## *Does the UK Have Jurisdiction to Hear My Case?*

Ordinarily, the UK's courts would not address crimes that happened overseas. However, the UK's courts do have specific authority, set out in legislation passed by the UK's Parliament, to try serious international crimes (such as torture, hostage-taking, war crimes, crimes against humanity and genocide), including crimes committed overseas by foreign nationals in some cases. Further, the UK's courts may also have jurisdiction if the perpetrator or victim was from the UK. This is because nationality can provide prosecutors with an even clearer interest in the case, and greater access to evidence. To similar effect, published guidance confirms that prosecutors shall consider the location and interests of victims, witnesses and the accused.

## *Is There Anyone the UK Will Not Try?*

There are two types of immunity recognised in UK law: (1) personal immunity, which only applies to an official for so long as they hold a relevant public office; and (2) official act immunity, which potentially applies to State officials, including after they left office.

However, there are exceptions to official act immunity for certain international crimes, including torture. It would be for a UK court to decide whether any claimed immunity should be recognised in a particular case.

## *Is There a Time Limit for Filing a Complaint?*

No, there are no time limitations to file a complaint. For example, in 2018-2019, the UK commenced a prosecution which alleges criminal responsibility for torture committed in Liberia, Africa, in 1989-1990.

### *Does the Perpetrator Have to Be in the UK?*

Not necessarily. The UK has extradition partnerships with various countries where a perpetrator may be located.

As part of the “scoping exercise” which the UK’s investigating authorities conduct, however, they will want to identify the suspect and consider whether there is a reasonable prospect that the suspect will come (or could be brought) to the UK.

### *Examples of Serious International Crimes*

- Torture
- Sexual violence
- Enforced disappearances
- Hostage taking
- Indiscriminate attacks against civilians

## 2| FILING YOUR COMPLAINT

### *How do I file a Criminal Complaint?*

Such crimes can be reported to the police in the same way as any other offence, for example by visiting a police station.

The war crimes team of the Metropolitan Police Counter Terrorism Command (known as “SO15”) is the specialist unit responsible for investigating allegations of war crimes, crimes against humanity, genocide and torture. Allegations received by other police forces will be referred to SO15, which will conduct a scoping exercise in order to decide whether to conduct a fuller investigation.

Referrals can also be made by email to:  
SO15Mailbox.WarCrimesunit@met.pnn.police.uk.

The Crown Prosecution Service (CPS) is separate from the police, and responsible for prosecuting such crimes. Specifically, the Special Crime and Counter Terrorism Division is the responsible part of the CPS.

In August 2015, the CPS and Metropolitan Police published agreed guidelines to be followed when there is a referral to SO15. These guidelines are available at: <https://www.cps.gov.uk/publication/war-crimescrimes-against-humanity-guidance-making-application-dpp-consent-application>.

### *What Goes into the Complaint?*

There is no set format.

However, in performing their scoping exercise the investigative officers will consider the following factors, among others:

1. Is there an identifiable suspect?
2. What is nationality and location of the suspect?
3. Is it feasible to locate victims and witnesses?
4. Is it feasible to gather sufficient admissible, reliable and credible evidence of the crime(s) in accordance with the rules of criminal procedure?

## *Private Arrest Warrants*

Normally, the police decide whether there is sufficient evidence to seek an arrest warrant from a court or magistrate. However, there may be circumstances in which a private prosecutor may seek a private arrest warrant, without involving the police, for example where it is known that a suspect is about to arrive in the UK. Such a warrant requires the consent of the Director of Public Prosecutions.

The CPS has published guidance on the procedure to be followed when applying for a private arrest warrant in these circumstances: [www.cps.gov.uk](http://www.cps.gov.uk).

### 3 | APPEARING BEFORE A UK COURT

[gov.uk/publication/war-crimescrimes-against-humanity-guidance-making-application-dpp-consent-application](https://gov.uk/publication/war-crimescrimes-against-humanity-guidance-making-application-dpp-consent-application).

#### *What Happens Next?*

If SO15 decides to take on the investigation, you will be informed. If an investigation is not possible, SO15 will inform the victim(s) of this decision and the reasons for it as soon as reasonably practicable in accordance with the “Victims of Crime (Code of Practice)”. Any private individual who submitted evidence on behalf of the victim(s) will also be informed in writing.

On completion of any investigation, SO15 will submit a file of evidence to the CPS, which appoints a specialist prosecutor to review it to assess whether there is a realistic prospect of conviction based on the prosecutor’s objective and independent review of the evidence. The Attorney General would then be asked to consent to the prosecution.

#### *The Trial*

The case will be heard at trial. The length of the trial will depend on various factors, including the volume and nature of evidence. In England & Wales, it is likely that a trial would be heard at the Central Criminal Court in London.

UK criminal trials take place before a judge (who decides the law) and a 12-person jury (which decides the facts). It is the jury which decides whether an accused is guilty or not, based on the evidence presented during the course of the trial. Usually, both the prosecution and defence will call witnesses to give evidence, who can then be questioned in front of the jury. The counsel in the case might also seek to rely on physical or documentary evidence.

After all the evidence is put before the court, counsel will sum up their



cases. Then the jury will leave the court in order to deliberate and make their decision.

### *Sentencing and Appeals*

If the defendant is found guilty, the judge will proceed to decide upon the appropriate sentence.

A convicted person has the right of appeal, against conviction and/or sentence.

## 4| KNOW YOUR RIGHTS

### *Witness and Victim Rights*

The Victims of Crime (Code of Practice) describes various rights for victims of crime, including the provision of more detailed information about the court process. See: [www.cps.gov.uk/legal-guidance/victims-crime-code-practice-cps-legal-guidance](http://www.cps.gov.uk/legal-guidance/victims-crime-code-practice-cps-legal-guidance).

For example, a “needs assessment” can be made, and further specific rights may be applicable depending on the specific situation. A witness can also request special measures be put in place to help them give evidence. Further information about special measures is available here: [www.cps.gov.uk/legal-guidance/special-measures](http://www.cps.gov.uk/legal-guidance/special-measures).

A victim may also be entitled to pursue a tort claim for compensation before a civil court in the United Kingdom. Any such claim would have to be brought separately from criminal proceedings. Costs are likely to be involved and strict time limits may apply. In the UK, civil proceedings are completely separate from criminal proceedings. The UK’s rules on whether civil courts have jurisdiction differ from criminal matters. Generally speaking, however, it is easier to establish civil jurisdiction if a UK-based defendant is alleged to be responsible.

### *Interpretation*

Criminal proceedings will take place in English, but the court will ensure that an interpreter is available if needed.

### *Legal Representation*

Generally, UK law does not require a victim or witness to be legally represented, but you may wish to obtain your own legal advice at any time.



*Photo by Lens Youngi Homs*

Below are UK-based NGOs that may be able to assist you, if it has the capacity to do so:

***REDRESS London***

*87 Vauxhall Walk, London*

*SE11 5HJ, UK*

***+44 (0)20 7793 1777 | [info@redress.org](mailto:info@redress.org)***

***Guernica 37 International Justice Chambers***

*The Bloomsbury Building*

*10 Bloomsbury Way*

*London WC1A 2SL UK*

***+44 (0)20 3547 0169 | [clerks@guernica37.org](mailto:clerks@guernica37.org)***

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If you are unable or unwilling to file a formal complaint but would like your experiences securely recorded with the **Syria Justice and Accountability Centre (SJAC)**, please contact SJAC at [info@syriaaccountability.org](mailto:info@syriaaccountability.org). The benefits of participating in a private interview with SJAC are that you:

1. Preserve your personal experience and suffering;
2. Have lodged your personal experience with an organization that can connect you with future justice mechanisms if and when they arise; and
3. Will help build a record that can be used to drive justice and accountability overall for Syria.

Syria Justice and  
Accountability Centre

