

# JUSTICE PRESS RELEASE

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## **JUSTICE questions Attorney General on arrest of suspected war criminals**

JUSTICE, the all-party law reform and human rights organisation, today queried the public discussion of government plans to amend the procedure for private arrest warrants for war crimes by Attorney General Baroness Scotland in a lecture at the Hebrew University of Jerusalem yesterday.

Baroness Scotland said that the government was considering a requirement for the Attorney General's consent on the issue of private arrest warrants for war crimes. A magistrate may currently issue such a warrant if persuaded that there is *prima facie* evidence of an offence. The Attorney General already has a veto on subsequent prosecutions for these crimes.

JUSTICE believes that prosecution decisions should be taken by the Director of Public Prosecutions or his equivalent, on the basis of the evidence and consideration of the public interest. The role of the Attorney-General has been in issue since the controversial intervention of Lord Goldsmith in a case relating to Saudi Arabia and a subsequent consultation as part of the Government's *Governance of Britain* programme. JUSTICE intervened in the Saudi Arabia (*Corner House*) case and also presented evidence to the consultation on the role of the Attorney.

Sally Ireland, JUSTICE's Director of Criminal Justice Policy, said: 'UK law on war crimes should be enforced fairly and should not depend on the nationality of the suspect. If the government wishes to amend the law it should consult publicly on this issue in the UK before making announcements on its thinking abroad.'

For further information please contact Sally Ireland on 020 7762 6414.

## Notes to editors:

Grave breaches of Geneva Conventions I-IV and the First Protocol to the Geneva Conventions (which include various atrocities in armed conflicts, including those of a non-international nature) are triable in England and Wales under the Geneva Conventions Act 1957, wherever they occur. There is no requirement that the defendant be a British national or resident. The Attorney General can veto prosecutions for these offences.

Genocide, crimes against humanity and war crimes (all as defined in the Statute of the International Criminal Court), and 'conduct ancillary' to them, are triable in England and Wales and Northern Ireland under the International Criminal Court Act 2001. However, this only applies if the offence is committed in England and Wales/Northern Ireland or, if outside the UK, by a UK national, resident, or person subject to UK service jurisdiction. The definition of a UK resident for these purposes was recently amended in the Coroners and Justice Act 2009 (s70, not yet in force) to include asylum seekers, those with indefinite leave to remain, leave to enter for work or study, those in lawful custody etc. JUSTICE supported this amendment but would have preferred a test simply of 'presence' in the UK. The new residence definition is unlikely to include foreign officials or military officers visiting the UK. The Attorney General can veto prosecutions for these offences.

Torture occurring anywhere in the world is triable in England, Wales or Northern Ireland under the Criminal Justice Act 1988. There is no requirement that the suspect be a UK national or resident. However if torture is legal in the state where it is committed, no offence is committed in the UK under this provision. The Attorney General can veto prosecutions for this offence.

The requirement that the Attorney General consents to prosecutions is also found in some domestic offences such as incitement to racial or religious hatred. However, we are not aware of any offence for which the Attorney General's consent is currently required for an arrest to take place.

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