



HOUSE OF COMMONS

LONDON SW1A 0AA

7th December 2022

Jean Gauthier

RE: NATIONAL SECURITY BILL

Thank you for your recent correspondence in respect of your concerns surrounding the *National Security Bill*, and your concerns that it will provide impunity for torture and unlawful killing abroad. I have read your comments with interest.

The threat from hostile states is a growing, diversifying and evolving one, manifesting itself in several different forms. Our espionage laws date back to 1911 and I know my ministerial colleagues are concerned that they do not account for how threats to our national security have changed over time.

As you highlight, the *National Security Bill* seeks to amend Schedule 4 of the *Serious Crime Act 2007* to disapply certain offences, but only where the activity is deemed necessary for the proper exercise of any function of an intelligence service or the Armed Forces and only in support of activity taking place overseas.

This means that where an individual has operated in good faith, and in compliance with all proper processes, they will no longer face the risk of personal criminal liability for those actions under the offences within the *Serious Crime Act*. Instead, that unfair burden will be removed and accountability will rightly sit at the organisational level.

These measures will provide better protection to those discharging national security functions on behalf of His Majesty's Government, to enable more effective joint working with our international partners and to improve operational agility – all of which are essential to the UK Intelligence Community and the MOD's work to counter threats to UK national security.

It is important to stress that the legislation does not create a blanket criminal law immunity. It does not change the application of all other criminal law offences which overlap with those under the *Serious Crime Act*, including those criminalising torture anywhere in the world. Other offences, such as soliciting murder, misconduct in public office and secondary liability offences, would all continue to apply.


There will also be no change to the UK's international law obligations, including the *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and international obligations concerning aid or assistance in the commission of an internationally wrongful act.



The purpose of this element of the legislation therefore is to remove the unintended effect the *Serious Crime Act* is having on the UK Intelligence Community and the Armed Forces, not to make wholesale changes to the UK's core legal, policy and ethical values. It will ensure that accountability for authorised activity rightly sits with HM Government, rather than individual officers who are taking forward vital work to keep the country safe.

With specific respect to clauses 79 to 83, the Government is satisfied the measures in these clauses are justified, will help improve public protection and are proportionate in nature. The clauses seek to enable the UK's security services to apply for a reduction in civil damages in national security proceedings where a claimant has been involved in wrongdoing associated with terrorism, or a court order that would freeze or forfeit damages payable where the court is satisfied that there is a real risk of a claimant using their award to fund acts of terror. It is important to note that all applications would be subject to the independent determination of the courts on an assessment of the evidence in individual cases.

Once again, thank you for having taken the time to contact me and if I can ever be of any further assistance to you then please do not hesitate to contact me again.

With best wishes,


TOM PURSGLOVE MP
MEMBER OF PARLIAMENT
CORBY & EAST NORTHAMPTONSHIRE