

Is the UK a Rogue State? 17 British Policies Violating Domestic or International Law

By [Mark Curtis](#)

Global Research, February 14, 2020

[Declassified UK](#) 7 February 2020

Region: [Europe](#)

Theme: [History](#), [Law and Justice](#)

UK governments routinely claim to uphold national and international law. But the reality of British policies is quite different, especially when it comes to foreign policy and so-called 'national security'. This explainer summarises 17 long-running government policies which violate UK domestic or international law.

British foreign secretary **Dominic Raab** recently [described](#) the “rule of international law” as one of the “guiding lights” of UK foreign policy. By contrast, the government regularly chides states it opposes, such as Russia or Iran, as violators of international law. These governments are often consequently termed “rogue states” in the mainstream media, the supposed antithesis of how “we” operate.

The following list of 17 policies may not be exhaustive, but it suggests that the term “rogue state” is not sensationalist or misplaced when it comes to describing Britain’s own foreign and “security” policies.

These serial violations suggest that parliamentary and public oversight over executive policy-making in the UK is not fit for purpose and that new mechanisms are needed to restrain the excesses of the British state.



The MQ-9 Reaper drone carries four laser-guided, air-to-ground Hellfire missiles, a payload of up to 360kg. The UK has been operating a fleet since 2007 and has struck targets in Afghanistan, Iraq and Syria. (Photo: Chris Hunkeler / Flickr)

The Royal Air Force's drone war

Britain's Royal Air Force (RAF) operates a drone programme in support of the US involving a fleet of British "[Reaper](#)" drones operating since 2007. They have been used by the UK to strike targets in Afghanistan, Iraq and Syria.

Four [RAF bases](#) in the UK support the US drone war. The joint UK and US spy base at Menwith Hill in Yorkshire, northern England, [facilitates](#) US drone strikes in Yemen, Pakistan and Somalia. US drone strikes, involving an assassination programme begun by president Barack Obama, are widely regarded as [illegal](#) under international law, breaching fundamental human rights. Up to 1,700 civilian adults and children have been [killed](#) in so-called "targeted killings".

Amnesty International [notes](#) that British backing is "absolutely crucial to the US lethal drones programme, providing support for various US surveillance programmes, vital intelligence exchanges and in some cases direct involvement from UK personnel in identifying and tracking targets for US lethal operations, including drone strikes that may have been unlawful".

Chagos Islands

Britain has violated international law in the case of the Chagos Islands in the Indian Ocean since it expelled the inhabitants in the 1960s to make way for a US military base on Diego Garcia, the largest island.

Harold Wilson's Labour government separated the islands from then British colony Mauritius in 1965 in [breach](#) of a UN resolution banning the breakup of colonies before independence. London then formed a new colonial entity, the British Indian Ocean Territory, which is now an Overseas Territory.

In 2015, a UN Tribunal ruled that the UK's proposed "marine protected area" around the islands — shown by Wikileaks publications to be a [ruse](#) to keep the islanders from returning — was [unlawful](#) since it undermined the rights of Mauritius.

Then in February 2019, the International Court of Justice (ICJ) [ruled](#) in an advisory opinion that Britain must end its administration of the Chagos islands "as rapidly as possible". The UN General Assembly [adopted](#) a resolution in May 2019 welcoming the ICJ ruling and "demanding that the United Kingdom unconditionally withdraw its colonial administration from the area within six months". The UK government has [rejected](#) the calls.

Defying the UN over the Falklands

The UN's 24-country Special Committee on Decolonisation — its principal body addressing issues concerning decolonisation — has repeatedly [called](#) on the UK government to negotiate a resolution to the dispute over the status of the Falklands. In its latest call, in June 2019, the committee [approved](#) a draft resolution "reiterating that the only way to end the special and particular colonial situation of the Falkland Islands (Malvinas) is through a peaceful and negotiated settlement of the sovereignty dispute between Argentina and the

United Kingdom”.

The British government consistently rejects these demands. Last year, it [stated](#):

“The Decolonisation Committee no longer has a relevant role to play with respect to British Overseas Territories. They all have a large measure of self government, have chosen to retain their links with the UK, and therefore should have been delisted a long time ago.”

In 2016, the UN Commission on the Limits of the Continental Shelf issued a [report](#) finding that the Falkland Islands are located in Argentina’s territorial waters.

Israel and settlement goods

Although Britain regularly condemns Israeli settlements in the occupied territories as illegal, in line with international law, it [permits trade](#) in goods produced on those settlements. It also does not [keep a record](#) of imports that come from the settlements — which include wine, olive oil and dates — into the UK.

UN Security Council resolutions [require](#) all states to “distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967”. The UK is failing to do this.

Israel’s blockade of Gaza

Israel’s blockade of Gaza, imposed in 2007 following the territory’s takeover by Hamas, is [widely regarded](#) as illegal. [Senior UN officials](#), a UN independent [panel of experts](#), and [Amnesty International](#) all agree that the infliction of “collective punishment” on the population of Gaza contravenes international human rights and humanitarian law.

Gaza has about 1.8 million inhabitants who remain “[locked in](#)” and denied free access to the remainder of putative Palestine (the West Bank) and the outside world. It has [poverty and unemployment rates](#) that reached nearly 75% in 2019.

Through its naval blockade, the Israeli navy restricts Palestinians’ fishing rights, [fires](#) on local fishermen and has intercepted ships delivering humanitarian aid. Britain, and all states, have an [obligation](#) “to ensure compliance by Israel with international humanitarian law” in Gaza.

However, instead of doing so, the UK regularly collaborates with the navy enforcing the blockade. In August 2019, Britain’s Royal Navy took part in the largest international [naval exercise](#) ever held by Israel, off the country’s Mediterranean shore. In [November 2016](#) and [December 2017](#), British warships conducted military exercises with their Israeli allies.

Exports of surveillance equipment

Declassified [revealed](#) that the UK recently exported telecommunications interception equipment or software to 13 countries, including authoritarian regimes in the United Arab Emirates (UAE), Saudi Arabia and Oman. Such technology can enable security forces to monitor the private activities of groups or individuals and crack down on political opponents.

The UAE has been [involved](#) in programmes monitoring domestic activists using spyware. In 2017 and 2018, British exporters were given [four licences](#) to export telecommunications

interception equipment, components or software to the UAE.

UK arms export [guidelines](#) state that the government will “not grant a licence if there is a clear risk that the items might be used for internal repression”. Reports by [Amnesty International](#) document human rights abuses in the cases of UAE, Saudi Arabia and Oman, suggesting that British approval of such exports to these countries is *prima facie* unlawful.

Arms exports to Saudi Arabia

Saudi Arabia has been [accused](#) by the UN and others of violating international humanitarian law and committing war crimes in its war in Yemen, which began in March 2015. The UK has licensed [nearly £5-billion](#) worth of arms to the Saudi regime during this time. In addition, the RAF is helping to [maintain](#) Saudi warplanes at key operating bases and [stores and issues](#) bombs for use in Yemen.

Following legal action brought by the Campaign Against the Arms Trade, the UK Court of Appeal ruled in June 2019 that ministers had illegally signed off on arms exports without properly assessing the risk to civilians. The court [ruled](#) that the government must reconsider the export licences in accordance with the correct legal approach.

The ruling followed a report by a cross-party House of Lords committee, published earlier in 2019, which [concluded](#) that Britain is breaking international law by selling weapons to Saudi Arabia and should suspend some export licences immediately.

Julian Assange’s arbitrary detention and torture

In the case of WikiLeaks publisher Julian Assange — currently held in Belmarsh maximum-security prison in London — the UK is defying repeated opinions of the UN Working Group on Arbitrary Detention (WGAD) and the UN special rapporteur on torture.

The latter, Nils Melzer, has [called](#) on the UK government to release Assange on the grounds that officials are contributing to his psychological torture and ill treatment. Melzer has also [called](#) for UK officials to be [investigated](#) for possible “criminal conduct” as government policy “severely undermines the credibility of [its] commitment to the prohibition of torture... as well as to the rule of law more generally”.

The WGAD — the supreme international body scrutinising this issue — has repeatedly [demanded](#) that the UK government end Assange’s “[arbitrary detention](#)”. Although the UN states that WGAD determinations are [legally binding](#), its calls have been consistently [rejected](#) by the UK government.

Covert wars

Covert military operations to subvert foreign governments, such as Britain’s years-long operation in Syria to [overthrow](#) the Assad regime, are unlawful. As a House of Commons briefing [notes](#), “forcible assistance to opposition forces is illegal”.

A precedent was set in the Nicaragua case in the 1980s, when US-backed covert forces (the “Contras”) sought to overthrow the Sandinista government. The International Court of Justice [held](#) that a third state may not forcibly help the opposition to overthrow a government since it breached the principles of non-intervention and prohibition on the use

of force.

As *Declassified* has [shown](#), the UK is currently engaged in seven covert wars, including in Syria, with minimal parliamentary oversight. Government [policy](#) is “not to comment” on the activities of its special forces “because of the security implications”. The public’s ability to scrutinise policy is also restricted since the UK’s Freedom of Information Act [applies](#) an “absolute exemption” to special forces. This is not the case for allied powers such as the US and Canada.

Torture and the refusal to hold an inquiry

In 2018 a [report](#) by parliament’s Intelligence and Security Committee found that the UK had been complicit in cases of torture and other ill treatment of detainees in the so-called “war on terror”. The inquiry examined the participation of MI6 (the secret intelligence service), MI5 (the domestic security service) and Ministry of Defence (MOD) personnel in interrogating detainees held primarily by the US in Afghanistan, Iraq and Guantanamo Bay during 2001-10.

The report found that there were 232 cases where UK personnel supplied questions or intelligence to foreign intelligence agents after they knew or suspected that a detainee was being mistreated. It also found 198 cases where UK personnel received intelligence from foreign agents obtained from detainees whom they knew or suspected to have been mistreated.

In one case, MI6 “sought and obtained [authorisation](#) from the foreign secretary” (then Jack Straw, in Tony Blair’s government) for the costs of funding a plane which was involved in rendering a suspect.

After the report was published, the government announced it was refusing to hold a judged, independent inquiry into the UK’s role in rendition and torture as it had previously promised to do. In 2019, human rights group Reprieve, together with Conservative and Labour MPs, instigated a [legal challenge](#) to the government over this refusal-which the High Court has agreed to hear.

The UN special rapporteur on torture, Nils Melzer, has formally warned the UK that its refusal to launch a judicial inquiry into [torture](#) and rendition breaches international law, specifically the [UN Convention Against Torture](#). He has [written](#) a private “intervention” letter to the UK foreign secretary stating that the government has “a legal obligation to investigate and to prosecute”.

Melzer accuses the government of engaging in a “conscious policy” of co-operating with [torture since 9/11](#), saying it is “impossible” the practice was not approved or at least tolerated by top officials.

UK’s secret torture policy

The MOD was revealed in 2019 to be operating a [secret policy](#) allowing ministers to approve actions which could lead to the torture of detainees. The policy, contained in an internal MOD document dated November 2018, allows ministers to approve passing information to allies even if there is a risk of torture, if “the potential benefits justify accepting the risk and legal consequences”.

This policy also provides for ministers to approve lists of individuals about whom information may be shared despite a serious risk they could face mistreatment. One leading lawyer has [said](#) that domestic and international legislation on the prohibition of torture is clear and that the MOD policy supports breaking of the law by ministers.

Amnesty for crimes committed by soldiers

There is a [long history](#) of British soldiers committing crimes during wars. In 2019 the government outlined [plans](#) to grant immunity for offences by soldiers in Iraq, Afghanistan and Northern Ireland that were committed more than 10 years before.

These plans have been [condemned](#) by the UN Committee Against Torture, which has called on the government to “refrain from enacting legislation that would grant amnesty or pardon where torture is concerned. It should also ensure that all victims of such torture and ill-treatment obtain redress”.

The committee has specifically urged the UK to “establish responsibility and ensure accountability for any torture and ill-treatment committed by UK personnel in Iraq from 2003 to 2009, specifically by establishing a single, independent, public inquiry to investigate allegations of such conduct.”

The government’s proposals are also likely to [breach](#) UK obligations under the European Convention on Human Rights, which obliges states to investigate breaches of the right to life or the prohibition on torture.



A mural by Banksy around a phone box in Cheltenham, the home of GCHQ, Britain’s signals intelligence agency. (Photo: Flickr)

GCHQ’s mass surveillance

Files revealed by US whistleblower Edward Snowden in 2013 [show](#) that the UK intelligence agency GCHQ had been secretly intercepting, processing and storing data concerning millions of people’s private communications, including people of no intelligence interest — in a programme named Tempora. Snowden also revealed that the British government was

accessing personal communications and data collected by the US National Security Agency and other countries' intelligence agencies.

All of this was taking place without public consent or awareness, with no basis in law and with no proper safeguards. Since these revelations, there has been a long-running [legal battle](#) over the UK's unlawful use of these previously secret surveillance powers.

In September 2018, the European Court of Human Rights [ruled](#) that UK laws enabling mass surveillance were unlawful, violating rights to privacy and freedom of expression. The court observed that the UK's regime for authorising bulk interception was incapable of keeping "interference" to what is "necessary in a democratic society".

The UK's Investigatory Powers Tribunal, the body which considers complaints against the security services, also found that UK intelligence agencies had unlawfully [spied on](#) the communications of Amnesty International and the Legal Resources Centre in South Africa.

In 2014, revelations also [confirmed](#) that GCHQ had been granted authority to secretly eavesdrop on legally privileged lawyer-client communications, and that MI5 and MI6 adopted similar policies. The guidelines appeared to permit surveillance of journalists and others deemed to work in "sensitive professions" handling confidential information.

MI5 personal data

In 2019, MI5 was [found](#) to have for years unlawfully retained innocent British people's online location data, calls, messages and web browsing history without proper protections, according to the Investigatory Powers Commissioner's Office which upholds British privacy protections. MI5 had also failed to give senior judges accurate information about repeated breaches of its duty to delete bulk surveillance data, and was criticised for mishandling sensitive legally privileged material.

The commissioner [concluded](#) that the way MI5 was holding and handling people's data was "undoubtedly unlawful". Warrants for MI5's bulk surveillance were issued by senior judges on the understanding that the agency's legal data handling obligations were being met — when they were not.

"MI5 have been holding on to people's data—ordinary people's data, your data, my data — illegally for many years," [said](#) Megan Goulding, a lawyer for rights organisation Liberty, which brought the case. "Not only that, they've been trying to keep their really serious errors secret — secret from the security services watchdog, who's supposed to know about them, secret from the Home Office, secret from the prime minister and secret from the public."

Intelligence agencies committing criminal offences

MI5 has been operating under a [secret policy](#) that allows its agents to commit serious crimes during counter-terrorism operations in the UK, according to lawyers for human rights organisations bring

ing a case to the Investigatory Powers Tribunal.

The policy, referred to as the "third direction", allows MI5 officers to permit the people they have recruited as agents to commit crimes in order to secure access to information that

could be used to prevent other offences being committed. The crimes potentially [include](#) murder, kidnap and torture and have operated for decades. MI5 officers are, meanwhile, immune from prosecution.

A lawyer for the human rights organisations [argues](#) that the issues raised by the case are “not hypothetical”, submitting that “in the past, authorisation of agent participation in criminality appears to have led to grave breaches of fundamental rights”. He points to the 1989 murder of Belfast solicitor Pat Finucane, an attack carried out by loyalist paramilitaries, including some agents [working for](#) the British state.

The ‘James Bond clause’

British intelligence officers can be authorised to commit crimes outside the UK. [Section 7](#) of the 1994 Intelligence Services Act vacates UK criminal and civil law as long as a senior government minister has signed a written authorisation that committing a criminal act overseas is permissible. This is sometimes known as the “James Bond clause”.

British spies were reportedly given authority to [break the law](#) overseas on 13 occasions in 2014 under this clause. GCHQ was given five authorisations “removing liability for activities including those associated with certain types of intelligence gathering and interference with computers, mobile phones and other types of electronic equipment”. MI6, meanwhile, was given eight such [authorisations](#) in 2014.

Underage soldiers

Image on the right: Two cadets from the UK military raise funds for the Royal British Legion on New Market Street, Chorley, UK, 2015. (Photo: Flickr)



Britain is the only country in Europe and Nato to allow direct enlistment into the army at the age of 16. [One in four](#) UK army recruits is now under the age of 18. According to the [editors](#) of the *British Medical Journal*, “there is no justification for this state policy, which is harmful to teen health and should be stopped”. Child recruits are more likely than adult recruits to end up in frontline combat, they add.

It was [revealed](#) in 2019 that the UK continued to send child soldiers to fight in Iraq and Afghanistan despite pledging to end the practice. The UK says it does not send under-18s to warzones, as required by the UN Optional Protocol on the Involvement of Children in Armed Conflict, known as the “child soldiers treaty”.

The UK, however, deployed five 17-year-olds to Iraq or Afghanistan between 2007 and 2010: it claims to have done so mistakenly. Previous to this, a minister [admitted](#) that teenagers had also erroneously been sent into battle between 2003 and 2005, insisting it would not happen again.

The UN Committee on the Rights of the Child expressed [concern](#) at the UK’s recruitment policy in 2008 and 2016, and recommended that the government “raise the minimum age for recruitment into the armed forces to 18 years in order to promote the protection of children through an overall higher legal standard”. Parliament’s Joint Committee on Human Rights, the children’s commissioners for the four jurisdictions of the UK, along with children’s rights organisations, all support this call.

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Mark Curtis is editor of *Declassified UK* and tweets at [@markcurtis30](#).

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