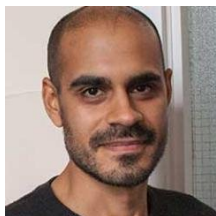


Complicity in the death penalty: just how out of step are Javid's actions with British policy?



The Home Secretary recently agreed to assist the US in the prosecution of two formerly British men without seeking assurances that they would not face the death penalty. [Bharat Malkani](#) writes that, while this particular case was out of step with usual policy, there's more to understanding British complicity in human rights abuses.

On 23 July, it was revealed that the Home Secretary, Sajid Javid, had [sent a letter to his counterpart](#) in the USA assuring him that the UK will assist in the extradition and prosecution of two terrorist suspects. That in itself was not so remarkable. The two suspects – El Shafee Elsheikh and Alexandra Kotev – are accused of committing horrific crimes, and it makes sense for the UK to help ensure that they are held accountable for their actions. However, Javid took the extraordinary step of also stating that the UK will provide assistance without first seeking assurances that the death penalty will not be imposed, even though the two men were raised in Britain and, until recently, were British citizens. This was out of step with decades of political tradition, and contrary to the UK's obligations under domestic and international law.

In the following days, [politicians](#) from all parties denounced Javid's actions; [human rights campaigners](#) expressed their dismay; and the Howard League for Penal Reform announced plans to initiate [legal action](#) against Javid. Because of the breadth and depth of this outcry, the Home Office announced that it would temporarily [suspend co-operation](#) with the US in the case concerned, pending a judicial review of Javid's decision. Not quite a U-Turn, but certainly a recognition that people are concerned about British complicity in the death penalty abroad.

There have been various articles explaining the [illegality of Javid's failure](#) to seek "no death penalty" assurances, and there have been a number of op-eds that have [explained the disjoint](#) between Javid's decision, and the UK's principled opposition to capital punishment at all times, in all places. But we should also use the present case to consider other ways in which Britain might be intentionally or inadvertently complicit with capital punishment abroad. Doing this enables us to better understand just how out of line with British law and policy Javid has been.

Perhaps the most obvious type of complicity is through the extradition of a person to another country where they ultimately face a death sentence. In such cases, we are handing over a person to their death. It is little surprise to hear the government [deny that this is a case of extradition](#), since we have generally been consistent in demanding "no death penalty" assurances in such cases, and the legal obligation to obtain such assurances is settled.

The government is instead arguing that we are simply furnishing prosecuting authorities in America with information that will help secure a conviction and death sentence, and is relying on the clause in the [Overseas Security and Justice Assistance Guidance](#) that permits assistance without relevant assurances, so long as there is ministerial approval to that effect. To be sure, in the past the National Crime Agency has [provided assistance to Thai authorities](#) in a case involving the murder of two British nationals, which resulted in two Burmese nationals being sentenced to death. And [stories abound](#) relating to British aid and resources being used in [anti-drug trafficking initiatives in Pakistan](#) and Iran, which lead to death sentences being imposed on drug traffickers.

Those who have been shocked by Javid's letter, then, should feel even more outraged to hear his actions are part of a broader pattern. But try as Javid might to argue that his decision is therefore in line with current practice, it is not. In almost every other aspect, his decision is anomalous to British law and policy.

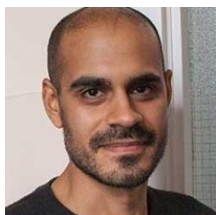
In recent years, British [pharmaceutical companies have been implicated](#) in the trade of drugs that are used in lethal injections. Put another way, we were accused of helping make executions possible. Despite some initial hesitation, the government soon recognized that it was politically, morally, and legally problematic to allow British companies to facilitate executions, and [export controls were duly imposed](#). Since we have taken steps to avoid British complicity in executions in this respect, Javid's position becomes even more untenable.

It is also plausible for British authorities to be complicit in the use of capital punishment through omission. When British nationals face executions abroad, they invariably request the [assistance](#) of the British government in fighting their sentence. It has been shown time and again that the chances of an execution being carried out are [dramatically reduced](#) when a government helps their citizen, making it arguable that if the government refuses to provide assistance, then it is [knowingly facilitating](#) the death penalty through its omission to act. However, the UK government has tended to provide assistance when called upon. Indeed, the UK rarely keeps quiet about the death penalty abroad, and provides financial support for UK-based organizations such as the Death Penalty Project and Reprieve, which contribute to the global campaign to end capital punishment. Once again, this highlights just how out of step Javid's actions are with usual British policy.

Having said all this, we should recognize at least one way in Javid's actions are indeed part of a broader pattern. For years, the UK has deployed automated drones to kill terrorist suspects in various parts of the world, without putting them on trial first, and notwithstanding the risk of killing family members and other innocent bystanders. As Simon Jenkins has [explained](#), "Britain's use of execution by drone strike... rain[s] terror and death on "guilty" and innocent alike, in flagrant defiance of the rule of law." More to the point, in both the present case and the use of drones, the threat of terrorism is being used to justify a phenomenon that we rejected decades ago: the state's power to kill individuals unless absolutely necessary. In this sense, Javid's decision to not seek assurances is not a one-off anomaly.

While abolitionists should therefore be pleased that the Home Office has suspended assistance in this case, they should also recognize that this is one instance of a broader problem of British complicity with human rights abuses. Just a few weeks ago, the [Intelligence and Security Committee condemned British complicity in torture](#), and the [Prime Minister acknowledged the wrongfulness](#) of such complicity. The present case will hopefully inspire a similar reaction to British complicity in state-sanctioned killings.

About the Author



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