This article seeks to provide an analysis of the ethical issues surrounding the United Kingdom's secret intelligence activity since 9/11 and to ask whether a provisional judgment can be made as to whether the United Kingdom's secret agencies uphold or undermine the central and definitive position given to human rights in British political culture. It raises some of the problems now encountered by intelligence agencies, in the Age of Terror, in seeking to reassure the public about what they do and in answering questions about whether ethical concerns seem likely to redefine the limits of secret activity and the core intelligence relationships in contemporary Britain.

In a recent article in Intelligence and National Security on changes in the practice of Western intelligence agencies, Len Scott and Gerry Hughes write, "In the UK there is a political and intellectual consensus that torture remains anathema ... the argument that torture is wrong because it is wrong commands strong support across all political parties in Westminster as well as within Whitehall." They do not provide any source to back up these assertions presumably (and reasonably) because they are regarded as self-evident truths.¹

The question is thereby begged as to what might be said that is new and different about this subject, short of making absurd statements seeking to justify the unjustifiable or construct straw men for the sole purpose of knocking them down.

Here, however, I want to attempt to look at this matter not as historians of intelligence activity or philosophers, and certainly not as practitioners, civil servants, or politicians, but rather as those who study the practice of intelligence as well as the policies with which it intertwines.
In this article we attempt to examine the issues of deriving intelligence from detainees with a view to clarifying how the practice of intelligence collection by British personnel is to be placed in a broader ethical context and to consider the implications of current allegations that British intelligence profits from the use of torture on future intelligence gathering by the British intelligence community more generally.

Our discussion is set against the backdrop of the Gibson Inquiry into the complicity of MI5 in the torture of Binyam Mohamed, but also in the real and present danger of terrorist attacks on the United Kingdom, said by senior officials but a few weeks ago to be as numerous as ever they were and possibly increasing in number. In the first part of our article, we outline some of the issues that have arisen in the analysis of the conjunction between intelligence gathering and torture and seek to make a real-world distinction between what the state may ordain and what its officers may do, suggesting that although torture is always wrong, torture practiced by an individual officer is qualitatively different and less fundamentally evil from torture authorized or accepted by government.

We argue that the problems that face the British intelligence community do not in fact stem from any official British government policy sanctioning torture (unlike those that faced the U.S. intelligence community under President Bush) but from Britain’s cooperation with other, friendly intelligence agencies who use, or have used, torture.

The hard, real-world fact that we have to accept is that without such cooperation, British intelligence will become far less effective. It follows that the tasks facing British intelligence, in particular MI5 and the Secret Intelligence Service (SIS), will become exponentially more difficult to execute and will not only call into question their efficacy at protecting UK homeland security but also, in the case of SIS, exercising a global reach in support of Britain’s global interests and concerns.

We believe that British intelligence currently faces a major test of public trust in its activities and its ethical values. We argue that the multiple public attacks on its integrity are unwarranted and could do real damage to our national security if they are not disarmed. We offer no judgment on the motives of those making these attacks but accept that this subject—torture—is of such importance that it should certainly be raised.
We conclude that even if British intelligence survives the current test (as we believe it and hope it will), Britain may well have to make some fundamental choices in the years ahead. In respect of deriving secret intelligence from overseas, it will have to choose between working with intelligence partners whose values do not match our own or working only regionally with a few European partners or locally within national boundaries. While electronic interception will naturally continue (any ethical doubts about national governmental eavesdropping activity are hard to find), this will be of only limited use in defending Britain’s global footprint.

From this it must follow that Britain will inevitably retreat into powerless neutrality between the East and the West.

This does not mean we advocate turning a blind eye to torture, whether practiced by the United Kingdom (which we do not think happens) or partner agencies (which we accept does take place and has taken place). Far from it: British intelligence should do all it can to dissuade its partners from torturing detainees. But all the evidence we possess, both on the record and off it, some of which we examine here, indicates that there is no substance in the allegation that torture is part of the repertoire of British secret intelligence gathering or a core aspect of the British intelligence model that has rightly enjoyed a reputation for decency in a very violent world. If this indication were to prove inaccurate, it would not only mean that intelligence chiefs lied to the British public but also it would also ultimately mean that the British intelligence model is broken beyond repair.

Intelligence gathering by Britain will always necessitate working with those who have “dirty hands.” A mature democracy with global interests should face up to this fact.

**The Charges**

In February 2010 it was stated in the press that the government’s counsel looking into the allegations of MI5’s complicity in the torture of Binyam Mohamed, Jonathan Sumption, had expressed considerable alarm at the views of MI5 as put by the Master of the Rolls, Lord Neuberger, one of Britain’s most senior judges. *The Guardian* summarized Lord Neuberger’s opinion of MI5 as an agency that is “devious, dishonest and complicit in torture.” It would be hard to exaggerate the real and potential damage that such claims could do to Britain’s security services.
Indeed, it was criticisms like these that led, on 6 July 2010, to the setting up of a formal judicial review (headed by Sir Peter Gibson) and also the promise in November 2010 of substantial payments to the detainees to be made by the government in return for their silence. Such unprecedented disquiet about the UK’s intelligence agencies suggests that ethical questions now being asked about intelligence activity are no longer abstract ones to do with private morality but practical ones that affect public security policy. The unease has also led to a rare public statement by the director general of MI5, Jonathan Evans, and a unique public speech by “C,” the chief of SIS, Sir John Sawers.

But what was, precisely, the charge that was being made against British intelligence? That British officers had been instructed to torture detainees? That individual officers had done so off their own bat? That they had induced partner agencies to torture? Or simply that usually they had avoided asking awkward questions or digging too deep when presented with information by partners? As we shall see, it is the last of these charges that are the true ones. Yet they, too, present the UK intelligence community with a big problem, for it raises the ethical dimension of interrogation as well as more fundamental questions about Britain’s relationship with its global intelligence partners.

Jonathan Evans explained (on 11 February 2010): “There have been a series of allegations that MI5 has been trying to ‘cover up’ its activities. That is the opposite of the truth . . . In 2005 and 2007 we did not practise torture and do not do so now, nor do we collude in torture or encourage others to torture on our behalf.” Sir John stated on 28 October 2010: “Torture is illegal and abhorrent under any circumstances and we have nothing whatsoever to do with it.”

Despite categorical assurances of this nature, it seems fair to believe that at best public opinion may no longer be on the side of those demanding sound (but lawful) security policies but increasingly tending to favor those who call them into question on ethical grounds. At worst, British government ministers may feel that the risks involved in intelligence gathering are so great that the activity itself must be increasingly constrained and cut back.

**Can Torture Sometimes Not Be Torture?**

Of course, there are those who will argue that this is what the UK political establishment believes but not, for example, what the U.S.
political establishment believes, or, better, believed during the presidency of George W. Bush. Others might suggest that while it is fair enough to maintain that “torture is wrong because it is wrong,” it is by no means clear what “torture” actually means or how it is to be defined. The philosopher Steven Lukes quotes Judge Richard Posner, who points out that “the word torture lacks a subtle definition and what is involved in its use is ‘picking out a point along a continuum at which the observer’s queasiness turns to revulsion.’” Indeed, Bush’s White House lawyers plainly understood this point when (as Lukes suggests) they deliberately used a “minimalist” definition of torture that permitted interrogators “to inflict pain and suffering up to the level of organ failure” but not beyond it (“torture is [the] experience of intense pain or suffering . . . equivalent to serious physical injury, so severe that death, organ failure or permanent damage . . . will likely result,” according to the notorious White House memo of 25 January 2002). This sophistry allowed waterboarding to be used, of course, previously known as “the water cure” and practiced by armed forces in many places and by the Americans at the turn of the twentieth century as well as during the George W. Bush presidency.

Yet Brian Stewart, a former British secret intelligence officer, made a very reasonable point in 2006 when he argued that what was perhaps MI5’s greatest intelligence success, the creation of a Double Cross system in the Second World War (which turned Nazi secret agents into double agents working for Britain), was achieved by Sir Dick White using the threat of execution if the Nazi agents refused his request. No one has ever accused White of being a torturer and, as Stewart points out elsewhere, in Malaya White was insistent that physical force was never to be used in any interrogation. Robert Chapman points out usefully that some of the definitions of torture used in international law can hardly be considered to be torture. The World Medical Association’s “Guide for Medical Doctors concerning Torture and Other Cruel, Inhuman and Degrading Treatment[sic] or Punishment in Relation to Detention and Imprisonment” defines torture as “deliberate systematic or wanton infliction of physical or mental suffering . . . in order to force another person to yield information.”

Even the “five techniques” (wall standing, hooding, white noise, limited sleep, and a bread and water diet) that caused Britain such anguish in 1978 when it was found guilty in the European Court of Human Rights of breaching its Convention may, to some, seem nasty and unpleasant but not torture, and some may consider them
possibly even effective ways of getting detainees to speak.\textsuperscript{11} Brian Stewart commented that the only judge who dissented from the opinion was British and had probably, like Stewart himself, attended a British public school.

This is not an entirely specious argument. An old boy at my own school, St Edward’s in Oxford, recently wrote: “I remember being called to the prefects’ study for a formal investigation . . . If we were dismissed with the words ‘Go away’ we knew were in for a caning. Although the caning itself did hurt it was the waiting, the uncertain length of time between the dread words and the summons that was the real, psychological punishment . . . another punishment for offences that did not merit a beating was to hold up the arms horizontally to the side, weighted in each hand with the Complete Works of William Shakespeare . . . this was to be avoided at all costs.” Yet the author insists “it never did me any harm.” That said, it seems hard to dissent from the definition of torture provided by the UN Convention against Torture (1987) as “the infliction of severe pain, mental or physical,” even if what is “severe mental pain” may continue to be a matter of debate. Keir Starmer, QC, head of the Crown Prosecution Service (CPS), has said, “The definition of torture is now so broad it can include grossly defamatory remarks or extreme or continuous police surveillance.” And while we may find Donald Rumsfeld’s comment droll (“I stand for eight to ten hours a day, why is standing [for detainees] limited for four hours?”), his support for the use of waterboarding is another matter altogether.\textsuperscript{12} Rumsfeld’s whining defense of the practice is in itself repugnant but, we shall argue, what makes it much more serious is that he was the U.S. Secretary of Defense.

Indeed, the really critical ethical issues here revolve around the policy of states and their rulers, not the officers who work within them. Lukes claims that torture is worse than killing in combat because it is a “cruel assault upon the defenceless.”\textsuperscript{13} That seems dubious: defenseless people are also killed in combat, at any rate, modern combat. I would argue that torture is worse than killing only where it is state sanctioned or ordered and then because it casts such a deep reflection on the culture of the state involved. Otherwise, most people would prefer to be tortured than killed.

There has been no mention here of the “ticking bomb” scenario, or whether intelligence derived from torture is likely to be true or false. This is because there are no absolute answers to the question of what an individual officer should do in any specific situation.
What’s more, officers are humans and subject to the same frailties as all of us. In the real world there are hierarchies of wrongdoing that will mitigate the torture of a terrorist if it saves lives but lead to imprisonment for the torturer if it does not. Intelligence officers are officers and will need to take responsibility for what they have done. What makes American and Nazi brutality so repugnant is not that it suggests all Americans or all Germans were wicked but that it provided cover for sadists and murderers. If an individual commits torture, it is a comment on the individual. If the state sanctions it, it is a comment on the state as a whole.

Brian Stewart has written: “I do not approve of torture but I do not think that states should just shrug their shoulders announcing that we must not stoop to the ways of barbarians. Somehow we need in the interests of human rights in the broadest sense to find a way short of torture of persuading terrorists to collaborate.” It is hard to believe that most intelligence officers would not agree. By its nature, intelligence derived from detainees is not information giving willingly or freely.

State-Sanctioned Torture

In an interview in February 2011 with the *Sunday Times* in order to advertise his book (*Known and Unknown*), Donald Rumsfeld twice addressed the issue of torture. First, in response to an admittedly leading question (Why is America now so widely hated in the Middle East?), he replied, “There’s no question that the photographs from Abu Ghraib, the abuse of these people in American custody, harmed our country, harmed our military, and gave encouragement to the terrorists.” He added that he had offered his resignation to President George W. Bush when the story broke in 2004.

The second answer he gave is no less significant. Asked whether America had not played into the hands of extremists by “losing the high moral ground when it set up Guantanamo” and adopted what the interviewer termed, misleadingly, “enhanced torture techniques and waterboarding” (they were called “enhanced interrogation techniques,” the implication being that interrogation is a form of torture per se), he replied with a question: “How many people were waterboarded at Guantanamo?” The interviewer replied she had no idea. “Guess,” he insisted. “Tens at detention facilities worldwide, I venture.” “Tens? Ha,” he laughs. “The truth is the CIA waterboarded three people worldwide in the past decade,
not tens. The Department of Defense waterboarded none. And at Guantanamo, zero.” In his responses, Rumsfeld makes it plain that the reports of torture used by Americans not only diminished, seriously, the American government’s standing in the Middle East (and surely also everywhere else, including America) but also that if waterboarding were considered torture (as it must certainly be) that it was used against “only” three individuals (and many times, which he does mention).

But the issue here is not what Rumsfeld the private person wants us to believe. Like other politicians who have ordered or permitted intelligence and security agencies to torture detainees, his own hands were, in a literal sense, kept clean. It is Rumsfeld the U.S. Defense Secretary (and the others by now notorious names, Alberto Gonzales, John Yoo, and President Bush himself) that cause the massive problem. This is about government and about orders, not about the acts of an individual who may have “lost his rag.”

There is a vast distinction to be drawn between the aberrant but possibly understandable behavior of an individual intelligence officer and the behavior of a state. This is key, as even the briefest glance at the use of systematic torture by totalitarian states indicates. Indeed, it should give Donald Rumsfeld cause for reflection that “enhanced interrogation” was “legally” permitted during the Third Reich but under conditions arguably more stringent than those laid down by the U.S. government.

A document dated 12 June 1944 sent by SS-Gruppenführer Heinrich Müller, chief of the German Security Service and Security Police, to all his officers makes it crystal clear that “harsh (that is, ‘enhanced’) interrogation” is allowed and encouraged by the Nazi state. This is defined here as depriving the detainee of bread and water, a mattress, light, and sleep; ordering stress exercising; and, finally, beating with a stick to a maximum of twenty strokes. Two officers must always be present when the beatings take place. Where more than twenty strokes are given, the presence of a medical doctor is required.

Müller adds that harsh interrogation is to be used only when the detainee refuses to divulge information relating to important matters of state or potential treason and only against Communists, Marxists, Jehovah’s Witnesses, saboteurs, terrorists, resisters, enemy agents, social misfits, and work-shy Poles and Soviet Russians. Where it has been used, and the detainee is brought before a court, the judges in the case are to be secretly informed that this has taken place.
Of course, what this document illustrates is that harsh interrogation ("legal" since 1937 but widely used as early as January 1933) is in fact far more than just a device used by the Nazi Security Service to extract information. It is very clearly intended to enshrine torture as a form of social control (what state secrets did a Jehovah’s Witness possess, let alone “work-shy” Poles and Russians?) and also to frame it in a pseudolegal context (doubtless to make it psychologically easier for officers to use). Christopher Einolf’s argument (that the use of torture by the Nazis was used “primarily against individuals from whom they wanted information” is wide of the mark).\textsuperscript{16} It is, of course, important to point out that these regulations were for “Aryan” prisoners of the Reich; Jews and others were systematically tortured both in the “Jews’ houses” and ghettos and then in concentration camps as a matter of course and an everyday occurrence.\textsuperscript{17}

It is instructive to recall that in August 2002, acting on instructions from the White House, the CIA waterboarded Abu Zubaydah 83 times and that in March 2003 the CIA waterboarded Khalid Sheikh Mohammed 183 times.\textsuperscript{18} On 16 April 2003 the Pentagon approved “slaps to the face and stomach and fear of dogs” for the treatment of Mohammed al-Qahtani, an al Qaeda suspect, who was interrogated for forty-eight of fifty-four days for eighteen to twenty hours at a stretch, stripped naked, straddled by taunting female guards, forced to put women’s underwear on his head, threatened by dogs, placed on a leash, forced to bark like a dog, and refused sleep for three days.\textsuperscript{19} His heart rate went down to thirty-five beats a minute, requiring cardiac medical intervention.

At the same time, we should recall Stewart’s argument that not everything that a state may permit to force a detainee to provide intelligence officers with actionable and operational intelligence is torture. There is a world of difference between the use of physical violence against detainees and causing detainees physical or mental discomfort. It is a truism that intelligence can and does save the lives of innocent people, and the comfort of suspected terrorists should not (and has not been) placed above the safety and security of ordinary citizens. If discomfort generates intelligence it is not unacceptable (although in some mythical future world it would be nice to imagine that it would not be necessary). What is more, all secret work involves activity that would be morally or ethically unacceptable to individuals if they were not intelligence officers in the same way that we train our armed forces to kill and are content for them to kill while recognizing that ordinary citizens face long terms of
imprisonment if they do this (and that crimes committed in war are nonetheless criminal acts). The moral justification that such secret work is always strong gains resonance from the fact that at the present time the United Kingdom is itself under threat (from Islamist terrorism) and at war in Afghanistan with those who share the aims of the terrorists.

The Question of Collusion: Would Britain’s Intelligence Community Use Intelligence Derived from Tortured Detainees?

However, the issue facing the UK intelligence community has far less and possibly very little to do with what British intelligence officers do and much to do with how its partner agencies procure intelligence. Yet, as we have already argued, this comes with its own set of problems and, as David Cameron has indicated, were British intelligence to be seen to have colluded with torture, reputational damage (perhaps lasting) will be the outcome.

Indeed, this issue lies at the heart of the Gibson Inquiry, although it is not entirely clear whether the matter being inquired into is an ethical one (that is to say whether the UK intelligence community, which itself does not practice torture, has behaved in an ethically unacceptable manner by using intelligence from an agency that does torture its detainees) or entirely a practical one (that is to say that in future having further cooperation with the donating agency becomes illegal or politically unworkable). David Cameron had not been prime minister for long when he announced the establishment of the Gibson Inquiry in Parliament on 6 July 2010.20 He did say, however, that Britain’s reputation “risked being tarnished” (that is, had not yet been tarnished) but that he looked to Gibson to “restore Britain’s moral leadership in the world” (implying either that Britain had possessed moral leadership but had lost it or that it was its moral leadership in the world that had required restoring). Cameron made it clear that there was “no evidence of any British officer being directly involved in torture but that there were questions over the degree to which British officers were working with foreign security services who were treating detainees in ways they should not have done.”21

We do know that the British government (at the insistence of its intelligence community) has already agreed to halt any attempt by Binyam Mohamed and others to sue it through the simple expedient of paying them a large sum of money (the precise amount has been
kept secret but is likely to run to many millions of pounds). However,
the reason that is given by Britain’s intelligence community for these
payments is not to avoid any discussion of its ethical values but in
order to protect the “control principle” (which means, in Sir John
Sawers’s words, that “the service which first obtains the intelligence
has the right to control how it is used, who else it can be shared with
and what action can be taken with it”). As Jonathan Evans makes
plain, its intention was “not to cover up supposed British collusion
in mistreatment [sic] (which he said ‘was the opposite of the truth’) but
to protect the vital intelligence relationship with America and by
extension with other countries; we cannot protect the UK without the
help and cooperation of other countries.” He went on: “The U.S. in
particular has been generous in sharing with us intelligence on terror-
ist threats that has saved British lives and must be protected.”

Indeed, it is clear (especially from Sawers) not just that the Brit-
ish intelligence community make clear its abhorrence of torture on
which there has to be an absolute prohibition but that it does not
follow that Britain would not act on intelligence that came from
agencies who might practice torture. In a passage that was widely
misunderstood when it was delivered, Sawers said, “If we know or
believe action taken by us will lead to torture taking place, we are
required by UK and international law to avoid that action. And we
do that even though that allows the terrorist activity to go ahead.”
It is obvious from his choice of words that he did not mean Britain
would not act on intelligence obtained through torture. He seems to
be saying something different: “If we identify someone in another
country who would be tortured if we passed their details to the intel-
ligence service of that country, we would not do so”; the “terrorist
activity” to which he refers is therefore not activity in the United
Kingdom but in the other country. Whether such behavior would
be likely to gain the goodwill of that country or its intelligence com-
munity is another matter.

Facing directly the issue of what Britain would do with intelligence
from a tainted source, Sawers said:

Suppose we receive credible intelligence that might save lives, here or
abroad. We have a professional and moral duty to act on it. We will
normally want to share it with those who can save those lives. We also
have a duty to do what we can to ensure that a partner service will
respect human rights. That is not always straightforward. Yet if we
hold back and don’t pass that intelligence out of concern that a suspect
terrorist may be badly treated, innocent lives may be lost that we could
have saved. These are not abstract questions for philosophy courses
or searching editorials. They are real, constant operational dilemmas.
He added, “We are accused by some people not of committing torture ourselves but of being too close to it in our efforts to keep Britain safe. Let me say this: SIS is a service that reflects our country. Integrity is the first of the Service’s values.”

**Political Control of the Use of Intelligence That May Have Been Derived from Torture**

Taking these statements in the round, they do seem to mean that while it would not always be a done deal for SIS to pass intelligence to MI5 or the police where it believed it had been derived from torture, it was not a done deal that they would never do so. Equally, the need to save lives would, or could, take precedence over the fear that a terrorist would face torture in another country if our intelligence were passed to it. Sawers asks the question (“Are we too close to torture” practiced by others) but does not give it a clear answer (he says simply that “SIS is a service that reflects our country”).

This formulation coincides with David Cameron’s promise to Parliament on 6 July 2010 to the effect that where the security services believed there may be information crucial to saving lives that may have been derived from torture, they would ask government ministers (who are of course politicians rather than servants of Crown) to decide whether they should use it operationally. Naturally, this solution still relies on the intelligence agencies to give a view on whether ministers should be involved.

There is an interesting divergence here between what SIS’s chief has to say on this issue and what Jonathan Evans of MI5 has written in what would appear to be a conscious effort to avoid antagonizing what may be called the civil liberties lobby by giving with one hand and taking with the other. As we have seen, Evans states that his Service does not use torture itself, does not collude in torture or encourage others to torture on its behalf. He explains, “How important it is that Britain lives up to its legal and moral responsibilities in countering terrorism. If we fail to do so, we are giving a propaganda weapon to our enemies.” He also added that “in 2005 and again in 2007 the Intelligence and Security Committee highlighted . . . that the British intelligence community [i.e., MI5 and SIS] was slow to detect the emerging pattern of US mistreatment of detainees after September 11, a criticism that I accept.”

That said, Evans insisted MI5 would “use all the powers available to us under the law . . . to keep the country safe from terrorist attacks . . . not just bombs, bullets and aircraft but also propaganda and campaigns to undermine our will and ability to confront them.”
To those who observe MI5 closely (from within higher education), Evans seems here to be suggesting that MI5 will not allow subversion or the undermining of Britain’s political will to remain uncontested. However, he quickly moves to balance this statement with a declaration of the opposite viewpoint (“the freedom to voice extremist views is part of the price we pay for living in a democracy and it is a price worth paying because in the long term our democracy underpins our security”).

However, Evans’s core argument is that “we cannot protect the UK without the help and cooperation of other countries . . . it saves British lives and must be protected.” If those other countries practice torture, he is saying, we won’t encourage them or collude with them but we will still exchange intelligence with them and act on it if necessary.

**Conclusion**

What all this boils down to is this. As a polity Britain abhors torture, but it does not follow that intelligence generated by torture practiced by partner states will not be acted on to save British lives. It will be. However, the decision whether to do so will be given to ministers who are directly (rather than indirectly) accountable to Parliament and will be taken away from intelligence officers.

Sawers makes the point that the issue has to do with real operational matters, not philosophy courses or editorials. To put it another way: this is, in his view, not a question of fundamentals but of rational pragmatism, perhaps a British standpoint and perhaps what SIS is said by him to reflect.

There will, of course, still be those who will argue the absolute prohibition on the use of torture by Britain counts for nothing if Britain continues to work with partner states and intelligence agencies who regularly have used, or continue to use, torture (the USA, Pakistan, and Saudi Arabia to name but three candidates). They may argue that giving ministers the final say increases the ring of culpability and is, in effect, a means of sanctioning torture rather than preventing it.

Some will not be satisfied unless and until the United Kingdom says it will cease to work with countries who practice torture and discount intelligence already provided by them. In welcoming the decision by the government to offer an out-of-court settlement to the sixteen Guantanamo Bay detainees who are British or allowed to reside in the United Kingdom, Shami Chakrabarti, director of Liberty, welcomed the settlement on the grounds that “it will bring in a broader inquiry and the end of the torture scandal a little bit closer.” It’s clear from
her words that “the torture scandal” has to do with British intelligence because an inquiry in Britain would hardly influence the behavior of Britain’s intelligence partners. She has said elsewhere: “We reject as false the choice between our safety and our ideals,” implying that the room for maneuver left open by MIS and MI6 should be removed since both organizations clearly believe, to some extent, that in the real world sometimes a choice has to be made. She also adds: “The rule against torture cannot just be about what you do with your own hands or it would be permissible to get others to perform your dirty work.” Liberty is one of several nongovernmental organizations (NGOs) calling into question the independence of Sir Peter Gibson (who lauded British intelligence agencies as “trustworthy, conscientious and dependable”). The NGO’s argument seems to be that if this was Gibson’s opinion of Britain’s secret services and his inquiry was to be secret, it would be a whitewash.

It’s clear that for Shami Chakrabarti (whose credibility may have been somewhat undermined by her tacit support for the London School of Economics’ efforts in gaining cash from Libya) that the moral and ethical worlds consist of absolutes, and while one might wish it were indeed possible that swords would be turned into ploughshares the reality looks very different, and it is within that reality that intelligence agencies operate. It would complete folly not to use intelligence from partner agencies that might save British lives, and it makes good sense to put the responsibility for using it onto the backs of politicians who can be publicly called to account if necessary.

There are really only two alternatives on offer for Britain’s intelligence community faced with a real and probably growing threat of globalized terrorism.

The first is to accept that it lives in the real world, that is to say it must continue to work with those who are ready to be our partners. Where these partners torture detainees, we must try to convince them that if they do so, they do great damage to the very cause for which they stand.

The second is to have no intelligence relationships with states whose attitude toward torture is different from ours. This would entail walking away from Britain’s perceived national and international obligations and eschew supporting our global interests. If we go down this road, it follows that we would be obliged to cease to cooperate on intelligence matters with the USA and many other states. This, in turn, would in many cases render us defenseless from those who wish to destroy us. As for the argument that it is only our closeness to the USA and other states that makes us a target in the first place, it can be
countered that we are close to the USA and our western Allies because, broadly speaking, we share the same values. Naturally, things may change. In a generation or so our security and therefore our intelligence community may become closer to the European Union and less dependent on the USA. The Islamist threat may have disappeared like other radical and extremist movements in the past. But there is no middle or third way between our security alliances and appeasement.

It is worthwhile pointing out that although Sir John Sawers suggested that these issues were not merely ones for the philosophy class, at least one philosopher offers a rational and intellectually sound explanation for the cognitive dissonance in respect of ethics with which intelligence agencies must contend.

Steven Lukes accuses intelligence services of exaggerating the threat to ordinary people ("There is a tendency of secret services to overestimate threats . . . the perils that terrorists pose to our lives and civil liberties lie as much in the western governments’ response as in the damage they can directly cause"). He could not be more wrong. While those killed by terrorists in the West is far fewer than those killed by skiing accidents, as a senior former intelligence official has recently pointed out, the damage done by terrorist attacks to the fabric of the state and the general perception of public security is enormous. Furthermore, if a serious charge can be laid at the feet of both the British and American intelligence communities it is not of exaggeration but its reverse. Consistently prior to 9/11 and 7/7 U.S. and British intelligence turned a blind eye to Islamist extremism in the hope it would attacks others beyond their shores.

In one respect, however, Lukes hits the nail on the head. He writes that “dirty hands” and “tragic choices” are part of the human experience and are found, not infrequently, in liberal democracies as well as among its enemies.29 We live in a world of dirty hands and tragic choices. Lukes argues that unlike other cases of dirty hands, torture cannot be “rendered liberally-democratically accountable” because it is never legitimate and always done in secret. As we are seeing from the example of the Gibson Inquiry and the public statements of the heads of Britain’s secret agencies, this may not be true any longer. What’s more, the hands may be less dirty in the future and the choices less tragic, also.

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Notes

7. Ibid., 6.


15. Copy held by the National Socialist Document Centre, Cologne, www.nsdok.de (supplied by the mayor of Cologne). There are apparently no historical studies of the use of torture as a form of social control in the Third Reich, and only two general histories of torture—Robert Zagolla, Im Namen der Wahrheit: Folter in Deutschland vom Mittelalter bis heute (Berlin: Bebra Verlag, 2006), and Peter Burschel et al., eds., Das Quälen des Körpers: Eine historische Anthropologie der Folter (Berlin: Böhlau, 2000). Thanks to archivist Rainer Stach for this information.


21. Ibid.

22. Ibid.

23. Ibid.

24. Ibid.


