



Written by [Joe Wolverton, II, J.D.](#) on February 7, 2013

U.K. Lawsuit Threatens to Expose Allies' Complicity in Drone War Deaths

As reported January 31 by the [New York Times](#), a lawsuit filed in Britain by the family of an innocent victim of a U.S. drone strike may be giving allies a reason to reconsider their participation in the deadly program.

As *The New American* previously reported, last October, the British High Court heard arguments that the United Kingdom's participation in and cooperation with the U.S. drone war in Pakistan may amount to war crimes or complicity in murder.



Lawyers representing Noor Khan presented evidence in a case filed by Khan after his father, Malik Duad Khan, and at least 40 other people were killed in a U.S. drone strike in North Waziristan on March 17, 2011.

While the court initially declined to hear the case, Khan's lawyers filed an appeal at the end of January 2013. The governments of Great Britain and several European nations await anxiously the ruling on the appeal.

For years, these governments have been able to "reap the benefits of the contentious drone program without its political costs," reports the *New York Times*.

The days of having their cake and eating it too may be coming to end should the High Court of the U.K. be forced to hear the case against the British government's complicity in the drone-delivered death of Malik Duad Khan.

At issue in Khan's as-yet unheard legal challenge is the sharing by the U.K. intelligence services with their U.S. counterparts. Khan claims that this information is critical in the United States' destroying targets inside the sovereign territory of Pakistan.

[An article published last October in the Guardian \(U.K.\) reported](#) that during the initial hearings before the High Court last year, "The British government has declined to state whether or not its signals intelligence agency GCHQ passes information in support of the CIA drone operations over Pakistan, although the court heard that media reports suggest that it does."

In its update to the story, the *New York Times* presents evidence of collaboration between British and U.S. intelligence service that often has deadly results. The *Times* reported last week:

In interviews, current and former British government and intelligence officials, some of whom worked closely with the United States after the drone campaign's inception in 2004, said Britain does provide intelligence to the United States that is almost certainly used to target strikes. Many in Britain's intelligence community, said one person with detailed knowledge of internal discussions, are now distinctly worried they may face prosecution.

"The policy on drones and torture is clear: We don't do any of it," one former British counterterrorism official said. "But if we pick up on some hostile phone chatter, and we pass the



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number on to the Americans, who then pinpoint the phone and target the person, did we provide intelligence for the killing?" The official, like others interviewed on the issue, spoke on the condition of anonymity because of the legal delicacy of the case.

In a timely coincidence, the Royal Air Force announced a significant ramp up in the number of drones it will soon have airborne in Afghanistan. Again, [the Guardian reports](#):

The UK is to double the number of armed RAF "[drones](#)" flying combat and surveillance operations in [Afghanistan](#) and, for the first time, the aircraft will be controlled from terminals and screens in Britain.

In the new squadron of unmanned aerial vehicles (UAVs), five Reaper drones will be sent to Afghanistan, the Guardian can reveal. It is expected they will begin operations within six weeks.

Until now, American airmen stationed in Creech Air Force Base, Nevada, have piloted the British drone fleet. When the new drones are ready to fly, they will be guided by RAF pilots stationed in Great Britain.

Martin Chamberlain, Khan's lead attorney, presented evidence last October that he believes will be sufficient to compel the high court judges to require U.K. Foreign Secretary William Hague to disclose the scope of the British government's cooperation with the United States.

At that time, Hague will neither confirm nor deny any intelligence sharing with the CIA.

The CIA, naturally, also had no comment then and continues to stonewall any search for information.

The highlights of the evidence presented by Chamberlain were laid out in an article in the *Guardian*:

Martin Chamberlain, counsel for Khan, said that a newspaper article in 2010 had reported that GCHQ [Government Communications Headquarters] was using telephone intercepts to provide the US authorities with locational intelligence on leading militants in Afghanistan and Pakistan. The report suggested that the Cheltenham-based agency was proud of this work, which was said to be "in strict accordance with the law".

On the contrary, Chamberlain said, any GCHQ official who passed locational intelligence to the CIA knowing or believing that it could be used to facilitate a drone strike would be committing a serious criminal offence.

Chamberlain stated that any "participation of a UK intelligence official" in the U.S. drone war in Pakistan may amount to "encouraging or assisting murder."

Anticipating the claim by Foreign Minister Hague and the GCHQ that any assistance given by the British to the Americans is protected from prosecution by a shield of "combat immunity," Chamberlain insisted that his client was not seeking to hold any one individual responsible for the deaths, rather he "was seeking a declaration by the civil courts that such intelligence sharing is unlawful."

For their part, lawyers representing Hague refused to comment on the British government's assistance in the U.S. drone war. Government counsel argued that any information they could give — if they even had it — would be "prejudicial to the national interest." In American challenges to intelligence community activities, this procedural parry is known as a Glomar response. In such a maneuver, the agency that is the subject of the inquiry "neither confirms nor denies" the existence of the material requested.

Given the information in [the Justice Department memo recently leaked to NBC News](#), it is apparent that President Obama and his intelligence and counterterrorism advisors believe they have the legal



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authority to continue killing people — including American citizens — anywhere in the world if they believe they pose a threat to the interests of the United States.

In light of the prevalence of that attitude from the president down, it is all but certain that there will be many more Malik Khans who are killed in “accidental” drone strikes. Likewise, the number of families robbed of mothers, fathers, sons, and daughters will increase in direct proportion to the number of drones filling the skies of Pakistan, Yemen, Afghanistan, and North Africa.

For its part, an unnamed senior British official told the *New York Times* that his government, “would just like the issue to go away.”

As for the government of the United States, it is on record saying that safeguards protecting its allies from being held complicit in deaths in the drone war would [“hinder, if not obstruct, our cooperative counterterrorism efforts.”](#)

Photo: [lawsuit form with filler and book](#) via Shutterstock

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