

**SHOULD I STAY**

**OR SHOULD I GO?**

**THE DILEMMA OF A**

**CONFLICTED CIVIL SERVANT**

**Alexandra Hall Hall**

In December 2019, Alexandra Hall Hall resigned from her post as Brexit counselor at the British Embassy in Washington, D.C. In this article, she writes about how she came to that decision and situates it in a broader discussion of principled resignation, giving examples from individuals who have been faced with the same choice.

On Dec. 3, 2019, I pressed “send” on a letter to Michael Tatham, acting ambassador at the British Embassy in Washington, informing him that I wished to resign as Brexit counselor in the United States (with the responsibility of explaining Brexit to American audiences) and from the British Foreign and Commonwealth Office as a whole. It was an immensely painful way to end my 33-year diplomatic career, and not what I had envisaged when I began the job, full of enthusiasm, in September 2018. But as I wrote in my letter (the full text of which is published for the first time at the end of this article), I found my position had become “both untenable professionally, and unbearable personally.” I believed I was being asked to tell “half-truths,” both about the implications of Brexit (the United Kingdom’s decision to leave the European Union) and the manner in which the British government was implementing it — in a way that was deliberately misleading and a violation of my civil service duty to act with integrity.

My resignation came after many months of internal struggle. As I agonized over my decision, I grappled with many of the same dilemmas that have faced other public servants, in both the United States and the United Kingdom, when tasked with implementing a policy with which they do not agree, or that they consider unethical or even illegal. Is our primary duty to the elected government of the day, even when it may be breaking the law or willfully deceiving the public? Or is our duty to some broader notion of the “public good”? If the latter, how is that to be defined, and by whom? If we stay silent in the face of wrongdoing, do we become complicit ourselves? But if we speak out, are we breaking our pledge of impartial service to the government of the day and undermining the foundation of trust between politicians and

officials? If we resign, do we let down our colleagues and institutions? Do we merely allow others with fewer scruples to fill our shoes? But if we stay on, are we knowingly violating our duty to provide ethical public service to our fellow citizens?

The issue has become highly topical, as politicians on both sides of the Atlantic have appeared more willing to push constitutional boundaries in their pursuit of political goals. In the United Kingdom, Prime Minister Boris Johnson has, on more than one occasion, been willing to act unlawfully in pursuit of Brexit. In September 2019, the high courts of both England and Scotland ruled that he had acted unlawfully, and by implication had lied to the Queen, by giving a false reason for his decision to prorogue (suspend) Parliament. The courts found that his true intention was to prevent Parliament from scrutinizing his policy on Brexit.<sup>1</sup> In September 2020, his government introduced into Parliament a new bill — the Internal Market Bill — that one of his ministers openly acknowledged in the House of Commons would break international law “in a very specific and limited way,”<sup>2</sup> prompting the resignation of the government’s top lawyer, Jonathan Jones.<sup>3</sup>

In the United States, there has been a recent furor over the actions of the chairman of the Joint Chiefs of Staff, Gen. Mark Milley, who, according to a new book by Bob Woodward and Rob Costa,<sup>4</sup> worried in the waning days of the Trump administration that an erratic president might launch a nuclear strike or start an unprovoked war with China, and therefore instructed his subordinates to ensure that any orders by President Donald Trump to launch an attack should be routed through him. Some critics, even those who sympathized with his concerns, alleged that this was a gross violation of the principle of civilian control of the military and argued that he should have

1 Owen Bowcott, Ben Quinn, and Severin Carrell, “Johnson’s Suspension of Parliament Unlawful, Supreme Court Rules,” *The Guardian*, Sept. 24, 2019, <https://www.theguardian.com/law/2019/sep/24/boris-johnsons-suspension-of-parliament-unlawful-supreme-court-rules-prorogue>; and “Brexit: Scottish Judges Rule Parliament Suspension Is Unlawful,” *BBC*, Sept. 11, 2019, <https://www.bbc.com/news/uk-scotland-49661855>.

2 “Boris Johnson’s Government Is Threatening to Breach International Law. It Could Backfire Spectacularly,” *CNN*, Sept. 9, 2020, <https://edition.cnn.com/2020/09/09/uk/boris-johnson-rule-of-law-brexite-intl-gbr/index.html>.

3 “UK’s Top Legal Civil Servant Quits Over Brexit Deal Changes,” *The Guardian*, Sept. 8, 2020, <https://www.theguardian.com/politics/2020/sep/08/uks-top-legal-civil-servant-quits-over-brexite-deal-changes-jonathan-jones>.

4 Bob Woodward and Robert Costa, *Peril* (New York: Simon and Schuster, 2021).





resigned.<sup>5</sup> Others argued that Milley acted in the context of a “an existential political crisis, with a commander-in-chief who had repeatedly made manifest his willingness to trample on the constitution and the norms that support it,” and that “in an impossible and unprecedented situation, Milley did his best to remain scrupulously out of the realm of politics and he repeatedly reiterated his loyalty to the nation, its law and its constitution — all duties higher than that of mindless obedience to a president who had clearly indicated a willingness to ignore the law.”<sup>6</sup>

Most civil servants, unless they are completely devoid of independent thought, are likely to experience unease over a policy at some stage in their career. However, they cannot quit every time they disagree with a policy, otherwise government couldn't function. This article explains how I resolved these tensions for myself, and also includes interviews with and case studies of others who have found themselves challenged or conflicted, including over policy on Bosnia in the 1990s, Iraq and the “War on Terror” in the 2000s, and Syria beginning with the Obama administration, as well as more recently during Brexit and the Trump administration. I also offer a few observations on some of the points of similarity and difference between the U.S. and U.K. systems, having been in the unusual position of having worked not just for the British government, but also for two years as a special adviser within both the State Department and the Department of Defense from 2002 to 2004, “on loan” from the British government, giving me insight into the workings of both systems.

While the article outlines some of the legal parameters guiding the work of civil servants, it does not aim to be an exhaustive or academic dissection of their role and duties. Rather, it is more of a personal overview of the genuine struggles that ordinary public servants experience in the course of their careers. Behind the derogatory moniker of the “faceless bureaucrat” exist real human beings, with the same feelings and emotions as people outside government. It is possible that some of my interviewees are putting a more positive gloss on their actions in retrospect than was actually the case at the time. But I found each of them to be compelling witnesses who did their best to serve

their country while retaining their sense of integrity. Civil servants who resign on principle also often get accused of being “no-hopers,” whose careers are going nowhere, or of having political motives for their actions. But the individuals who I interviewed had records of distinguished service, and none had previously engaged in overt political activities, though some have become more outspoken since leaving government. Indeed, those who criticize civil servants may often be the ones with the more political motives. When officials resign, is this evidence of a “deep state” out to thwart legitimate government, as some critics allege, or an indication of deeper problems within the system itself?

## **The Letter of the Law**

Before getting into these specific case studies, I set out below some of the main legal norms and customs that are supposed to guide the behavior of civil servants. Some are laid down in law. Some have evolved over time to become common practice, or have been set out in codes of conduct or ethics, but are not legally binding.

### **The British Side**

The foundations of the modern British civil service were laid down in the mid-19th century, as a result of the 1854 *Report on the Organisation of the Permanent Civil Service*.<sup>7</sup> This led to the establishment of a civil service appointed on merit and through open competition, rather than patronage, with the following core values:

Integrity — putting the obligations of public service above your own personal interests;

Honesty — being truthful and open;

Objectivity — basing your advice and decisions on rigorous analysis of the evidence; and

Impartiality — acting solely according to the merits of the case and serving equally well governments of different political persuasions.<sup>8</sup>

5 Alexander S. Vindman, “Alexander Vindman: Milley Had Another Choice — to Resign,” *Washington Post*, Sept. 17, 2021, [https://www.washingtonpost.com/outlook/alexander-vindman-general-milley-resign/2021/09/17/79fe52d8-17b1-11ec-a5e5-ceecb895922f\\_story.html](https://www.washingtonpost.com/outlook/alexander-vindman-general-milley-resign/2021/09/17/79fe52d8-17b1-11ec-a5e5-ceecb895922f_story.html).

6 Rosa Brooks, “Milley’s Calls Reflect a Crisis. But It’s Not a Military Crisis,” *Washington Post*, Sept. 17, 2021,

7 Sir Stafford Northcote and Sir Charles Trevelyan, *Report on the Organisation of the Permanent Civil Service*, Paper 1713 (London: Her Majesty’s Stationery Office, 1854), [https://www.civilservant.org.uk/library/1854\\_Northcote\\_Trevelyan\\_Report.pdf](https://www.civilservant.org.uk/library/1854_Northcote_Trevelyan_Report.pdf).

8 “Constitutional Reform and Governance Act 2010,” The National Archives, Explanatory Notes, accessed Oct. 20, 2021, <https://www.legislation.gov.uk/ukpga/2010/25/notes/division/4/1>.

These concepts were later laid down on a statutory basis in the Constitutional Reform and Governance Act 2010, which states:

The Civil Service is an integral and key part of the government of the United Kingdom. It supports the government of the day in developing and implementing its policies, and in delivering public services. Civil servants are accountable to ministers, who in turn are accountable to Parliament. As a civil servant, you are appointed on merit on the basis of fair and open competition and are expected to carry out your role with dedication and a commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality.<sup>9</sup>

The Diplomatic Service Code, which governs the work of British diplomats in particular, also lays out explicitly that their duty is to the elected government of the day: “As a servant of the Crown you owe a duty of loyalty to the Crown as your employer. Since constitutionally the Crown acts on the advice of Ministers, who are answerable for their departments and agencies in Parliament, this duty is owed to the duly constituted Government.”<sup>10</sup>

The Public Interest Disclosure Act 1998 provides protection to whistleblowers in certain circumstances.<sup>11</sup> However, British civil servants are also bound by the terms of the Official Secrets Act 1989,<sup>12</sup> which prevents the unauthorized disclosure of any “information, documents or other articles relating to security or intelligence” by government employees. Civil servants do not need to sign the act, but are usually notified of its terms via their contract of employment. The act is not time-limited, and civil servants remain bound by its terms even after they have left government service. I was myself reminded of this fact in the official letter that I received confirming the terms of my departure from the Diplomatic Service.

## The American Side

On the American side, the federal civil service is made up of individuals other than military personnel who are employed by federal, state, or local government entities. As in the United Kingdom, reforms in the late 19th century (the Pendleton Civil Service Reform Act of 1883) established a merit-based system, allowing individuals to compete for government jobs through examinations, rather than on the basis of their ideology or political connections.<sup>13</sup> The Civil Service Reform Act of 1978 reaffirmed the merit-based selection process, codified collective bargaining, prohibited various forms of discrimination, and created the Senior Executive Service, a separate tier of administrators designed to “attract and retain highly competent senior executives.”<sup>14</sup> Executive employees are also expected to abide by rules of conduct codified in federal regulations and overseen by the U.S. Office of Government Ethics.

Upon appointment, federal employees take an oath of office, which reads:

I, \_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.<sup>15</sup>

According to Jeff Neal, a former chief human capital officer at the Department of Homeland Security, the oaths have three dimensions: “First, the employee swears to support and defend the Constitution against enemies. Second, s/he swears allegiance to the Constitution. Finally, the employee promises to do his/her job well.” He notes that one purpose of the Oath of Office is to remind federal workers that they do not swear allegiance to a supervisor, an agency, a political appointee, or even to the President. The oath is to support and defend

9 “The Civil Service Code,” The U.K. Government, updated March 16, 2015, 1 <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>.

10 “Diplomatic Service Code,” Civil Service Commission, accessed Oct. 20, 2021, [https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/03/03a\\_diplomatic.pdf](https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/03/03a_diplomatic.pdf).

11 “Public Interest Disclosure Act 1998,” The U.K. Government, 1998, <https://www.legislation.gov.uk/ukpga/1998/23/contents>.

12 “Official Secrets Act 1989,” The U.K. Government, 1998, <https://www.legislation.gov.uk/ukpga/1989/6/contents>.

13 “Pendleton Civil Service Reform Act,” 1883, American History USA, accessed Oct. 20, 2021,

14 “Civil Service Reform Act,” Senate Bill 2640, 95th Congress, 1977–1978, <https://www.congress.gov/bill/95th-congress/senate-bill/2640>.

15 “5 U.S. Code § 3331 - Oath of Office,” Legal Information Institute, Cornell Law School, <https://www.law.cornell.edu/uscode/text/5/3331>.





the U.S. Constitution and faithfully execute your duties. The intent is to protect the public from a government that might fall victim to political whims and to provide a North Star — the Constitution — as a source of direction.

He is clear that this means that “Federal workers are accountable to the people, not to politicians.” However, he recognizes that the oath itself does not remove all ambiguity as to what is the right thing to do in each circumstance.<sup>16</sup>

There is no direct equivalent of the British Official Secrets Act in the United States. However, the 1917 Espionage Act, aimed to guard against foreign spies, has — according to some analysts — evolved over the years to become very similar in nature.<sup>17</sup>

### Same Language, Different Cultures?

The most obvious difference between the British and American systems is that political appointees are extremely rare in the British system but are the norm within the United States, where thousands of senior positions across government are filled by appointees. The British Foreign and Commonwealth Office is led by a small team of “ministers,” who are elected politicians, responsible to Parliament for all the policy decisions of the Foreign and Commonwealth Office. Each minister may have with them one or two appointed “special advisers,” who are political appointees. Their primary role is to offer advice on the political implications of particular decisions, and how to present them in Parliament or to the public. While they may offer opinions on the substance of policy recommendations and are allowed to attend policy discussions, they are not directly part of the policymaking chain, and their approval is not required before a policy paper goes to the minister.

With very rare exceptions, everyone below the ministerial level is a career official, and they, rather than the special advisers, are the ones who are responsible for producing the substantive policy papers and analyses. The fact that junior and senior officials alike are part of the same “team,” merely at different stages along a similar career trajectory, helps to generate a common sense of purpose and trust. Moreover, junior “desk officers” — responsible for a particular policy or geographical area — are actively encouraged to speak up in meetings and to initiate policy recommendations and analysis, and frequently receive the credit for policy outcomes.

By contrast, during my time within the U.S. sys-

tem I felt that the approach was more top-down, with political appointees making most of the big decisions. Career officials were certainly able to suggest how to improve a policy or implement it more effectively, but they were not expected to seriously challenge it — at least, not until they themselves had reached the senior service. The overall atmosphere felt more deferential and hierarchical, and the distinction between career and political officials created a tangible sense of “them” and “us.”

Another difference that I experienced was the intensity of the turf battles between different parts of the U.S. bureaucracy. I’ve never forgotten a senior U.S. official once joking to me that in America, “We fight decisions all the way up to the Cabinet, and then we fight them all the way back down again.” When I was briefly embedded in the Defense Department in the first few months of the Iraq war, I remember a civilian defense official being absolutely aghast at my suggestion that we brief a USAID counterpart on a recent policy discussion. Different departments of the U.K. government certainly have their rivalries and jealousies — some of which became acute during Brexit — but rarely, in my experience, were they as severe as what I witnessed in the United States.

However, the underlying values and ethics of the U.S. officials with whom I worked most closely during my time in State and Defense Departments seemed essentially the same as in my own system — perhaps one of the reasons why the U.K.-U.S. relationship has traditionally been so strong.

### The Spirit of the Law: How It Works in Practice

To get a better sense of how the U.S. system works in practice, I spoke first to Eric Rubin, a career diplomat since 1985 at the State Department, a former U.S. ambassador to Bulgaria, and currently president of the American Foreign Service Association. He is crystal clear that “you cannot speak publicly against government policy. If you want to do that, you must resign. It’s anti-democratic. It is inappropriate to believe you know better than the people’s elected representatives.”

Rubin also believes that resignations rarely have any impact on policy. “You might be a ‘One Day Wonder’ — generating a bit of a splash in the news for a few days, perhaps be invited to write an op-ed, or speak at a think tank, but that’s it.”

16 Jeff Neal, “The Oath of Office and What It Means,” FedSmith, Oct. 31, 2019, <https://www.fedsmith.com/2019/10/31/oath-office-what-means/>.

17 Peter Sterne, “America’s ‘Official Secrets Act’ — the Long, Sad History of the 100 Year-Old Espionage Act,” Freedom of the Press Foundation, June 15, 2017, <https://freedom.press/news/americas-official-secrets-act-long-sad-history-100-year-old-espionage-act/>.

He believes that people frequently overestimate the consequences of their resignations. “I have had people tell me they want to influence policy or stop something happening, but my view is that you can’t — you can’t fix foreign policy.” He cites the case of Iraq, where people who resigned in protest over the decision to invade “had no impact on the rush to war.”<sup>18</sup>

### Using the Dissent Channel

Instead, Rubin notes that the State Department consciously established the “Dissent Channel” after Vietnam — a time when dozens of foreign service officers were uneasy with government policy — to provide an internal avenue for employees to raise concerns. When he joined the foreign service in the 1980s, it was a protected channel: “If you wished to dissent you had the right to send a telegram or memo outlining your concerns through policy planning staff; a right to expect it to be distributed to senior leadership; a right to a written reply; and a right to protection from any retaliation or negative consequences.”<sup>19</sup>

Rubin used the channel himself in 1993, when he joined 12 others in signing a dissent memo over Bosnia policy, which leaked to the *New York Times*. They were subsequently invited to meet Warren Christopher, the secretary of state at the time, “who listened to us, and made one clear point in response — which is that we should not believe he was unaware of our arguments, or that he had not given them any consideration. It was a policy decision, but our views had been taken into account.” Rubin felt satisfied that he had been given a fair hearing, and he and his colleagues suffered no negative consequences as a result of their memo. He acknowledges, however, that “even though there should be no formal retaliation, in practice it can have consequences for your reputation and career. Nobody really likes dissenters. We have an ‘up and out’ system: You don’t have to be fired to be eased out. You just don’t get the jobs which allow you to stay. You end up having to retire early. It’s based

on your ‘corridor reputation.’”<sup>20</sup>

Rubin criticizes those who use the dissent channel to express general policy complaints. “You need to know what you’re talking about. You need to have credibility, knowledge, and standing to raise a dissent.” He cites a case early in the Trump administration when nearly 1,000 State Department employees signed a mass dissent memo protesting Trump’s so-called “Muslim travel ban,” which later leaked.<sup>21</sup> According to Rubin, this mass memo had a terrible effect on trust within the administration, confirming the latter’s suspicions that there was a “deep state” of career officials out to thwart it. He notes that the State Department currently has a challenge with millennials, who believe they “must” speak out and “have” to post on social media, because it’s their right: “Sorry, if you feel that way, you’re in the wrong job.”<sup>22</sup>

Harry W. Kopp, a former deputy assistant secretary of state for international trade in the Carter and Reagan administrations, also argued, in an article for the American Foreign Service Association magazine in September 2017, that “for the good of

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the Service as an institution, dissent must remain confidential.” He notes that the dissent channel was meant “to keep dissent out of the press; but its use, then as now, was intended for individual employees engaged with an issue, whose views could not be transmitted through regular channels because of what the Foreign Affairs Manual calls an ‘inability to resolve concrete differences of opinion.’”<sup>23</sup>

Kopp noted that hundreds of messages, “on average about 10 a year,” have passed through the channel since its inception, with only a handful having had an effect on policy. But by providing a channel for dissent, it avoids public disputes and keeps the

18 Ambassador Eric Rubin, Interview with the Author, Aug. 4, 2021 (hereafter “Author interview with Rubin”).

19 Author interview with Rubin.

20 Author interview with Rubin.

21 “About 900 State Department Officials Sign Protest Memo: Source,” *Reuters*, Jan. 31, 2017, <https://www.reuters.com/article/us-usa-trump-dissent-idUSKBN15F2KP>.

22 Author interview with Rubin.

23 Harry Kopp, “The State of Dissent in the Foreign Service,” *Foreign Service Journal*, September 2017, <https://afsa.org/state-dissent-foreign-service>.





numbers of resignations down. He observed that the number of resignations directly related to the war in Iraq was markedly low, in contrast to the hundreds who resigned during Vietnam: “Service discipline prevailed ... . Many had misgivings — Secretary of State Condoleezza Rice wrote in her memoirs that members of the Service ‘did sometimes appear less than enthusiastic about the president’s policies’ — but public dissent was rare.”<sup>24</sup>

Kopp argues that dissent messages change their character when signed by a crowd and publicized. He cites both the leaking of the travel ban memo in January 2017 and the leaking of an earlier dissent memo on Syria policy from July 2016:

The leaking of these memos, even before they were delivered, shifted their audience from the senior officers to whom they were ostensibly addressed to the public at large. The memos became political statements, valued chiefly for their bulk (1,000 signatures!) and used as ammunition in partisan warfare. A memo signed by 1,000 people, or even 50, is sure to leak, as texts are shared

online. Without confidentiality and discretion, there can be no trust.<sup>25</sup>

### Resigning Quietly

Jill Rutter, a former British civil servant who resigned as press secretary to the Chancellor of the Exchequer Gordon Brown in 1997 and is now a senior fellow at the U.K. think tank the Institute for Government and senior research fellow at the research organization UK in a Changing Europe, describes a similar situation in the United Kingdom: “According to the civil service code, if you have concerns you are supposed to raise them with your line manager; then the Permanent Secretary [the top career official in a department], and ultimately the Cabinet Secretary [the head of the Civil Service]. You don’t have to agree with every policy — that would not be realistic; but you must be able to implement it.”<sup>26</sup>

Rutter notes that resignation is also not the only route for conflicted civil servants, who can ask to be reassigned or just “get out quietly,” for example by taking early retirement. In her case, she resigned because “I simply couldn’t bear working for

24 Kopp, “The State of Dissent in the Foreign Service.”

25 Kopp, “The State of Dissent in the Foreign Service.”

26 Jill Rutter, Interview with the Author Aug. 6, 2021 (hereafter “Author interview with Rutter”).

him [Gordon Brown].” She also felt that she and other press officers were being undercut by his special advisers, who “were surreptitiously briefing the press” behind their backs. She later spoke at a think tank, the Social Market Foundation, about how the government was using the press, and how the press was conniving. But she turned down an invitation to testify before a parliamentary select committee because “I thought that at some time I might like to go back into government service, and I did not want to make a song and dance about it.”<sup>27</sup>

In an article for the Institute for Government in December 2011 exploring the issue of resignations in more depth, she asks, “Do politicians really want civil servants who resign because they disagree with government policy? It is hard to square that with the notion that we have a non-partisan civil service ready to advise ministers of any stripe. It sounds like rewriting the contract between Ministers and civil servants.” She concludes that:

Senior civil servants should be held responsible when they preside over unconscionable failures, but that failure is allowing a policy to proceed without adequate quality assurance, not the choice of policy goal which must be for ministers. If they don’t resign, they should be sacked. But expecting civil servants to resign on issues of principle is a real attack on ministers’ mandate and the idea of a permanent civil service, and probably not what most ministers want.<sup>28</sup>

### When Silence Risks Becoming Complicity

However, Rutter recognizes that there are downsides to civil servants not speaking up. In her piece for the Institute for Government, she quoted British politician Andrew Adonis lamenting the fact that “civil servants never resign because they don’t believe in anything,” and noted the risk that “the civil service look like people without principle.”<sup>29</sup>

In the case of Brexit, where there was a widespread suspicion that many civil servants were “Remainers” (people who opposed the decision to leave the European Union), Rutter believes

mass resignations would have been highly damaging, eroding the necessary trust between ministers and civil servants.<sup>30</sup> On the other hand, in an article addressing the specific challenges posed by Brexit for civil servants, she noted a different danger — that of civil servants going too far in the other direction, to try to prove their loyalty to new administrations: “The real danger in these transitions is that the civil service overcompensates and suspends its critical faculties in an attempt to prove that it can work with its new masters. That ‘can-do-ism’ means insufficient objections are raised to problematic policies.”<sup>31</sup>

Kopp highlights this concern more graphically, noting that the reluctance of career officials to challenge the prevailing policy wisdom led to poor decision-making during both the Vietnam War and the Iraq War: “The U.S. government did not condone candor in reports from Vietnam — not from the Foreign Service and not from the military, whose officers faced pressure to produce data that showed progress in the conduct of the war. By denying itself honest reporting, the administration confirmed its preconceptions and magnified its mistakes.”<sup>32</sup>

Kopp was even more damning about Iraq: “On the central question of Iraq’s possession and development of biological, chemical and nuclear weapons, American leadership discounted or disbelieved reporting by United Nations inspectors, crediting instead information provided by an Iraqi defector and other unreliable sources.” Kopp went on to write, “A refusal to accept as valid information that challenged assumptions or disproved hypotheses left facts in dispute. With no accepted body of fact to build on, analyses could be shaped to fit leadership preferences. Foreign Service officers may have been complicit in the erosion of honesty.”<sup>33</sup>

### Case Study: Iraq

The circumstances that led to the Iraq War were, indeed, so controversial that several officials on both sides of the Atlantic chose to resign.

Carne Ross, a former diplomat, resigned from the British Foreign and Commonwealth Office in 2004,

27 Author interview with Rutter.

28 Jill Rutter, “Absent Resignations,” Institute for Government, Dec. 2, 2011, <https://www.instituteforgovernment.org.uk/blog/absent-resignations>.

29 Rutter, “Absent Resignations.”

30 Author interview with Rutter.

31 Jill Rutter, “Will Civil Service Impartiality Be a Casualty of Brexit?” First Division Association, Oct. 7, 2019, <https://www.fda.org.uk/home/Newsandmedia/Features/jill-rutter-institute-for-government-civil-service-impartiality.aspx>.

32 Kopp “The State of Dissent in the Foreign Service.”

33 Kopp “The State of Dissent in the Foreign Service.”





after giving then-secret evidence to the Butler Inquiry — a review set up by the British government to examine the intelligence on Iraq's weapons of mass destruction.<sup>34</sup> The subsequent publication of his testimony fueled calls for a full public inquiry, to which he also testified: the Chilcot Inquiry.<sup>35</sup> Ross was the United Kingdom's Iraq expert at the U.N. Security Council from 1998 to 2002. As he explained in an article in June 2016, he had been part of a small team working on Iraq and had taken part in all the official U.S.-U.K. bilateral discussions on Iraq, covering the gamut of Iraq policy. He had concerns about the legality of the basis for war, that the case for war was being exaggerated, and that no serious effort was being made to explore alternatives to war. In his written testimony to the Butler Inquiry, he wrote:

During my posting, at no time did HMG [Her Majesty's Government] assess that Iraq's WMD [weapons of mass destruction] (or any other capability) posed a threat to the UK or its interests. On the contrary, it was the commonly held view among the officials dealing with Iraq that any threat had been effectively contained ... . There was moreover no intelligence or assessment during my time in the job that Iraq had any intention to launch an attack against its neighbors or the UK or US.

He adds that he “quizzed my colleagues in the FCO [Foreign and Commonwealth Office] and MOD [Ministry of Defense] working on Iraq on several occasions about the threat assessment in the run up to the war. None told me that any new evidence had emerged to change our assessment; what had changed was the government's determination to present available evidence in a different light.”<sup>36</sup>

Ross told me his resignation was “drawn out, and very painful.” He stopped working on Iraq a few months before the war began, to take a career break, and then accepted a position at the U.N. mission in Kosovo. While in New York, he drafted several resignation letters but never sent them, only resigning in 2004 after he had written up his evidence to the Butler Inquiry. He realized then that he “could not

in good conscience continue, after writing that the government was not telling the truth, was acting contrary to U.N. resolutions I had helped negotiate, and was ignoring the alternatives to war.” His resignation was not “a great act of conscience, or principled stance against war — it just felt like I could not say one thing and do another. I couldn't live with myself if I stayed.” He felt deeply ambivalent. He had just been promoted to a senior rank and been offered a good position back in London. But he couldn't envisage sitting in the same room as ministers and officials who he knew had lied.<sup>37</sup>

He described his decision not to resign earlier as “cowardice” — he was genuinely afraid that “they would destroy me.” He had legitimate grounds for concern. In July 2003, his friend and former colleague, David Kelly, a British weapons of mass destruction expert, reportedly committed suicide after his name was leaked to the press as the source of a BBC story that the “dossier” issued from the prime minister's office describing the threat from Iraq had been exaggerated.<sup>38</sup> Ross now says he wishes he had spoken up at the time of the invasion. But there was such immense momentum toward war that he felt anyone who stood in the way would be “crushed.” “Naively,” he told me, he also thought that “maybe there's something I don't know here — I can't believe they are saying or doing this — maybe there is some intelligence I am not aware of.”<sup>39</sup>

When Ross did resign, it was in the form of a letter to the foreign secretary, Jack Straw, enclosing his testimony to the Butler Inquiry. The foreign secretary did not respond, but two weeks later, he received a letter from the Foreign and Commonwealth Office's Personnel Department offering him psychiatric counselling: “I think they were worried I might do a ‘David Kelly.’” He also received a letter from the Foreign and Commonwealth Office Security Department warning him that if he said anything public about his work he would be prosecuted.<sup>40</sup>

The letter from the Personnel Department did, at least, thank Ross for his career, but he said that few other colleagues reached out to him. He feels this was partly because he was not actually working in the Foreign and Commonwealth Office building at

34 “At-a-Glance: Butler Report,” *BBC News*, July 14, 2004, [http://news.bbc.co.uk/2/hi/uk\\_news/politics/3892809.stm](http://news.bbc.co.uk/2/hi/uk_news/politics/3892809.stm).

35 “The Chilcot Inquiry,” House of Commons Library, UK Parliament, July 1, 2016, <https://commonslibrary.parliament.uk/research-briefings/sn06215/>.

36 Carne Ross, “Iraq: The Story of My Evidence,” Carne Ross website, June 13, 2016, <https://www.carneross.com/index.php/2016/06/13/iraq-the-story-of-my-evidence/>.

37 Carne Ross, Interview with the Author, Aug. 19, 2021 (hereafter “Author interview with Ross”).

38 “David Kelly: Death of WMD Mole,” *CNN International*, Jul. 22, 2003, <https://www.theguardian.com/media/2003/jul/09/Iraqandthedia.bbc>; and “Full Transcript of Gilligan's ‘Sexed Up’ Broadcast,” *The Guardian*, July 9, 2003, <https://www.theguardian.com/media/2003/jul/09/Iraqandthedia.bbc>.

39 Author interview with Ross.

40 Author interview with Ross.

the time. But also, as he explained, “when you resign, you are implicitly saying to your colleagues that they are part of a lie.” Some of his closest colleagues were those working on Iraq. He had a particularly painful falling out with his former boss at the United Nations, Ambassador Sir Jeremy Greenstock, whom he described as “very supportive, and a good boss,” but who, along with many others, went along with the case for war “despite knowing it was wrong.”<sup>41</sup>

Elizabeth Wilmshurst, former deputy legal adviser in the Foreign and Commonwealth Office, also resigned over Iraq, in March 2003. She has not spoken extensively since then, and she declined to be interviewed for this article. However, her resignation letter, which was released to the BBC under the Freedom of Information Act, made her reasons clear: “I regret that I cannot agree that it is lawful to use force against Iraq without a second Security Council resolution to revive the authorisation given in SCR 678.” She noted that this was in contravention of the advice that her office had consistently provided. Although she made clear her readiness to resign, Wilmshurst sought and was eventually approved to take early retirement instead.<sup>42</sup>

In the United States, Ann Wright was one of three diplomats to publicly resign from the Foreign Service over Iraq. At the time of her resignation in March 2003, she was deputy head of mission in Mongolia. In an interview shortly afterwards, she said, “We had barely gotten into Afghanistan and the focus already was moving from Afghanistan. To me there were much more more troublesome areas in the world than Iraq ... . It was very hard to present Washington’s view to the government of Mongolia and convince them that there was a need for military operations at this time.”<sup>43</sup>

She started writing drafts of her resignation letter in February, after Colin Powell’s presentation to the United Nations on Feb, 5, 2003, making the case for war against Iraq:

The type of evidence that the administration had on weapons of mass destruction to me was not convincing at all. That’s when I started polishing up my resignation letter. I decided that if what Powell described was all the administration could come up with and it wasn’t enough to convince me, then I, in good conscience, could not try to convince other

governments of the administration’s correctness. I did send in a dissent channel cable that outlined my concerns about what was happening, but I held my letter of resignation hoping that we would continue to work through the Security Council.<sup>44</sup>

Wright was also concerned about the curtailment of civil rights and civil liberties following the 9/11 attacks, as well as the classification of those being held in Guantanamo Bay, which she felt was “an outright blatant violation of international law.” Although many colleagues shared her concerns, others were more reticent. “People said, ‘Well, you know that’s a big step. Are you sure you want to go quite that far? Are you sure you want to give up a career on this one?’” After she resigned, she received a personal cable back from Powell. “Essentially, he said he was sorry that I disagreed with policies to the extent that I felt that I had to resign, but he understood the need for it, if that’s the way I felt. He thanked me for my service in the Foreign Service and in the military. So, I thought that was very nice.”<sup>45</sup>

### **Case Study: The “War on Terror” and Treatment of Detainees — Making a Difference From the Inside**

However, not everyone who feels conflicted over government policy chooses to leave. Some make the decision to stay, and try to be a force for good from within.

One example is Matt Waxman who, from 2004 to late 2005, was a civilian policy adviser in the U.S. Defense Department, working directly on the issue of the treatment of detainees captured in the “War on Terror.” He had particular concerns over the application of the Geneva Conventions to captured enemy fighters. He told me that the U.S. government was essentially taking the position that unlawful enemy combatants, because they did not fit neatly into clearly delineated categories within the Geneva Conventions, were unprotected by any universal prisoner treatment standards. Therefore, their treatment was a matter of policy discretion — including their custodial conditions and methods of interrogation. The Bush administration refused to acknowledge and apply some common international law stand-

41 Author interview with Ross.

42 “Wilmshurst Resignation Letter,” BBC, March 24, 2005, [http://news.bbc.co.uk/2/hi/uk\\_news/politics/4377605.stm](http://news.bbc.co.uk/2/hi/uk_news/politics/4377605.stm).

43 Ann Wright, “An Iraq War Dissent,” Interview with Stu Kennedy, Association for Diplomatic Studies & Training, 2003, accessed Oct. 20, 2021, <https://adst.org/2014/07/an-iraq-war-dissent/>.

44 Wright, “An Iraq War Dissent.”

45 Wright, “An Iraq War Dissent.”

ards that he and several others thought were the irreducible floor of conditions for their treatment. In our conversation, he said he “disagreed with USG [U.S. government] policy on moral, strategic and legal grounds. I was not the lone dissenter, but I faced the dilemma of what to do. Should I stay and continue to dissent internally, and if so, how? Or should I leave, and if so, quietly or loudly?” What made it harder for him was not just that he was required to work on a policy he strongly disagreed with, but also that he had to defend it publicly.<sup>46</sup>

Waxman wrestled for many months over whether to stay or go, but in the end decided to stay for a while and continue to push for reform internally. It was a judgment call, involving both principle and pragmatism. A big factor in his calculus was that there was a robust, serious discussion within the administration on whether reforms were needed. All three branches of government were involved: There was an internal executive branch debate, efforts on Capitol Hill to push legislative reforms, and various challenges in the courts. As he describes it, “The White House wasn’t budging from its initial approach, and the reform advocates were not winning the argument at first, but the argument wasn’t over. There was still an opportunity to push for reform.” And in the end, Waxman notes, there was change: The executive branch amended various internal policies, such as the methods of interrogation; Congress passed the Detainee Treatment Act of 2005, which imposed minimum treatment standards; and ultimately the Supreme Court ruled in 2006 that Common Article 3 of the Geneva Conventions applied to War on Terror detainees.<sup>47</sup>

Another factor in Waxman’s approach was that Secretary of Defense Donald Rumsfeld was willing to hear dissent, even inviting Waxman to a meeting to hear him out. Waxman observes that it was a common misunderstanding that Rumsfeld did not countenance any opposition. In his experience, that was inaccurate. Rumsfeld’s management style often tended to chill dissent, but he respected people who pushed back and defended their position. “People sometimes refer to him as a ‘pugilist’ and I think he liked intellectual ‘policy pugilism.’ My policy views were being stymied, but I wasn’t being silenced.”<sup>48</sup>

Looking back on his experience, Waxman says he has no big regrets. In the end, he feels good about his service and his approach to it. He notes that foreign and security policy are immensely complex issues, involving many dilemmas, especially when it

comes to counter-terrorism. He was frustrated for a long time over some aspects of the detainee issue, but was happy with the progress that he and colleagues were making on other aspects. “These are jobs where you are working on a lot of different and difficult issues. You only get to resign once, so you better use that bullet really carefully. The system wouldn’t function if any time you disagreed with a policy you upped and left. You need people willing to carry out policy, even if they disagree with it.” However, Waxman concluded that “there have to be some lines that you can’t cross.”<sup>49</sup>

By coincidence, across the Atlantic Ocean and during the same period, I was having a similar experience to Waxman in my capacity as head of human rights in the Foreign and Commonwealth Office (from 2004 to 2006). In that role, I had hoped to be spearheading British efforts to promote human rights in repressive countries like Russia, China, Myanmar, and North Korea. Instead, I spent significant time fending off accusations from human rights organizations that the United Kingdom was little better than some of the countries we were criticizing. They alleged that our advocacy of human rights internationally was hypocritical, because we were not upholding basic principles of human rights and international humanitarian law ourselves. Their two main concerns were the treatment of enemy combatants, and the possible use of torture to extract information from detainees. The allegation was not that U.K. officials were torturing detainees themselves, but that the country might have been collaborating with those who were, or using information extracted by torture by other countries, including the United States.

My officials and I became adept at drafting weaselly public messages for our ministers to use in Parliament that skirted delicately around the issue, such as “the British Government does not condone torture” or “the British Government is a leading campaigner against torture.” It was acutely embarrassing to be propagating these unconvincing lines in response to smirking Chinese, Iranian, or Russian officials during official human rights dialogues with them. But when I pressed my counter-terrorism colleagues to give me clearer assurances, I received more obfuscation. Eventually, I wrote an internal memo to the foreign secretary and other senior officials expressing my concern, not least with regard to the damaging impact this was having on our ability to promote human rights elsewhere in the world.

46 Matt Waxman, Interview with the Author, Sept. 3, 2021 (hereafter “Author interview with Waxman”).

47 Author interview with Waxman.

48 Author interview with Waxman.

49 Author interview with Waxman.

To his credit, like Rumsfeld with Waxman, Straw came to see me and offered reassurance that my concerns were being registered. But I never received an unequivocal answer either from him or anyone else that we were not using information obtained through torture. Nor did the prime minister's office ever prioritize raising the issue in bilateral discussions with the White House — until the public clamor for action became overwhelming. I, myself, ended up being sidelined from internal counter-terrorism discussions in my last few months. Shortly after, I moved to a new job in Delhi.

Although the experience left me with a bitter aftertaste, I never contemplated resigning. Like Waxman, I felt it was valuable to be inside the system making the case for reform. And though it took a long time, the arguments eventually began to cut through, as they did in America. Moreover, the controversy did not prevent us from conducting any human rights advocacy elsewhere in the world. Ultimately, I was content to continue working under the premise that in a democracy, as Prime Minister Margaret Thatcher famously once said, “Advisers advise, and Ministers decide.” I felt I had been able to play my part, by giving my advice. Moreover, this maxim held me in good stead through other moments in my career when I felt conflicted.

### **But What if the System Stops Working Properly?**

Indeed, for most of my time as a British diplomat, I felt proud about how our system functioned. The working culture in the Foreign and Commonwealth Office encouraged different opinions to be aired and disputes to be thrashed out openly, through its process of drafting “submissions” — the name given to policy papers prepared for ministers. In our system, the lead policy “desk officer” was required to consult other “desks” and embassies with an interest, and ensure that their views were faithfully reflected in the final paper submitted to the minister. The ideal was to reach a consensus, but whenever a department or embassy did not agree, the lead department was obliged to incorporate that dissenting view before the submission went to the minister. This approach not only ensured that the minister received rounded advice, but was also, in my view, a necessary safeguard to protect officials from being accused in retrospect of having suppressed vital information or having failed to provide alternative options. If all the information and choices were presented in good faith, a minis-

ter could not argue later that he or she was blindsided or try to blame officials for the consequences of his or her decision.

A good example of how this system worked comes from my time as ambassador in Tbilisi, Georgia, from 2013 to 2016. At successive NATO summits, one of the most difficult issues was whether or not to offer Georgia a formal “Membership Action Plan,” taking the country one step forward in its quest to become a full member of NATO. Before each summit (two of which occurred during my posting), there were vigorous debates within the U.K. government over the position it should adopt. While some parts of the government were cautious about supporting Georgia's case, for fear of Russia's reaction or the consequences for other national security priorities, other parts of the government recognized that there were downsides to appearing to back down in the face of Russian threats, and that, on its merits, Georgia met most, if not all, of the criteria for receiving a Membership Action Plan. I was one of the most vocal advocates in the latter camp and was able to ensure that the arguments in favor of Georgia's case were properly spelled out in the relevant policy papers. It was not about “winning” the debate or believing that my arguments should trump those of others, but about ensuring that every point of view had a fair hearing.

But what if the normal processes of government designed to facilitate sound policy begin to break down? Rubin thinks that the working culture in the State Department changed after 9/11, when “it was made very clear to staff that dissent was not welcome.” Since then, he says, the dissent channel has not been used much and completely “withered under Trump, because of fear.” It was made clear that people would be targeted if they used it. He says that the State Department also used to have something called the “Secretary's Open Forum” — both an in-house journal for people to write opinions, and a platform for outside speakers to address State Department employees and offer opposing viewpoints. It was thought to be good to hear alternative views. However, according to Rubin, “that also died after Iraq and Afghanistan.” He notes that the State Department now has a “crisis of attrition” and is finding it difficult to retain mid-level and senior talent. “Staff, or their spouses, can't take it anymore.”<sup>50</sup>

Kurt Volker, a former career diplomat, who served as U.S. ambassador to NATO from 2008 to 2009, and as America's special representative to Ukraine from 2017 until he resigned in 2019, also



believes that the policymaking process has deteriorated. He believes it started going wrong under President Barack Obama, but completely deteriorated under Trump:

Obama retained the interagency process and structure of meetings — all the outward trappings of the system — but held a tight process separately. But President Trump had no process whatsoever. The inter-agency system didn't work. There was no structure in decision-making, and a lot of distrust between career people and the administration.

He personally worked around this by sending his reports directly to Secretary of State Mike Pompeo, bypassing the hierarchy. "It was not the right way, but it was the only way." He claimed that another State Department colleague, former Assistant Secretary of State for Europe Wes Mitchell, stepped down

had to contend with the role of Rudy Giuliani, who was trying to dig up dirt on presidential candidate Joe Biden's son Hunter in Ukraine. Volker took the view that it was better to try to manage the situation than to pretend that Giuliani didn't exist:

Giuliani was a fact — he was there, he was talking to important people and poisoning the president's mind on Ukraine. I engaged Giuliani, tried to manage the problem and continue my work. I briefed Pompeo and [National Security Adviser John] Bolton, who acknowledged the problem and were grateful, but didn't help. Other people, including career officials, should have tried to address the issue as well.<sup>52</sup>

Volker says that he tried to stay on as long as possible despite the challenges, because he felt he was doing good work. "Someone needed to do Ukraine

policy. I still to this day feel proud about how much we achieved." It was only when

the Ukraine impeachment scandal broke that Volker felt obliged to resign. At that point, "I could not continue doing the job. I couldn't travel. Russia would not take me seriously. The media would only focus on the impeachment. There was no policy difference in

my case — it just became untenable to stay on." His resignation came in the form of a letter to Pompeo, but in purely factual terms "without any content or ammunition" that anyone could use against him. He also never spoke publicly about his resignation, except during his testimony on Capitol Hill during the impeachment hearings, when he says he simply made the same point he made to me — that he could no longer do his job.<sup>53</sup>

He does not think it is appropriate for civil servants to resign simply as a way of protest:

The only reason to resign is as a matter of personal choice. It's not about changing the world but whether in good conscience you can continue what you are doing. The U.S. and U.K. are democracies, and the people who are elected have the right to decide. They have the right to make policy. If you don't like it, that's your issue. You can

## In hindsight, Taylor believes that he and the other "steady staters" stayed too long.



because policies within his area of responsibility were being decided without his input. "Sometimes it was not even a normal policy, just a statement or a tweet. Under Trump, the system broke down."<sup>51</sup>

### Case Studies: Different Approaches Under the Trump Administration

The erosion of normal policymaking procedures under Trump left many officials struggling over how best to reconcile their sense of duty to the administration with their oath of fealty to the constitution, as well as their obligation to provide ethical service to the public. Some chose to stay on and tried to navigate quietly around the challenges. Others chose to mount a more active form of resistance from within, until they felt they could no longer make any difference.

Volker was in the former camp. In his case, he

51 Kurt Volker, Interview with the Author, Aug. 16, 2021 (hereafter "Author interview with Volker").

52 Author interview with Volker.

53 Author interview with Volker.

express yourself and have a clear conscience, but you can't expect it to change policy.<sup>54</sup>

Volker also says that the State Department's dissent channel only provides "a right to be heard, not a right to decide. It's supposed to be used only by someone knowledgeable about policy, and who offers an alternative." On that basis, like Rubin, he regards the 2017 dissent memo against the travel ban as an abuse of that process. "A protest is just a protest — and the wrong use of the dissent channel."<sup>55</sup>

Volker maintains that the correct course for public servants is to work within the system. He cites former Secretary of Defense Jim Mattis as "the best example of someone going into the administration and doing everything possible to get it right, but eventually resigning only when he could not support President Trump's decision to withdraw from Syria."

However, Volker is scathing about the Trump administration officials who only resigned after the attack on Capitol Hill on Jan. 6, 2021. "People were on their way out anyway. They were just trying to salvage their reputations. It wasn't what Trump said and did on that day, but everything leading up to it." Volker asks why, if it was a matter of conscience, they did not resign earlier, and speculates that many of them would have stayed on, had there been many more years of the administration to come.<sup>56</sup>

Nevertheless, Volker reserves his strongest criticism for those whom he believes tried to undermine the Trump administration from within, because in his view that only exacerbated distrust and fed the narrative of the existence of a deep state. He felt the action of the anonymous Trump administration official (later identified as Miles Taylor, former chief of staff in the Department of Homeland Security) in writing an op-ed in the *New York Times* in 2018 describing a quiet internal "resistance" to the administration was deeply inappropriate.<sup>57</sup> "Who was he? It was even worse that his information was only second or third hand, and he positioned himself inaccurately as a senior official. He should have just resigned. It would have been ok to go public after that — people have a right to make their own choice, and say why they left. But his article fed the paranoia and distrust, and was destructive in

terms of the process."<sup>58</sup>

But Taylor, whom I also interviewed for this article, and who later did resign from the administration, rejects Volker's characterization of his actions. He told me that it was the *New York Times* that came up with the term "resistance" — he didn't recall using it himself — and that "at no point did we try to thwart lawful commands. Unelected bureaucrats should not second guess the commander-in-chief and surreptitiously counter his decisions. Our role was to advise whether something was unethical, immoral, or illegal, and that's what we were doing on a daily basis. We were not secretly subverting his orders."<sup>59</sup>

Taylor says that in the first year of Trump's administration, he and other officials who shared his concerns (whom he described in his op-ed as "the steady staters") succeeded in dissuading the president from "many, horrible, ill-advised things he wanted to do, such as pulling out of NATO, Afghanistan, or Syria; ending defense agreements with Japan and South Korea; and other extraordinary measures detrimental to our security." According to Taylor, the first year "was a disaster, but the system worked." However, by his second year in office, the president had developed "a radar for people with a conscience" and systematically worked to remove them.<sup>60</sup>

Taylor would sometimes enlist government lawyers to push back on a given policy. He described one incident when Trump wanted Department of Homeland Security officials to bus criminal migrants to Democrat-led sanctuary cities as a way to expose their policies, even asking officials to provide him with status updates. Taylor consulted his department's lawyers, who advised that this would be illegal. Taylor emailed that advice to senior officials in the White House, including Chief of Staff Mick Mulvaney, adviser Stephen Miller, and White House Press Secretary Sarah Sanders, so that it was on the record. He says that no-one responded because "they could not be documented asking us to go ahead with this policy," once it was clear it was illegal.<sup>61</sup>

Taylor says another option is to "shine a light" on a bad policy, by briefing the media. For example, at one point, he says Trump wanted the Department

54 Author interview with Volker.

55 Author interview with Volker.

56 Author interview with Volker.

57 Miles Taylor, "I Am Part of the Resistance Inside the Trump Administration," *New York Times*, Sept. 5, 2018, <https://www.nytimes.com/2018/09/05/opinion/trump-white-house-anonymous-resistance.html>.

58 Author interview with Volker.

59 Miles Taylor, Interview with the Author, Aug. 20, 2021.

60 Author interview with Taylor.

61 Author interview with Taylor.

of Homeland Security to introduce an even more radical form of family separation of migrants arriving at the border: “literally taking anyone who arrived with a child, even those with a lawful asylum claim, and separating them indefinitely as a way to deter future arrivals. This was not technically illegal, but it was unethical and disgusting.” Taylor made the press aware because he knew “the people and Congress would oppose the policy if they knew about it.”<sup>62</sup>

Taylor decided to leave the administration once he reached the point when “saying no is no longer enough.” He says Trump asked Department of Homeland Security officials to seal the border and when advised that that would be contrary to asylum law, said “I don’t care — if you go to jail, I will pardon you.” It crystallized in Taylor’s mind that “we can’t do anything good here. The only thing we can do is leave.”<sup>63</sup>

In hindsight, Taylor believes that he and the other “steady staters” stayed too long. For a long time, he tried to organize a mass resignation of senior officials: “It became an obsessive focus of mine for six months. I thought, who the hell is Miles Taylor? My resignation will have no impact, but if John Kelly, Jim Mattis, Rex Tillerson, and Kirsten Nielsen resign, that would have real impact.” He says he had serious conversations with all of them, but that in the end “they all chickened out and Trump wised up they were objectors and systematically fired or removed them.” He remains disappointed that so many cabinet secretaries, even after they had left the administration, said nothing.<sup>64</sup>

He is also disappointed that none of them joined his initiative to form a group of ex-administration officials to oppose Trump’s re-election:

We were the largest group of ex-admin officials in history to do this. Privately, they said they would join. But in the summer of 2020 when I called them, a lot declined. Most cases were fear of their family safety, job prospects, or fear of losing business. I find this unforgivable. When you say someone is a threat to the fabric of the Republic — and your priority is your business? These were people who had nothing to lose — John

Kelly, Jim Mattis — at the end of their careers. But the people who ended up joining me were all mid-career professionals with everything to lose. I’m incredibly grateful for their courage, and deeply disappointed with Cabinet-level officials.<sup>65</sup>

He does agree with Volker with regard to the actions of those who resigned after Jan. 6, describing them as “last minute opportunistic cowards.” He sees some of those who remained in the administration till near the end as honorable people, who had stayed on for the right reasons — such as Chris Krebs, who headed the agency responsible for election cyber security: “He wanted to leave a thousand times, but I urged him to stay through 2020 to ensure the security of the election. In the end, the threat to the election did not come from outside actors, but from within ourselves. It was essential that he — a Trump appointee — was able to say that the election was not rigged.” (Trump ended up firing Krebs in late November 2020, after his agency, the Cybersecurity and Infrastructure Security Agency, released a statement calling the 2020 election “the most secure in American history.”<sup>66</sup>) But those who only left after Jan. 6 were just trying to save face, according to Taylor: “People were posturing a fake protest with ulterior motives — very few who left, did it for the right reasons. If they were still there by the end, they were in it for themselves. There was not a lot of courage at play.”<sup>67</sup>

Taylor says that when he first wrote his op-ed for the *New York Times*, he wanted to reassure the wider public “that there were guardrails and good people in place.” But after Trump had systematically fired or removed those who disagreed with him, he went on to write a book “to warn people not to rely on unelected bureaucrats or Congress to protect you; it’s up to the people and my strong recommendation is that he be fired. The people were ultimately the best check.” Taylor claims this effort succeeded, but only just. He says he has the data to back up the fact that “the election results came down to barely 40,000 well placed votes in six swing states — 90 percent of the votes were from disaffected Republicans who backed Trump in 2016 but decided to vote for Biden in 2020. The

62 Author interview with Taylor.

63 Author interview with Taylor.

64 Author interview with Taylor.

65 Author interview with Taylor.

66 Alana Wise, “Trump Fires Election Security Director Who Corrected Voter Fraud Disinformation,” *NPR*, Nov. 17, 2020, <https://www.npr.org/2020/11/17/936003057/cisa-director-chris-krebs-fired-after-trying-to-correct-voter-fraud-disinformati>.

67 Author interview with Taylor.

people that flipped did so because of the personal testimony of ex-Trump officials.”<sup>68</sup>

### **Case Studies — Brexit: When the Line was Crossed**

So, what changed for me, when it came to Brexit? Why did I feel I could not stay on as Brexit counselor, while continuing to argue behind closed doors for our approach to be improved, as I had done on previous occasions?

For a start, the climate of trust within the United Kingdom between ministers and civil servants had shifted as a result of the pressures of Brexit, just as it had shifted in the United States, following the election of Trump. As Rutter noted in her October 2019 article on the risks that Brexit posed for civil servants, even three years after the referendum most Brexit-supporting ministers and parliamentarians believed that “the civil service had a hidden agenda to frustrate Brexit.” She cited several reasons for this, including: that civil servants were seen as tainted for having helped the administration of David Cameron (who wanted the United Kingdom to stay in the European Union) produce documents before the referendum highlighting the costs of leaving the European Union, something Brexiteers dismissed as “Project Fear”;<sup>69</sup> that former senior civil servants repeatedly spoke out publicly against the “folly” of Brexit; and that ministers were reluctant to accept civil service advice highlighting the complexities of Brexit because “raising practical objections is interpreted as hostility to the entire project.” For many Brexiteers, leaving the European Union was an ideology, not a simple weighing of rational arguments. According to Rutter, “Brexit is an article of faith that people believe in ‘in their heart.’ Ideas like sovereignty and autonomy are not amenable to the usual civil service approach of solving problems by looking at the costs and benefits.”<sup>70</sup>

An early casualty of this Brexiteer suspicion toward civil servants was Ivan Rogers, the United Kingdom’s ambassador to the European Union at the time of referendum, who resigned in January 2017. Rogers was a highly qualified expert on the European Union whose advice was simply unwelcome. In an interview in November 2020 about his experience, he described the pervasive sense

that people like him “were ‘contaminated’ by their excessive European expertise.” He thought about leaving after the referendum, but was persuaded to stay after people said to him, “No, absolutely not. You’ve got to stay. You’re the key person who knows all about it.” In turn, he urged his staff to stay on, though gave them the option to ask to be reassigned if they felt uncomfortable working on Brexit, “because we’ve got to have everybody now facing the direction of ‘We’re going to deliver the best possible Brexit for the country.’” He only decided to resign after a private memo he had sent to the prime minister, in which he had suggested that Brexit would take years to accomplish, was leaked to the BBC on the eve of a European Council meeting in December 2016. This completely conflicted with the Brexiteer narrative that Brexit would be quick and easy, and led to a whole raft of difficult headlines. “Four colleagues came up to me even before the European Council started saying, ‘They’ve just stabbed you in the back, haven’t they?’ Well, when your colleagues say that to you, you think: time to go.”<sup>71</sup>

Rogers thought that the impact of Brexit on the civil service was “hugely corrosive.” Brexit was “a revolution ... the biggest regime change in British governance for at least 50 years.” While trying to manage “the most complex negotiation in history,” where the other side (i.e., the European Union) was more knowledgeable and astute, “at the same time you are having to demonstrate to a bunch of revolutionaries who think that you’re basically all paid-up Remoaners [a derogatory term used by Brexit supporters to describe disappointed “Remainers”] who are just completely bought in to the existing system, that your heart is in it. So it’s a massive set of problems.” Comparing the situation with Thatcher’s time in office, he said that

although Thatcher could be difficult and demanding — rightly so — she actually had a very strong relationship with plenty of mandarins [senior civil servants] across the system, and trusted secretaries of state and mandarins to get on with it. And of course, certain people got executed because they were definitely not with the Thatcherite programme. But she didn’t have a complete and fundamental lack of trust in much of the top of the system, and

68 Author interview with Taylor.

69 Jon Stone, “The Campaign to Stay in the EU Is ‘Project Fear,’ Says Boris Johnson,” *The Independent*, Feb. 29, 2016, <https://www.independent.co.uk/news/uk/politics/campaign-stay-eu-project-fear-says-boris-johnson-a6903216.html>.

70 Rutter, “*Civil Service Impartiality*”

71 “Ivan Rogers,” Brexit Witness Archive, UK in a Changing Europe, Nov. 27, 2020, <https://ukandeu.ac.uk/brexit-witness-archive/ivan-rogers/>.



she worked through the system and completely mobilised the best people in the system to deliver results. Can you get back to that? I'm really not sure you can now.<sup>72</sup>

Nevertheless, during my first year as Brexit counselor in Washington, I did not feel any conflict. I did not personally support Brexit, but I did not think it was an illegal or an immoral policy. The decision to leave the European Union was the democratic choice of the British people, who had voted in a legally constituted referendum. It was an intellectually challenging policy area. I felt I could play a useful role in explaining the complexities to U.S. audiences, who might otherwise be confused by the simplistic coverage in the press. The Brexit messaging I was being asked to deliver, while Theresa May was prime minister, was certainly rather vague and unconvincing. But it reflected the fact that her government's policy was rather vague and unconvincing. Her cabinet was comprised of both "Remainer" and "Leaver" ministers, and her entire period in office was spent in an impossible effort to try to bridge the gap between the two camps. The public talking points both tried to reassure Leavers that we really were leaving the European Union, while reassuring Remainders that we would remain in close alignment with the European Union. This approach failed to satisfy either constituency, and May eventually had to step down as prime minister, after being defeated in successive votes in the House of Commons in the first half of 2019.

My perspective changed only when Johnson became prime minister in July 2019. Even then, in some ways my job became easier, because his government was comprised entirely of politicians who had committed to support his approach on Brexit and the new talking points reflected that clarity. There was no muddle about how we would remain closely bound to the European Union, while simultaneously leaving. Johnson was determined to make a clean break. The problem was that the points deliberately papered over the practical consequences of that approach. They were not simply putting a positive spin on policy — a normal practice of any government — but were willfully disingenuous. They downplayed the impact of Brexit on the ability of ordinary citizens to live, work, or study in the European Union, or collaborate with E.U. citizens or institutions. They downplayed the costs of having to create new institutions and programs in the United Kingdom to replace the ones we had previously belonged

to in the European Union. They downplayed the increased friction that was likely for businesses trading between the United Kingdom and the E.U. countries, as well as third countries such as the United States. But, most damagingly, the talking points also downplayed the consequences of Brexit for the delicate peace process in Northern Ireland, in which the United States was a core stakeholder, having helped to broker the Good Friday Agreement and supported it since then.

When I was asked to brief American businesses with significant investments in the United Kingdom, I found myself struggling to maintain the line that there would be no harmful consequences for them, even if the United Kingdom left the European Union without any deal at all. I found it hard to brush aside the concerns of congressional aides working for members of the Irish-American caucus. Sometimes I had no answers to the questions that U.S. stakeholders posed to me. The internal dissonance became acute: The professional ethos of the British Diplomatic Service was that we were upstanding civil servants, steeped in integrity, who never told lies. And yet, that was precisely what I was being asked to do.

But when I relayed back to London that the talking points needed changing, or tried to persuade British ministers passing through Washington of the need for more compelling arguments, I had little success. A few officials in London agreed with me, and for a while we chipped away to tighten the points here and there. But eventually we reached the limit of what could be achieved. Colleagues told me that the prevailing atmosphere in Whitehall meant that all civil servants had to be "on message," and that any points which did not comport with ministers' preconceived notions were simply rejected. One colleague working on Northern Ireland was nearly in tears as he told me how he simply could not get his minister to register the enormous damage that would be done to the fabric of Northern Ireland, politically and economically, if the United Kingdom left the European Union without a deal. A low point for me was when I heard a senior British minister openly and offensively, in front of a U.S. audience, dismiss the impact of a "No Deal" Brexit on Irish businesses as just affecting "a few farmers with turnips in the back of their trucks."

With the public messages still containing several egregious distortions, in September 2019 I decided to submit a formal complaint to the Foreign and Commonwealth Office, identifying the specific points where I felt they had violated the

72 | Brexit Witness Archive, "Ivan Rogers."

civil service code of integrity and political impartiality. This had a stronger effect: I received a reply a few weeks later, telling me that the process for approving the talking points had been changed, to ensure that a career civil servant, not a political adviser, was the last person to sign off on them before they were distributed to embassies.

But although this resulted in the official talking points improving a bit, it did not stop the prime minister and other members of his cabinet from continuing to use the old lines, with their distortions and inaccuracies. When I briefed American audiences using the new messages, the first question would always be why the prime minister was saying something different, to which there was no easy comeback. What I was saying was not convincing to me, and no matter how I spun it, it was not convincing to my audiences.

Meanwhile, through the fall of 2019, tensions in the United Kingdom over Brexit were reaching a fever pitch. The British political system was being roiled in unprecedented fashion. First, there was the scandal over Johnson's decision to prorogue Parliament, which was ruled unlawful by both the English and Scottish high courts. In September, Parliament passed a measure (known as the "Benn Act" after its main sponsor, Labour MP Hillary Benn) that effectively prevented the government from taking the United Kingdom out of the European Union without a deal and instead required the prime minister to ask the European Union for an extension to the deadline for negotiations to conclude.<sup>73</sup> In response, Johnson expelled 21 members of his party who had supported the Benn Act, including grandees such as Sir Nicholas Soames, the grandson of Winston Churchill. The official talking points required us to use a derogatory reference to the Benn Act as "The Surrender Act"<sup>74</sup> — loaded political language which was an overt violation of civil service neutrality.

In addition, despite the Benn Act, the prime minister continued to assert that he was ready to move forward with a "no-deal" Brexit. The consequences of a "no-deal" Brexit were considered to be so dire — planes grounded; ports blocked;

food, fuel, medical and other critical supply shortages; civil unrest in Northern Ireland — that at one point, thousands of civil servants across Whitehall were diverted to work exclusively on crisis planning to manage the situation. This exercise was code named "Operation Yellowhammer" and was designed along the lines of the sort of emergency response typically put in place following a major natural disaster or terrorist attack.<sup>75</sup> The government refused to publish its full internal analysis of the implications of leaving the European Union without a deal, thereby denying the public a full understanding of what this might entail. In the embassy in Washington, I twice helped to stand up an emergency planning cell of staff from across the embassy to handle the potential fallout. The experience of Operation Yellowhammer only underscored to me the extreme lengths to which Johnson's government was prepared to go to deliver Brexit, even if it meant putting on hold most other government operations.

Outside government, the division over Brexit was spilling into the streets. Leavers and Remainers were holding daily rallies in the square outside Parliament. Brexiteer supporters branded Brexit opponents as "Enemies of the People." Judges in the Supreme Court were accused of being "traitors." Numerous MPs, many of them women, said they were receiving death threats.<sup>76</sup> As I wrote in my resignation letter, I was witnessing "behaviour towards our institutions which, were it happening in another country, we would almost certainly as diplomats have received instructions to register our concern. It makes our job to promote democracy and respect for the rule of law overseas that much harder, if we are not seen to be upholding these core values at home."

It was impossible for staff in the embassy in Washington to insulate ourselves from the stress of that moment — not least because the U.S. media was relishing the drama, with lurid coverage in all the main outlets.<sup>77</sup> Moreover, we had additional reasons for feeling low: Morale had fallen after the popular and respected ambassador Sir Kim Darroch had been forced to resign in July 2019, when

73 Serina Sandhu, "What Is the Benn Act? How the Brexit Legislation Affects the Vote on Boris Johnson's Deal," iNews, Oct. 19, 2019, <https://inews.co.uk/news/politics/benn-act-brexit-no-deal-explained-vote-boris-johnson-new-deal-352332>.

74 Rowena Mason and Peter Walker, "Surrender Act: Johnson Ignores Calls to Restrain His Language," *The Guardian*, Sept. 29, 2019, <https://www.theguardian.com/politics/2019/sep/29/ex-minister-rejects-allegations-rebels-colluded-with-eu-to-stop-no-deal>.

75 "Operation Yellowhammer," Institute for Government, October 2019, <https://www.instituteforgovernment.org.uk/explainers/operation-yellowhammer>.

76 Lucy Manning and Phillip Kemp, "MPs Describe Threats, Abuse and Safety Fears," *BBC*, Aug. 6, 2019, <https://www.bbc.com/news/uk-politics-49247808>.

77 "Prime Minister Boris Johnson Suspends UK Parliament After Another Brexit Defeat," *CBS News*, Sept. 9, 2019, <https://www.cbsnews.com/news/british-lawmakers-reject-holding-snap-elections-ahead-of-brexit-2019-09-09/>; Rob Picheta, "Winston Churchill's Grandson Expelled from Conservative Party by Boris Johnson in Wake of Brexit Crisis," *CNN*, Sept. 4, 2019, <https://www.cnn.com/2019/09/04/uk/nicholas-soames-expelled-churchill-gbr-intl/index.html>.

some of his private reporting to London, describing Trump and his administration in less than flattering terms, was leaked to the press.<sup>78</sup> This occurred in the middle of the campaign in the United Kingdom to find a successor to May as leader of the Conservative Party and therefore prime minister. Johnson, then foreign secretary and the front runner to replace May, repeatedly refused to defend his ambassador during a leadership debate. Darroch later acknowledged that the standoff with Trump, who lashed out at him as “wacky” and “pompous,”<sup>79</sup> made his job impossible. But he also told friends that he made the final decision to resign after observing Johnson’s failure to back him. Sir Alan Duncan, a junior Foreign and Commonwealth Office minister at the time, described Johnson as having “thrown our ambassador under a bus.”<sup>80</sup>

The leaking of private documents from the embassy, and the consequences that it had for Darroch, made it feel even riskier for the rest of us to report frankly to London. There was widespread anger across the diplomatic service at how Darroch had been treated. The head of the Foreign and Commonwealth Office at the time, Sir Simon McDonald, described it as “a horrible moment” for the diplomatic service:

It was the only time when Boris was out of office that he was in touch with me. He was really puzzled that anybody could think he was not supporting our ambassador in Washington. I tried to explain to him why Kim felt undermined, but I think, if you look at the facts, if you read the transcript of the single leadership debate, it is clear why an ambassador reading that would think, ‘I don’t have the necessary support. I can’t continue in this job.’<sup>81</sup>

I was also influenced by what was happening at the same time in the United States, where American politics was also in turmoil over the Ukraine impeachment. Like many in Washington, I was glued to the television, watching the testimony of distinguished public servants such as Fiona Hill, George Kent, and Alexander Vindman. But even as I admired them for their obvious profession-

alism and integrity, I found myself wondering, “But, if you had so many misgivings, why didn’t you say something at the time?” I couldn’t understand how so many U.S. officials appeared to believe that something wrong was happening, yet none came forward until a whistleblower blew the story. I thought to myself, “If we all behaved like that, then how on earth would governments ever get held in check? How can there be democratic accountability if wrongdoing never comes to light?” By staying silent, some might say the officials were complicit. This made me feel that not only did I have a right to speak out but, arguably, a duty to do so.

But in the end, my decision to leave was more personal. The internal conflict over what I was being asked to do simply became unbearable. I had already told my bosses that I would leave if Johnson openly defied the Benn Act. Although, at the last moment, Johnson backed down and adhered to the act’s requirement to seek an extension to the Brexit negotiations deadline,<sup>82</sup> by then I had had enough. I realized I was not going to be able to influence what was said or done on Brexit, but nor could I distract myself by working on other parts of my portfolio, since Brexit was the entirety of my job. Worse, my job actively required me to go out and speak in public about Brexit, day after day, using talking points that were nakedly dishonest. The stress was materially affecting my mental health and relationships. Moreover, Parliament had finally agreed to resolve the political impasse by holding a general election on Dec. 12, 2019. This meant that the British people would have a chance to cast their verdict on the government’s approach. This was the democratic way forward, but whatever the outcome, I no longer wanted to be part of it. I wrote my resignation letter and sent it.

Some people asked why I did not wait until after the election. I felt strongly that I should resign before the election, precisely to avoid any perception that I was only resigning because I did not like the outcome. I was also not optimistic that there would be meaningful improvement even if the main opposition party won, because it was almost as divided and incoherent over Brexit as the Conservative Party. If I am ruthlessly honest,

78 George Parker, Sebastian Payne, and Demetri Sevastopulo, “Boris Johnson Accused of Throwing US Ambassador ‘Under a Bus,’” *Financial Times*, July 10, 2019, <https://www.ft.com/content/30475dfa-a301-11e9-a282-2df48f366f7d>.

79 Parker, Payne, and Sevastopulo, “Boris Johnson Accused of Throwing US Ambassador ‘Under a Bus.’”

80 Parker, Payne, and Sevastopulo, “Boris Johnson Accused of Throwing US Ambassador ‘Under a Bus.’”

81 “Simon McDonald,” Brexit Witness Archive, UK in a Changing Europe Website, March 26, 2021, <https://ukandeu.ac.uk/brexit-witness-archive/simon-mcdonald/>.

82 Mehreen Khan and George Parker, “Boris Johnson Asks for Brexit Extension in 3 Letters,” *Financial Times*, Oct. 19, 2019, <https://www.ft.com/content/d9ec648a-f2bc-11e9-b018-3ef8794b17c6>.

I will admit that I also wanted to resign before the election because if my action was to have any impact at all, it had to take place beforehand. However, in my final act of loyalty to the Foreign and Commonwealth Office, at the last minute, I agreed to their urgent pleadings not to publicize my departure. I was frustrated, because I felt that there was little point in departing on a point of principle, if you could not explain your reasons for it. But I appreciated that my actions could look unduly political on the eve of a general election and would also put my colleagues in a very tight spot, exacerbating suspicion between ministers and officials. So, I bowed to their request, and circulated my resignation letter only to those in my working circle. But the story broke anyway when someone leaked the letter to CNN.<sup>83</sup>

Some friends also asked why I did not ask to be transferred to another position or just quietly retire. Although this would certainly have been the safer option, to my mind it was also the coward's way out. I wanted to own my decision. By then, I also felt I had nothing further I needed to prove as a diplomat. I had already served in a number of highly fulfilling leadership roles, including as ambassador to Georgia. For family reasons, I had recently turned down an invitation to apply for the ambassadorship in Bangkok, and I was not interested in applying for any other positions in the immediate future. By virtue of my marriage to an American national, I had a green card and would be able to stay on in the United States. So, I also chose to resign because I could.

### **Non, Je Ne Regrette Rien**

Two years on, I have no regrets. Though there was a certain amount of ferment in the press immediately after my resignation letter leaked, it quickly died down when I refused all requests to be interviewed. I was one of Rubin's "One Day Wonders." While I had my fair share of critics, who accused me of betraying civil service impartiality, of being a "Remoaner," or of trying to deliberately influence the U.K. election, far more of the comments — at least the ones I saw on social media — were more generous, recognizing the conflict I faced and praising me for taking a principled stand. I was hurt that the senior leadership

in the Foreign and Commonwealth Office cut me off with no further communication, even though I had agreed to their request not to publicize my departure. But many colleagues reached out privately to offer warm words of support and farewell. I particularly appreciated my boss, Michael Tatham, who was kind and decent to me and handled the difficult consequences of my resignation with professionalism. My main feeling, then and now, was one of relief — albeit tinged with great sadness at ending my career on such a note.

Fortunately, for many civil servants, their resignations, though uncomfortable at the time, do not result in serious long-term consequences. After a few years in the private sector, Rutter was able to return to government service for a while. Wilmshurst maintained a low profile after her resignation, and is now a distinguished fellow at Chatham House (the Royal Institute of International Affairs), as well as professor of international law at University College, London. Volker says that although a few of his "more Democrat-leaning colleagues" did not want to deal with him, most people in the foreign policy world continued to treat him normally.<sup>84</sup> Waxman is currently a law professor at Columbia University. Darroch, who was seen as falling honorably on his sword, was made a life peer in the House of Lords. Both he and Rogers are respected commentators on Brexit and U.K. political affairs.

But for others, the effects can be profound and long lasting. Ross says he doesn't regret his resignation, but that "I still haven't come to terms with it, because it's not resolved, because the people who committed the crime have not been held to account. The people who went along with it became ambassadors, and got their knighthoods. They got away with murder."<sup>85</sup> Taylor says, "I lost my job, my home, my marriage, my personal security, and my life savings. There were people trying to kill me — I had security detail for three months because I received so many death threats." Nevertheless, "If I could rewind the clock, however, I'd still do it again. It was worth it, if it in some way it denied a very bad man a second term."<sup>86</sup>

83 Eliza Mackintosh, "Top British Diplomat Alexandra Hall Quits with Searing Brexit Critique," *CNN*, Dec. 7, 2019, <https://edition.cnn.com/2019/12/06/uk/top-british-diplomat-quits-brex-it-intl/index.html>.

84 Author interview with Volker.

85 Author interview with Ross.

86 Author interview with Taylor.

## **Vindication and Disillusion**

In many cases, history turns out to vindicate the concerns of these officials. The atrocities committed against Bosnian Muslims in the 1990s are, by now, well documented.<sup>87</sup> The various inquiries into the Iraq War long ago established that the case for war was grossly exaggerated. The key findings of the Chilcot Inquiry almost entirely substantiated Ross's points, including that "the UK chose to join the invasion of Iraq before all peaceful options for disarmament had been exhausted"; that "Intelligence had 'not established beyond doubt' that Saddam Hussein had continued to produce chemical and biological weapons"; that policy was made "on the basis of flawed intelligence assessments"; that "the circumstances in which it was decided that there was a legal basis for UK military action were 'far from satisfactory'"; and that "the planning and preparations for Iraq after Saddam Hussein were 'wholly inadequate.'"<sup>88</sup> A devastating Senate Intelligence Committee investigation into the CIA's use of "enhanced interrogation" techniques on terrorist detainees, released in December 2014, concluded that they were "not an effective means of acquiring intelligence or gaining cooperation from detainees" and "were brutal and far worse than the CIA represented to policymakers and others."<sup>89</sup>

There has been no definitive inquiry into the history of Brexit, but there is little real dispute among expert observers that many of its benefits were exaggerated or have yet to bear fruit, while its costs are becoming more apparent.<sup>90</sup> Even now, Johnson continues to govern through sleight of hand, disingenuously blaming the European Union or the business sector for many of the entirely predictable problems which have resulted from Brexit, including shortages of critical workers and goods, trade friction across the Irish Sea, and greater difficulties for British citizens wanting to live, work, or study in the European Union.<sup>91</sup> His government is also again threatening to renege on the exit deal that

it negotiated with the European Union two years ago.<sup>92</sup> On the U.S. side, Trump is the only president to have been impeached twice. The failed effort to overturn the November 2020 election results, culminating in the attack on Capitol Hill on Jan. 6, 2021 by his supporters, is the most graphic evidence of the unorthodox nature of his presidency.

Such vindication is cold comfort to those who have given up secure incomes and promising careers, had their reputations besmirched and their motives questioned, or even had their personal security put at risk, as a result of their principled stances. Vindication usually comes too late to prevent or to reverse the worst effects of the policy over which they resigned. And it seems to have few or no consequences for the elected politicians responsible for that policy.

Ross strongly believes that his experience shows that the system doesn't work: "the people who should have spoken up stayed silent." He also believes that the public inquiries into the Iraq War made no difference — they were designed to give the appearance of action being taken to prevent something like Iraq ever happening again, but without any real consequences for any of the war's authors. "I was the only person to resign over WMD [weapons of mass destruction], and that wasn't until 2004. What does that tell you about the integrity of the civil service?" He says he feels "profound disillusion to my core — I don't believe in the system any more."<sup>93</sup>

Taylor agrees that "there are far more people who don't do the right thing — too many folks who go along with it or stay for the wrong reasons."<sup>94</sup> In his book, he writes:

Those who keep their heads down will live to regret it ... I know more than a handful of people who set 'redlines' for their time in the Trump administration, boundaries they would refuse to cross or behavior they wouldn't tolerate from the commander in

87 "War Crimes Related Documents and Publications," Organization for Security and Co-operation in Europe, accessed Oct. 20, 2021, <https://www.osce.org/mission-to-bosnia-and-herzegovina/451930>.

88 "Chilcot Report: Findings at-a-Glance," *BBC*, July 6, 2016, <https://www.bbc.com/news/uk-politics-36721645>.

89 "CIA Torture Report: The Key Findings," *The Guardian*, Dec. 9, 2014, <https://www.theguardian.com/us-news/2014/dec/09/senate-key-findings-on-cia-torture>.


90 "The Cost of Brexit Becomes Apparent," *The Economist*, March 13, 2021, <https://www.economist.com/britain/2021/03/13/the-cost-of-brex-it-becomes-apparent>.

91 Fiona Jones, "James O'Brien: 'Project Fear Is Reality - Now PM Claims It's Part of the Plan,'" *LBC*, Oct 5, 2021, <https://www.lbc.co.uk/radio-presenters/james-obrien/james-obrien-project-fear-brex-it-shortages/>; and Luke McGee, "The Hard Reality of Brexit Is Hitting Britain. It's Costing Everyone but Boris Johnson," *CNN*, Sept. 13, 2021, <https://edition.cnn.com/2021/09/12/business/brex-it-reality-bites-in-britain-intl-gbr-cmd/index.html>.

92 Rebecca Klapper, "U.K. Again Threatens to Suspend Deal, Accuses EU of Disrupting Peace in Northern Ireland," *Newsweek*, Oct. 4, 2021, <https://www.newsweek.com/uk-again-threatens-suspend-deal-accuses-eu-disrupting-peace-northern-ireland-1635303>.

93 Author interview with Ross.

94 Author interview with Taylor.



**What I find surprising is not that a few people spoke up or resigned over Brexit, but that so many didn't, even when the British government was found to have acted unlawfully by proroguing Parliament, and subsequently threatened to defy the Benn Act, risking an unprecedented political crisis.**



chief. They would quit, they told friends, if those conditions were triggered. Then I've watched the same people breeze right over those redlines, shamefully rationalizing and justifying themselves along the way.<sup>95</sup>

The problem is that taking a stand is a “hard and very lonely road. Cowardice is contagious.”<sup>96</sup>

I feel the same way about my own experience. What I find surprising is not that a few people spoke up or resigned over Brexit, but that so many didn't, even when the British government was found to have acted unlawfully by proroguing Parliament, and subsequently threatened to defy the Benn Act, risking an unprecedented political crisis. Many colleagues privately told me they shared my concerns, but they were content to let me be the fall-guy, sticking my head above the parapet. Some senior officials were annoyed, not with the issues I was raising, but that I was creating trouble by raising them. And when my decision to resign became clear, their overriding priority was to keep me silent.

On the one hand, it was certainly easier for me to take a stand, both because my job revolved entirely around Brexit, and because I was near the end of my career. But on the other hand, did the silence of so many others enable a worse outcome for Brexit than the British public had been led to expect? My resignation alone had no impact. But what if more officials had spoken out, or civil servants more senior than me had challenged ministers more rigorously on the distortions in the public talking points? I appreciate that Brexit posed unprecedented stress on the civil service, and that it was essential to have good people staying on to provide expert advice to ministers. But it's hard to avoid the conclusion that, at least in some cases, ambition may have trumped principle, even among people who pride themselves on being the very model civil servant. Future inquiries into Brexit may pose uncomfortable questions about the role played by several senior officials across Whitehall.

## One Rule for Them, One Rule for Us

Though it is beyond the remit of this article to explore the issue in depth, I also note that there is a double standard at play in the treatment of civil servants versus their political masters in both the United Kingdom and the United States. In the United Kingdom, while civil servants are required by law to adhere to the Civil Service Code, the code that governs ministerial behavior is not legally binding. According to the Institute for Government, since 2006, ministerial code breaches have been investigated through an independent adviser on ministerial interests or by the cabinet secretary, but there is no requirement to follow any particular process. When a breach of the code is alleged to have taken place, whether and how it is investigated is entirely at the prime minister's discretion. In November 2020 the then-adviser, Sir Alex Allan, resigned after the prime minister disagreed with his finding that the home secretary, Priti Patel, had broken the code.<sup>97</sup> British ministers thus frequently avoid sanction for behavior that would be a disciplinary or firing offense for a civil servant.

In the United States, while members of Congress and members of the executive branch are governed by Codes of Ethics, the president is not subject to any specific statute or rule governing his or her ethical conduct. While presidents are subject to civil suit and criminal prosecution for violations of common laws, they are generally immune from punishment for conduct related to their official acts. In other words, presidents are generally free to lie or misrepresent facts, as long as they do not intentionally defame any specific person or persons in doing so. This leads to a situation where “the only practical remedies to unethical conduct on the part of the president are the constant vigilance of a well-informed public, congressional oversight, and ultimately the threat of impeachment for ‘high crimes and misdemeanors.’”<sup>98</sup> In the current age of disinformation and partisan warfare, this is a high threshold to cross.

95 Miles Taylor, *A Warning* (New York: Hachette Book Group, 2019), 226.

96 Author interview with Taylor.

97 “Ministerial Code,” The Institute for Government, accessed Oct. 20, 2021, <https://www.instituteforgovernment.org.uk/explainers/ministerial-code>.

98 Robert Longley, “Code of Ethics for United States Government Service,” ThoughtCo., Dec. 3, 2020, <https://www.thoughtco.com/code-of-ethics-for-us-government-service-4052443>.

## Conclusion

So, what are conflicted civil servants to do? Is the more honorable course to stay on, and try to influence policy from inside, or to leave? If they choose the former, how do they avoid the risk, as Tony Blinken observed at the time in the Volker case, “of then facilitating the very thing they’re trying to mitigate.”<sup>99</sup> If they choose the latter, are they betraying their duty to serve the government of the day with impartiality? How would government function, if every official quit, every time they had a quibble? But, as Waxman said to me, there surely has to be a line drawn somewhere. Should those concerned about the quality of governance in the United States and the United Kingdom worry more about the civil servants who resign, or more about the ones who do not — those who are willing to continue implementing policies, despite believing, or knowing, that they are wrong?


I come away with three general observations:

First, there will always be ambiguity — because who is to determine what is unlawful, unconscionable, or unethical? There will always be a different point of view. In many cases, the government may not actually be breaking the law, but nevertheless is acting in a manner which wilfully deceives the public over the true nature and consequences of its policies. Arguably, civil servants, in such cases, have a duty to speak out to ensure the electorate has the facts, but this runs the risk of civil servants being perceived as being political, or as trying to influence an election.

Second, this means there will always be criticism of civil servants’ actions, no matter how high-minded their intentions. The rectitude or otherwise of a civil servant’s actions are largely in the eye of the beholder. Some will argue that officials should never step down and never speak out. Others will argue they have a higher duty to “the people,” or the constitution, and are guilty of complicity if they stay on silently. The civil servant risks being damned if they do and damned if they don’t.

Third, in such circumstances, where doubt will always exist and criticism is almost certain, the only viable solution for a conflicted civil servant is to be accountable to themselves. Ultimately, the decision has to come down to a matter of personal judgment and conscience. As I put it in my own resignation letter, “each person has to find their own level of

comfort.” You don’t have the right to change policy — that is for elected politicians and the ultimate verdict of voters. But you do have a right to your own personal conscience, and a right not to be a part of something you believe to be unethical. You also have a right, once you are a private citizen, to explain your reasons, and to speak out against policy, provided you don’t divulge any official secrets.

I leave the last word to Jonathan Jones, the head of the U.K. legal service who resigned in September 2020 over the government’s admission it was willing to break the law over Brexit. He said in a subsequent interview that he was “perfectly satisfied that I did the right thing by me, and I did what I had to do.” However, he adds, “I never, for a moment, tried to persuade anybody else that they should go. Plenty of people provided moral and personal support but in the end, this was a highly personal decision for me, and others took their own decisions. Because the business of government has to go on.”<sup>100</sup> 

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99 Alexander Nazaryn, “Kurt Volker: A Quiet Diplomat, Suddenly Caught in Trump’s Impeachment Chaos,” *Yahoo! News*, Oct. 7, 2019, <https://news.yahoo.com/kurt-volker-a-quiet-diplomat-suddenly-caught-in-trumps-impeachment-chaos-191140736.html>.

100 “Jonathan Jones,” *Brexit Witness Archive*, UK in a Changing Europe website, May 6, 2021, <https://ukandeu.ac.uk/brexit-witness-archive/jonathan-jones/>.