

The UK imperial archives mountain: a failure to deliver

At every stage of his inquiry into the circumstances of Dag Hammarskjöld's death, Justice Othman has asked the United Kingdom for information. Responses have been consistently unhelpful, and often dismissive. In June 2015 the Foreign and Commonwealth Office [FCO] told him that it had 'co-ordinated a search across all relevant UK departments. None,' it said, 'have identified any pertinent material.' Which government departments were considered 'relevant'? Was any pressure put on them to disclose possibly sensitive information? Why was the Foreign and Commonwealth Office – with no overall responsibility for government record-keeping – given this role?

When the UK was asked by UN Legal Counsel the following year if 'all relevant departments' included the intelligence agencies¹ it refused to answer, maintaining the long-standing doctrine of never commenting on intelligence and security matters. In 2018, Justice Othman pointed to 'the non-disclosure of potentially relevant new information in the intelligence, security and defence archives of member states ... [as constituting] the biggest barrier to understanding the full truth of the event'. He asked member states to appoint independent, high-ranking officials to review such records. The UK government took eight months to reply, and then stated that it would not make such an appointment; all information of direct value had already been made available. In May 2019, however, after the deadline for receipt of final reports by the independent appointees, the UK reported that it had in fact appointed Graham Hand, Senior Sensitivity Reviewer at the FCO, to the role. So, it appointed one of its own – far from independent; not high-ranking. Hand stated that he had the necessary security clearances, and full knowledge of British Government records, but that no additional information could be given. He was merely repeating the statement of four years earlier; no further investigation could have taken place in the few weeks of his appointment. Once again there was no reference to the intelligence agencies. Moreover, as far as I know, Hand did not ask independent experts for advice on what might be relevant information for the UN inquiry.

¹ The Security Service, MI5, the Secret Intelligence Service, MI6, and the Government Communications Headquarters, GCHQ,

It is instructive to note that throughout the period of the inquiry, the UK refused to be co-signatory to any of the three supportive General Assembly resolutions on the issue.

My title 'The UK imperial archives mountain' came before I considered content. I thought no, that won't do. But then I asked myself, is there a mountain? Or was there a mountain – now eroded, whether by intent or by chance?

The UK Public Records Act of 1958 standardised the selection of government records for permanent preservation, and release to the public. With some safeguards, it allows documents to be held back if, in the opinion of those responsible, they should be retained for administrative or any other special reason. 'Special' is generally assumed to mean that they relate to security matters. Records of the intelligence agencies are not covered by the Act. Indeed, in 1958 those agencies did not officially exist.

How much documentation was destroyed rather than transferred to the UK National Archives? No reasons are given for destruction; we know little of the value of destroyed papers. And much has simply not been processed. The legislation has no teeth, and is commonly flouted. Many governments departments do not take the system seriously. They cite lack of resources to deal with vast, out-of-date accumulations of records, or simply pretend they don't exist. And they get away with it.

In the case of records of empire, there is clearly a fear of damage to the myth of British benign, non-violent decolonisation, and a fear of costly compensation claims. Paradoxically it was such a claim – by veterans of the struggle for independence in Kenya – which forced the FCO in 2011 to admit that for many decades it had hidden a collection of 20,000 colonial government files; documents removed from 37 former dependencies, including Northern Rhodesia², to ensure that potentially sensitive material was not left for the independent governments. At the same time it emerged that the FCO was illegally holding about 1.2 million other items; half just a few years late in being processed, but the remainder records of FCO's predecessor departments – some dating back to the 19th century. The journalist

² The Northern Rhodesia files include many documenting civil unrest and resistance to British colonial rule.

Ian Cobain identified an even bigger backlog in the Ministry of Defence.³ As mentioned, the Justice has specifically identified defence archives as a potentially relevant source. Does the MOD backlog include records of the various branches of military intelligence?

A Freedom of Information Act came into force in the UK in 2005. The intelligence agencies are not 'public authorities' for the purposes of the Act: they are under no duty to disclose information. And section 23 of the Act ensures that information supplied by, or relating to them, held by other public authorities is absolutely exempt from disclosure. Whereas a basic provision is that anyone making an FOI request should be informed whether or not the information requested is held, this 'duty to confirm or deny' its existence does not apply in the case of section 23 exemptions. FOI was enacted by Tony Blair's government, but, as we know, Blair reneged on his personal commitment a mere five years after the Act came into force. He described its introduction as an 'imbecility'. My own limited experience of its provisions suggests that public bodies are well protected, not only by the formal exemptions, but by more than adequate opportunities to delay and obfuscate.

As noted above, FCO has relied on the standard doctrine that the UK government never comments on security and intelligence matters.⁴ It has applied to the Justice's request the same approach it would have applied to a routine FOI request. The whole point of the Justice asking member states to appoint a high-ranking and independent person to review security and intelligence archives, and if necessary to report in confidence, was to surmount that barrier.

Intelligence records are doubly protected by provisions of the public records and FOI legislation. How much this is needed is debatable. As others have pointed out, an agency's concern is sometimes that materials may include sensitive information about the service which it, itself, has not detected, but that may be detected by others.

The National Archives catalogue suggests that there are rather few open records relating to the Hammarskjöld crash other than 40 items from the 1962 inquiry. Another ten or so are

³ Ian Cobain, *The History Thieves: Secrets, Lies and the Shaping of a Modern Nation* (Portobello Books, 2016).

⁴ A doctrine which is occasionally breached: in March 2017 for example GCHQ branded claims that it had spied on Donald Trump as 'utterly ridiculous' and 'nonsense'.

described as 'Death of UN Secretary-General, appointment of successor' and may or may not say anything about the crash. I recently found a new, that is, new to me, reference to a relevant Board of Trade file.⁵ Hammarskjöld's name is incorrectly spelt in the catalogue; a word search doesn't find it. One file comes from the Foreign Office Information Research Department, a covert, anti-communist, propaganda outfit. Two come from the Prime Minister's Office. There is nothing from the Cabinet Office. This brings us to another issue – is the cataloguing adequate? Archival research is always time-consuming, and often difficult. The crash might have been discussed in one of the myriad committees of the Cabinet, for example. The catalogue tells us nothing.

We can ask if Mr Hand looked at the open TNA files, and any closed extracts from them, methodically and with an open and well-informed mind. But it seems more likely he would have been content to rely upon brief and inadequate catalogue descriptions to conclude the UK National Archives held nothing of relevance.

So, the archives mountain has been eroded by destruction, retention, closure, and the provisions of the Freedom of Information Act – or effectively concealed by inadequate cataloguing.

What other government departments might we expect to have had an interest in the events of September 1961? Northern Rhodesia was still a British dependency. As part of the Federation of Rhodesia and Nyasaland, its governor reported to both the Commonwealth Relations Office and the Colonial Office. There is no record of any communication about the crash with either. There is, however, one document in the series FCO 141, the collection of colonial government files that I mentioned. At the time of their removal to the UK far more documents – uncounted and now uncountable – were destroyed.

Let's go back to that archives mountain, or, rather, mountain range. Records of the intelligence agencies form the highest, insurmountable peak, and are surrounded by others

⁵ TNA BT 248/420, Accident to Transair DC- 6B aircraft SE- BDY near Ndola airport, Northern Rhodesia during the night of 17/18 Sept 1961 involving the death of Dag Hammarskjöld (United Nations Secretary General): organisation of inquiry; correspondence with Rhodesian organisations, United Nations and relevant groups, comment on crash report and subsequent action

of varying altitudes representing many archival collections. I'm speculating here, but I do wonder if other departments destroyed relevant papers because the intelligence agencies were considered to be the lead departments. Such avoidance of duplication is certainly known. A resolution adopted by the UN General Assembly in December 2019, called upon member states to encourage individuals and private entities to ensure that any relevant records were made available for review by Justice Othman. The potential value of private, and other non-governmental records, is well-known. For example Dr Susan Williams found evidence of the presence at Ndola of an MI6 agent, Neil Ritchie, among the papers of Lord Alport, high commissioner to the Federation. But such records are scattered in a vast range of university, organisational, and local record offices in this country and potentially overseas; many more have not survived.

In conclusion, the UK government has provided the inquiry with no additional documentation since 2017. Then Susan Williams and I went to the FCO, on Justice Othman's behalf, to view an additional file released to him. Despite our appointment, we were kept waiting for an hour and a half and then presented with what was not technically a file, but rather a bulky and miscellaneous collection of papers. We read it under close supervision, with no opportunity for discussion between ourselves. We became certain that the long wait had resulted from last-minute uncertainty about the wisdom of releasing the papers. Whichever official had reviewed them had been insufficiently knowledgeable about the context and had, for example, failed to recognise the name of the MI6 agent Neil Ritchie, which appears many times in a long report by Lord Alport about the events at Ndola on the night of 17/18 September 1961. Richie is referred to as 'my Foreign Office first secretary', perhaps sufficient cover to confuse the 2017 reviewer who should have recognised the name, and ensured that it was redacted. The file also contains evidence of the interception of UN communications by the Rhodesian authorities.

Neither of these features of the file provides conclusive evidence of the cause of the crash. Can it therefore be dismissed as irrelevant? Of course it is not irrelevant. In the case of the references to Ritchie it provides further leads that should be pursued. In the case of the Rhodesian intercepts it opens up the possibility that such intercepts may have been leaked

to Rhodesian allies in Katanga, and to the white supremacist mercenaries working for them. It is precisely the sort of contextual information the UN investigation needs.

In his fourth report (2022), the Justice notes the wealth of information revealed through the efforts of independent researchers and groups, and comments that the hugely increased knowledge amassed during the course of his investigations has the effect of identifying gaps that might be filled by more meaningful cooperation from the UK. His efforts to elicit such cooperation have been of limited success. What can be done now to address the problems of UK non-disclosure in the very short time left?

A few suggestions:

- Firstly, UK Ministers need to be persuaded that it is shameful not to treat the investigation into the death of the UN Secretary-General with the seriousness they would treat such a matter as fatalities in a terrorist attack or serious fire.
- They need to commit to appoint a new reviewer, genuinely high-ranking and independent. A retired very senior civil servant or judge, with knowledge of how the security agencies work, should be selected.
- The new appointee should be properly resourced, and be prepared to consult external experts and the appointees in other member states.
- The searches must be thorough and iterative. The appointee should be prepared to return to documents already searched, or disregarded, in the light of new evidence and fresh hypotheses. In other words, the appointee must be authorised and motivated to do the job properly on behalf of Justice Othman.

Dr Mandy Banton

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