

英格兰的国旗和法律

Flags and the Law in England

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摘要

本文探讨了英国人对待国旗普遍相当放松的态度。英国没有具体的国旗法，但英国法律的许多其他分支都与国旗有关。这些包括宪法、纹章法、刑法、版权法、标准法、道路交通法、军事法、海事法、教会法、消费者保护法、外交法和土地使用规划法。本文对每一项进行了探讨，并最后得出了一些想法，即英国人对国旗的态度可能揭示了该国的集体性格。

Abstract

This paper explores how the British generally have a quite relaxed attitude towards their flag. There is no specific national flag law in England, but many other branches of English law have a bearing on flags. These include constitutional, heraldic, criminal, copyright, standards, road traffic, military, maritime, ecclesiastical, consumer protection, diplomatic and land use planning law. This paper explores each of these, and concludes with some thoughts on what the British attitude to flags may reveal about the country's collective personality.



介绍

本报告简要介绍了该法律在管理英国国旗的设计和和使用方面的作用。但它并不是对该主题的明确阐述，受所讨论的任何问题影响的人应参考所引用的法规的实际措辞。必要时，从适当的合格的资料来源寻求法律意见。

在这个讨论的标题中，“法律”一词的使用范围相当广泛，因为在英国，与许多其他国家不同，并没有一个单一的国旗法律体系。多年来，法律书籍中偶尔会提到国旗——这并不奇怪，考虑到其最早的有效内容可以追溯到1267年。但这些法律规定并不构成一个全面规范国旗设计、制造、所有权、使用和滥用的所有方面的综合法典，也没有一个单一的机构负责仲裁和执行这些规则。在其他国家通常包含在国旗法案中的许多内容，在英国则是习俗、惯例和礼仪的问题。

下面的内容特别针对英格兰。其中一些也适用于其他三个英国国家中的一个或多个，而且大部分内容适用于所有这些国家。但由于立法和行政权力下放的过程，这些国家之间也存在重大差异，这一过程在北爱尔兰开始于一个多世纪前，并且最近扩展到了苏格兰和威尔士。但这仅仅是“部分”原因，因为还有其他差异早在1707年英国国家——即联合王国——的创建之前就存在了，这些差异由诸如纹章院这样的机构管理，其历史可以追溯到那之前很久。

那么，哪些英国法律分支与国旗有关呢？相关材料至少可以在以下十二个法律分支中找到：

- 宪法
- 纹章法
- 刑法
- 著作权法
- 标准法
- 道路交通安全法

Introduction

This presentation offers a general introduction to the role of the law in governing the design and use of flags in England. But it is not a definitive exposition of the topic, and those affected by any of the issues discussed should refer to the actual wording of the statutes and regulations cited and, when necessary, seek legal advice from an appropriately qualified source.

The term “law” is used in a fairly broad sense in the title of this talk because in England, unlike many other countries, there is no single body of flag law as such. Occasional mention of flags has been made in the statute book over the years—which is hardly surprising, given that its earliest operative contents date back to 1267. But these legal provisions do not amount to a comprehensive code governing all aspects of the design, manufacture, ownership, use, and misuse of flags, and nor is there any single body responsible for arbitrating and enforcing such rules as do exist. Much of what is often incorporated in flag acts elsewhere is, in England, a matter of custom, practice, and protocol.

What follows relates specifically to England. Some of it does also apply in one or more of the other three British nations, and much of it applies in all of them. But there are also major differences between them, thanks in part to the process of legislative and administrative devolution which began just over a century ago in the case of Northern Ireland, and which has been extended much more recently both to Scotland and to Wales. But this is only “in part” because there are other differences which long predate the creation of the British state—in the guise of the United Kingdom—in 1707, and which are administered by institutions such as the College of Arms which can trace their history back to well before that.

So, which branches of English law have a bearing on flags? Relevant material can be found in at least twelve of them:

- Constitutional law
- Heraldic law
- Criminal law
- Copyright law
- Standards law
- Road traffic law

- 军事法
- 海事法
- 教会法
- 消费者保护法
- 外交法
- 土地使用规划法

- Military law
- Maritime law
- Ecclesiastical law
- Consumer protection law
- Diplomatic law
- Land use planning law

宪法

在这个标题下，只有两部法规提到了国旗。第一版的联合旗（将英格兰守护圣乔治的红十字白底与苏格兰守护圣安德鲁的白X型十字蓝底结合起来）是在1606年通过皇家公告引入的，最初仅用于海军（图1）。但随着时间的推移，它被更广泛地采用，以及1706年的《苏格兰联合法案》[1]规定（图2）：



图 1. 1606 年的英国国旗。 Figure 1. The Union Flag of 1606.

Constitutional law

There are only two statutes classified under this heading which reference flags. The first version of the Union flag (combining the red cross of England's patron saint George on a white field with the white saltire of Scotland's patron saint Andrew on a blue field) was introduced in 1606 by royal proclamation purely for naval use (fig. 1). But over time it was adopted more widely, and the Union with Scotland Act 1706¹ provided that (fig. 2):

“……英格兰和苏格兰两个王国将于1707年5月1日，并永远在此之后，联合成为一个名为大不列颠的王国；并且该联合王国的纹章标志应由女王陛下指定，圣乔治和圣安德鲁的十字架应以女王陛下认为合适的方式结合，并在海上和陆地的所有旗帜、横幅、标准旗和舰旗中使用。”（图3）

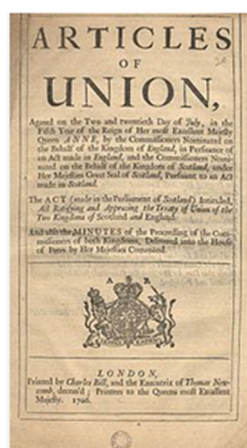


图 2. 1706年的联合法案。

Figure 2. The Act of Union 1706.



图 3. 安妮女王接收该法案。

Figure 3. Queen Anne receives the Act.

“...the two Kingdoms of England and Scotland shall upon the first Day of May which shall be in the Year one thousand seven hundred and seven, and for ever after, be united into one Kingdom by the Name

of Great Britain; and that the Ensigns Armorial of the said united Kingdom be such as her Majesty shall appoint, and the crosses of St George and St Andrew be conjoined in such Manner as her Majesty shall think fit, and used in all Flags, Banners, Standards and Ensigns, both at Sea and Land.” (fig. 3)

94年后，《1800年联合爱尔兰法案》第1条[2]也提到了旗帜，即：

“上述大不列颠王国和爱尔兰王国将于公元1801年1月1日起，并且此后永远，合并为一个王国，名为‘大不列颠及爱尔兰联合王国’；并且……其国旗、纹章和其他旗帜，应由国王陛下通过加盖联合王国玉玺的皇家公告予以确定。”



图 4. 1801 年的英国国旗。 Figure 4. The Union Flag of 1801

新国旗的新国旗的设计，将爱尔兰守护神帕特里克的红色颜色添加到现有的设计中，是在1801年1月1日的皇家公告中提出的（图4）。我们现在所知道的英国国旗是在那天首次飘扬的，从那时起，它就一直是事实上的英国国旗。1920年的爱尔兰政府法案，[3]它规定爱尔兰自由邦（现在是爱尔兰共和国）与英国其他国家分离，但没有提到国旗，所以英国国旗继续使用。

纹章法

纹章学，根据《大英百科全书》，[4]是“一门科学与艺术，涉及用于区分个人、军队、机构及团体的世袭象征的使用、展示和规范。这些象征最初作为旗帜和盾牌上的识别标识，被称为纹章。”

百科全书继续告诉我们，纹章学“起源于大多数人都是文盲的时候，但却很容易辨认出一个大胆、引人注目和简单的设计。

Then, 94 years later, article 1 of the Union with Ireland Act 1800² also referred to flags, viz:

“... that the said Kingdoms of Great Britain and Ireland shall, upon the first Day of January which shall be in the Year of our Lord one thousand eight hundred and one, and for ever after, be united into one Kingdom, by the name of The United Kingdom of Great Britain and Ireland; and that ... the Ensigns, Armorial Flags and Banners thereof, shall be such as his Majesty, by his Royal Proclamation under the Great Seal of the United Kingdom, shall be pleased to appoint.”

The design of the new flag, adding the red saltire of Ireland's patron saint Patrick to the existing design was set out in a Royal Proclamation, dated 1 January 1801 (fig. 4). The Union flag as we now know it was first flown on that date, and it has been the *de facto* British national flag ever since. The Government of Ireland Act 1920,³ which provided for the separation of the Irish Free State (which is now the Republic of Ireland) from the rest of Britain made no mention of flags, so the Union Flag has continued in use unamended.

Heraldic law

Heraldry, according to the *Encyclopaedia Britannica*,⁴ is “the science and the art that deal with the use, display, and regulation of hereditary symbols employed to distinguish individuals, armies, institutions, and corporations. Those symbols, which originated as identification devices on flags and shields, are called armorial bearings.”

The encyclopaedia goes on to tell us that heraldry “originated when most people were illiterate but could easily recognize a bold, striking, and simple design.

在中世纪战争中，纹章的使用使双方参战者能够区分身着铠甲的骑士，从而辨别敌友（图5）。因此，简洁性成为中世纪纹章学的主要特征。当纹章学不再用于铠甲装饰，它逐渐融入平民生活，复杂的设计随之出现。这些设计蕴含着深奥意义，与纹章学最初的目的截然不同（图6）。在现代，纹章学通常被视为一种神秘的存在，只有专家才懂得。”



图 5. 一位手持纹章盾的中世纪骑士。

Figure 5. A medieval knight with a heraldic shield.

纹章官使用一种源自中世纪的奇怪法语，这种私密语言只有他们自己懂，这极大地强化了那种认知。以英国国旗的纹章描述（或称作“纹章术语”）为例，其内容为：

“底色为蓝色，圣安德鲁十字与圣帕特里克十字呈斜十字形，按四分之一象限交错排列，银色与红色相互交替；圣帕特里克十字的边缘饰以银色，其上方叠加红色的圣乔治十字，圣乔治十字的边缘饰与斜十字的边缘饰相同。” [5]

所幸，英国的旗帜学早已摆脱了纹章院令人窒息的束缚。自1484年起，纹章院便一直掌管着所有纹章相关事务。目前仅存在的联系是，如果个人或组织拥有纹章成果（用通俗英语讲即“纹章”），并希望将其展示在横幅或旗帜上，若出现有关该设计的所有权及使用资格的争议，纹章院便可主张管辖权（见图7）。

从技术上讲，学院有权通过骑士法庭来实施其裁决，骑士法庭是古代成立的机构，旨在处理“所有与贵族、骑士身份和文雅有关的问



图 6. 复杂的徽章。

Figure 6. A complex coat of arms.

“The use of heraldry in medieval warfare enabled combatants to distinguish one mail-clad knight from another and thus to distinguish between friend and foe (fig. 5). Thus, simplicity was the principal characteristic of medieval heraldry ... When heraldry was no longer used on body armour and heraldic devices had become a part of civilian life, intricate designs evolved with esoteric significance utterly at variance with heraldry’s original purpose (fig. 6). In modern times heraldry has often been regarded as mysterious and a matter for experts only.”

That perception has been considerably reinforced by the use by heralds of a curious private language derived from medieval French and intelligible only to themselves. The heraldic description (or “blazon”) of the Union flag, for example, reads:

“Azure, the Crosses Saltires of St Andrew and St Patrick quarterly per saltire, counterchanged argent and gules; the latter fimbriated of the second, surmounted by the Cross of St George of the third, fimbriated as the Saltire.”⁵

Happily, English vexillology has long since broken free from the suffocating embrace of the Col-

lege of Arms, the organisation which since 1484 has regulated all matters heraldic. The only continuing connection is that if an individual or organisation has an armorial achievement (or in plain English, a “coat of arms”) and wishes to display it on a banner or standard, i.e., a flag, the College of Arms could claim jurisdiction in any dispute about the ownership of that design and their entitlement to use it (fig. 7).

Technically the College has the right to give effect to its rulings through the Court of Chivalry, which is the body that was set up in ancient times to deal with “all matters relating to nobility, knighthood, and gentility.” As it ceased to sit in 1735, its contemporary relevance may be questioned. But it still exists, and it was revived in 1954 to arbitrate in a one-off test case



图7. 这些图片显示了在女王伊丽莎白一世和二世的葬礼游行中的纹章官。考虑到他们所描述的事件是相隔419年的时间，惊人的是它们之间的相似之处。

Figure 7. These images show the heralds in the funeral processions of Queens Elizabeth I and II. Given that the events they depict were 419 years apart, the similarities between them are striking.

题”。随着它在1735年停止存在，它在当代的相关性可能会受到质疑。但它仍然存在，至少在纸上，它在1954年重新出现，在一个一次性的测试案例中进行仲裁，在这个案例中，曼彻斯特市成功地挑战了曼彻斯特变异宫在防火幕上展示城市盾徽的权利。[6]

虽然从技术上讲，使用某些旗帜的所有权属于武器学院的法律管辖范围，因为它们源自纹章，但实际上，绝大多数日常使用的旗帜都没有这样的来源，而且完全超出了学院的管辖范围。但武器学院确实提供了一项与烦恼相关的服务，那就是政府用来宣布天政府办公室将飞国旗纪念特定事件或周年纪念日，通常与一些君主的联系。[7]

刑法

刑法中可能与使用旗帜有关的规定是那些与仇恨言论和恐怖主义有关的规定。

根据1986年的《公共秩序法案》第[8]条，修改的种族和宗教仇恨法案2006和2008年刑事司法和移民法案，这是一种犯罪显示（或拥有意图显示）任何书面材料旨在煽动种族或宗教仇恨或仇恨的性取向（或可能有这种效果）。该法案还规定，如果一个人表现出任何可见的威胁、辱骂或侮辱的陈述，意图挑衅破坏和平，

in which the City of Manchester successfully challenged the right of the Manchester Palace of Varieties to display the city's coat of arms on its fire curtain.⁶

Although technically ownership of the right to use certain flags comes within the legal jurisdiction of the College of Arms, because they are of heraldic origin, in practice the vast majority of flags in everyday use have no such origin and are entirely beyond the College's reach. But the College of Arms does provide one service which is of relevance to vexillologists, and that is that it is used by the government to announce the days on which government offices are expected to fly flags to commemorate particular events or anniversaries, usually with some monarchical connection.⁷

Criminal law

The provisions of the criminal code which may have a bearing on the use of flags are those which relate to hate speech and terrorism.

Under the Public Order Act 1986,⁸ as amended by the Racial and Religious Hatred Act 2006 and the Criminal Justice and Immigration Act 2008, it is an offence to display (or possess with the intention to display) any written material intended to stir up racial or religious hatred or hatred on the grounds of sexual orientation (or which is likely to have this effect). The Act also stipulates that a person commits an offence if they display any visible representation which is threatening, abusive or insulting, with the intent to provoke a breach of the peace or whereby a breach of

或有可能引起破坏和平的行为，即构成犯罪。

旗帜可以包括在术语“书面材料”和“可见的表示”中。

根据2000年的恐怖主义法案，[9]如果内政大臣认为某一组织

“涉及恐怖主义”，他们可能会禁止该组织。这意味着该组织实施或参与恐怖主义行为，准备应对恐怖主义，或促进或鼓励恐怖主义（包括非法美化恐怖主义）。如果一个组织根据本法被禁止，那么在公共场合携带物品可能是旗帜是违法行为，使合理理由怀疑某人是该组织的成员或支持者。目前有81个组织被如此禁止。这些组织包括伊斯兰组织，如基地组织和国家社会主义秩序等法西斯组织。因此，禁止在这里公开展示他们的旗帜（图8）。

版权法

这里的管理法规是《1994年商标法》，[10]禁止注册为受保护的设计或标志，任何包括未经授权的代表任何皇家旗帜（即皇室成员的个人旗帜），或英国的国旗，或英格兰、威尔士、苏格兰、北爱尔兰或马恩岛的旗帜。如果注册官认为使用会误导或严重冒犯，或任何作为《巴黎保护工业财产公约》签署国的国家的旗帜，或其中一个或多个国家为其成员国的任何国际政府间组织的旗帜。

《保护工业产权巴黎公约》，最早通过于1883年，[11]适用于最广泛意义上的工业地产，包括专利、商标、商品名称和地理标志。它有180个签署国。

the peace is likely to be provoked. Flags can be included within the terms “written material” and “visible representation”.

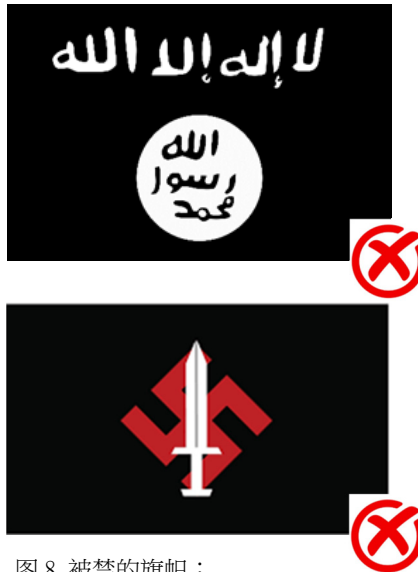


图 8. 被禁的旗帜：

基地组织和国家社会主义秩序。

Figure 8. Proscribed flags:
Al Qaida and National Socialist Order.

Under the Terrorism Act 2000,⁹ the Home Secretary may proscribe an organisation if he or she believes it is “concerned in terrorism.” This means that the organisation commits or participates in acts of terrorism, prepares for terrorism or promotes or encourages terrorism (including the unlawful glorification of terrorism). If an organisation has been proscribed under this act it is then an offence (*inter alia*) to carry articles—which could be flags—in public which arouse reasonable suspicion that an individual is a member or supporter of the organisation in question. There are currently 81 organisations which have been so proscribed. These include, among many others, Islamist groups such as Al Qaida and fascist groups such as the National Socialist Order. Public display of their flags is therefore prohibited (fig. 8).

Copyright law

The governing statute here is the Trade Marks Act 1994,¹⁰ which prohibits the registration as a protected design or emblem anything which includes an unauthorised representation of

any of the royal flags (i.e., the personal flags of members of the royal family), or

the national flag of the United Kingdom, or

the flags of England, Wales, Scotland, Northern Ireland, or the Isle of Man

if it appears to the registrar that the use would be misleading or grossly offensive, or of

the flag of any country which is a signatory to the Paris Convention for the Protection of Industrial Property or of any international intergovernmental organisation of which one or more of these countries is/are members.

在本法案中提到的旗帜中有一些奇怪之处。一种是它明确禁止使用一种从未实际存在过的旗帜，即北爱尔兰的旗帜；另一种是，它列出了英国三个自治的皇家属地之一（马恩岛）的旗帜，但没有列出另外两个（根西岛和泽西岛）的旗帜。它也为人们创造了无休止的法律纠纷的机会，围绕“对旗帜的冒犯性使用（完全合法）在何种程度上会演变为严重冒犯（不合法）”这一问题。

有关专利、商标、版权、工业设计、地理标志等的规则，包括《巴黎公约》，由世界知识产权组织在全球范围内进行管理，世界知识产权组织是联合国的一个专门机构，成立于1967年。它有193个成员国，并自称为“全球论坛”知识产权服务、政策、信息和合作。” [12]

《保护工业产权巴黎公约》第六条，[13]保护公约成员国的旗帜和其他官方标志，防止未经授权的注册和作为商标使用。这一规定的范围在1958年扩大，除其他外，包括国际政府间组织的旗帜，其中一个或多个国家是公约的成员国。但这篇文章没有追溯性的应用，因此，如果两个或两个以上的国家已经使用了几乎相同的国旗（如乍得、罗马尼亚、印度尼西亚和摩纳哥），两者都不能被迫改变它。

世界知识产权组织的登记册目前包括188幅国旗图片，分别来自57个国家（不包括英国）和32个国际组织。奇怪的是，世界知识产权组织还没有注册它自己的旗帜——可能是因为它的旗帜示波器的质量是如此的平庸，以至于这张图片不太可能被窃取（图9）。



图9. 世界知识产权组织旗帜。

Figure 9. Flag of the WIPO.

The Paris Convention, first adopted as far back as 1883,¹¹ applies to industrial property in the widest sense, including patents, trademarks, trade names, and geographical indications. It has 180 signatory states.

There are a couple of curiosities among the references to flags in this Act. One is that it explicitly prohibits the use as a trade mark of a flag that has never actually existed, i.e., that of Northern Ireland; the other is that it lists the flag of one of Britain's three self-governing Crown Dependencies (the Isle of Man) but not those of the other two (Guernsey and Jersey). It also creates the opportunity for endless legal disputes over the point at which the offensive use of a flag (which is perfectly legal) becomes grossly offensive (which is not).

Rules relating to patents, trade marks, copyright, industrial designs, geographical indications, etc, including the Paris Convention, are administered globally by WIPO, the World Intellectual Property Organisation, which is a specialised agency of the United Nations, founded in 1967. It has 193 member states, and describes itself as "the global forum for intellectual property services, policy, information, and cooperation."¹²

Article 6ter of the Paris Convention for the Protection of Industrial Property¹³ protects flags and other official emblems of the states which are party to the convention against unauthorised registration and use as trademarks. The scope of this provision was extended in 1958 so as to include, *inter alia*, the flags of international intergovernmental organizations of which one or more states which are party to the convention are members. But the article has no retrospective application, so that where two or more countries already use a near-identical flag (e.g., Chad and Romania or Indonesia and Monaco) neither can be compelled to change it.

The WIPO register currently includes 188 images of flags, drawn from 57 countries (not including Britain) and 32 international organisations. Curiously, WIPO has not registered its own flag—possibly because the quality of its vexillography is so mediocre that this image is unlikely to be stolen (fig. 9).

世界知识产权组织还维护着一个名为Lex的数据库，[14]包含其成员国的知识产权法律和法规。其中20个注册法规明确规定了其国旗的使用。英国没有这样的法律，但它已经注册了《1994年商标法》，从而引起了全球观众的注意，从而限制了其国家（和/或皇家）国旗在国外进行商业挪用的范围。

标准法

离版权法不远的是立法和指导的体系，由产品安全和标准办公室监督。2005年一般产品安全条例[15]，通过设定要求和提供一系列规定以确保消费品的合规，提供确保消费品安全的依据。它们规定，当一种产品符合英国自愿性国家标准时，就该标准所涵盖的风险类别而言，应推定为安全产品。公认的国家标准机构是英国标准协会，[16]其网站包含不少于517个以某种方式与标志相关的标准。

然而，更仔细的研究，可以发现旗帜一词在英语中的广泛含义，例如，混凝土铺路旗，或“绝缘液体变压器衬套的连接终端旗帜”（即一种重型电气设备），或“用于标记、旗帜、索引文件、书籍和期刊等的可重新定位的压敏旗帜”——这是一种非常冗长的描述便利贴的方式。是的，法律确实在说“等等”。

至于旗帜学家感兴趣的旗帜的类型，只有四个相关的标准。这些问题涉及海滩安全标志的材料、要求、测试方法、颜色、形状和意义，以及海岸滑台安全标志的选择和使用（图10）。

WIPO also maintains a database, called WIPO Lex,¹⁴ containing the intellectual property laws and regulations of its member states. Twenty of these have registered statutes explicitly regulating the use of their national flags. Britain has no such law, but it has registered the Trade Marks Act 1994, thereby bringing this to the notice of a global audience and thus limiting the scope for commercial appropriation abroad of its national (and/or royal) flags.

Standards law

Not far removed from copyright law is the body of legislation and guidance overseen by the Office for Product Safety and Standards. The General Product Safety Regulations 2005¹⁵ offer the basis for ensuring the safety of consumer goods by setting requirements and providing a range of provisions to secure compliance. They state that when a product conforms to a voluntary national standard of the United Kingdom it shall be presumed to be a safe product so far as the categories of risk covered by the standard are concerned. The recognised national standards body is the British Standards Institution,¹⁶ whose website contains no fewer than 517 standards that relate in some way to “flags”.

Closer examination, however, reveals the wide spectrum of meanings of the word flag in English which can include, for example, concrete paving flags, or “connecting terminal flags for bushings for insulating liquid filled transformers” (i.e., a type of heavy-duty electrical equipment), or “repositionable pressure-sensitive flags used to mark, flag, and index documents, books, periodicals. and so forth”—which is an extraordinarily long-winded way of describing Post-It notes. And yes, the law really does say “and so forth”.

As far as the type of flags which are of interest to vexillologists is concerned, there are only four relevant standards. These are concerned with the materials, requirements, test methods, colour, shape, and meaning of beach safety flags and with the selection and use of coastal slipway safety signs (fig. 10).

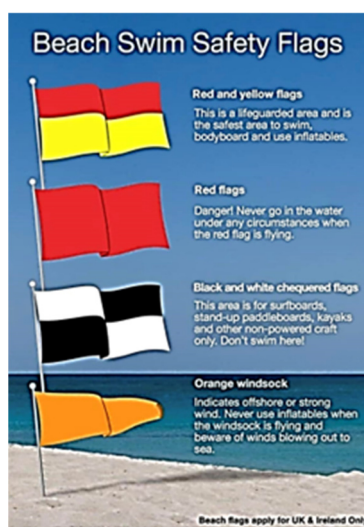


图 10. 海滩游泳安全旗。

Figure 10. Beach Swim Safety Flags.

道路交通法

《1865年机车法》，[17]更广为人知的是“红旗法案”，是在驿站马车和铁路行业的压力下颁布的，以限制他们害怕的来自汽车行业的竞争。虽然它的日期早于石油燃料车辆的发展，但煤动力的“机车”在公共道路上使用。它将城镇无马车辆的速度限制在每小时2英里（每英里），在农村为每小时4英里，每辆车需要三名司机：2名上车，1名举着红旗向前至少走60码（图11）。这个人被要求协助马匹和马车的通过，车辆被要求在他的信号前停下来。该法案一直持续到1878年，即《高速公路和机车（修正案）法案》[18]取消了标志要求。1896年高速公路机车法案，[19]

把车速限制提高到每小时12英里。今天，有关道路车辆和旗帜的法律限制相当少，因为

《2001年道路车辆（展示登记标志）条例》[20]只允许（但不需要）在牌照上展示一面国旗的图像。如果使用了这些图像，就必须显示在铭牌的左侧，并且宽度不超过5厘米。官方允许的国旗是英国国旗和英格兰、苏格兰或威尔士的国旗。英国脱欧后，欧洲国旗不再被官方允许，尽管实际上，在车牌上看到这个——或康沃尔或其他郡的国旗仍然很常见，大概是为了表明一个政治观点（图12）。



图12. 汽车牌照旗帜。 Figure 12. Automobile licence plate flags.

Road traffic law

The Locomotive Act 1865,¹⁷ better known as the “Red Flag Act”, was enacted under pressure from the stagecoach and rail industries to restrict the growing competition they feared from the automobile industry.



图11. 向汽车发出信号的红旗。

Figure 11. The red flag to signal an automobile.

Although its date precedes the development of oil-fuelled vehicles, coal-powered “locomotives” were in use on public roads. It limited the speed of horseless vehicles to 2 miles per hour (mph) in towns and 4 mph in the countryside, and required three drivers for each vehicle—two to travel on board and one to walk at least 60 yards ahead carrying a red flag (fig. 11). This man was required to assist with the passage of horses and carriages, and the vehicle was required to stop at his signal.

The Act survived until 1878, when the Highways and Locomotives (Amendment) Act¹⁸ scrapped the flag requirement. The speed limit was raised to 12 mph by the Locomotives on Highways Act 1896.¹⁹

Today the law relating to road vehicles and flags is rather less restrictive, since the Road Vehicles (Display of Registration Marks) Regulations 2001²⁰ merely permit (but do not require) the display of an image of a flag on licence plates. Such images, if used, must be shown on the left-hand side of the plate and be no more than 5 cm wide. Officially, the permitted flags are the Union flag and the national flags of England, Scotland or Wales. Post-Brexit the European flag is no longer officially allowed, although in practice it is still quite common to see this—or the flag of Cornwall or some other county—on licence plates, presumably to make a political point (fig. 12).

军事法

《女王陆军条例》[21]（首次出版于1731年，此后定期修订），规定了英国军队在指挥和管理中应遵守的政策和程序。当前版本在下次再版时将恢复为《国王条例》。它们是根据1964年国防（职能转让）法案所赋予的权力制定的，[22]并附有以下关于其适用性的声明：

“女王陛下非常高兴地批准以下修订的《女王陆军条例》，并命令他们在所有场合都要严格遵守。应合理和明智地解释，并适当考虑到服务的利益，同时牢记没有试图提供必要和不言而喻的例外情况。各级指挥官应确保可能发出的任何地方命令或指示，都受到本条例的精神和意图的指导。”

这是整个军队的旗帜（图13），它的每个组成单位都有自己的旗帜，被称为团旗。其中一些设计包括卷轴，上面印有该团或单位所参加的战役和战役的名称。这些旗帜曾经在战场上集结军队中发挥了重要作用。最著名的阅兵式在英国（可能是世界）是一年一度的军队阅兵仪式。在这一仪式中，卫队中某个团的旗帜会在现任国王（或女王）面前进行展示，伴随着精确的行进和团乐队演奏的激动人心的音乐（图14）。

这一仪式每年6月在伦敦举行，以庆祝君主的官方生日（他每年有两个生日，因为真正的生日在11月，那时的天气不太适合举行这种表演）。

Military law

The rules governing the military use of flags are set out in The Queen's Regulations for the Army²¹ (first published in 1731 and periodically revised ever since) which lay down the policy and procedure to be observed in the command and administration of the British army. The present edition will revert to being titled "The King's Regulations" when next reissued. They are made under powers conferred by the Defence (Transfer of Functions) Act 1964,²² and are prefaced by the following statement as to their applicability:

"Her Majesty the Queen has been graciously pleased to approve the following revised 'The Queen's Regulations for the Army' and to command that they be strictly observed on all occasions. They are to be interpreted reasonably and intelligently, with due regard to the interests of the Service, bearing in mind that no attempt has been made to provide for necessary and self-evident exceptions. Commanders at all levels are to ensure that any local orders or instructions that may be issued are guided and directed by the spirit and intention of these Regulations."



图 13. 英国陆军的旗帜。

Figure 13. The flag of the British Army.



图 14. 军队阅兵仪式。

Figure 14. Trooping the Colour ceremony.

The whole of the army has a flag (fig. 13), and each of its constituent units has its own flags, known as the regimental colours, some of whose designs include scrolls bearing the names of the battles and campaigns in which that regiment or unit has taken part. These once played an important part in rallying troops on a battlefield. One of the best-known military parades in England (and possibly the world) is the annual Trooping the Colour ceremony, when the colour of one of the guards' regiments is paraded in front of the reigning king (or queen) amidst much precision marching and much playing of stirring music by the regimental bands (fig. 14).

This takes place annually in London on the monarch's official birthday in June (he has two

海军中与陆军旗帜相对应的是白船旗（图 15），自 1606 年以来，每艘皇家海军的军舰都会在船尾悬挂这种旗帜，其使用受到《皇家海军女王条例》的规范。[23]（其中包括英国皇家海军陆战队）。

《国际信号法典》（见下文海上旗帜部分）源于使用旗帜作为海军舰艇之间的交流手段，这种做法可能可以追溯到古希腊。它在 17 世纪被正式编纂为皇家海军，其最著名的用途之一是在 1805 年 10 月 21 日上午 11 点 45 分特拉法加海战即将开始时，由海军中将纳尔逊从他的旗舰 HMS 胜利号上发送的信号“英格兰期望每个人都能履行他的职责”。每年的特拉法加日，英国皇家海军胜利号都会悬挂同样的信号（图 16），这艘船仍然在船尾悬挂白色旗帜，因为尽管她自 1922 年她从未退役过，这使得皇家海军可以说她是世界上服役时间最长的军舰。

英国皇家空军有自己版本的女王条例，[24]还有它自己的旗帜，在淡蓝色的田野上显示出红色、白色和深蓝色的同心圆环（或圆形）（图 17）。同样的颜色也用于红箭产生的烟雾痕迹，英国皇家空军的特技飞行表演（图 18）。

birthdays every year, because the real one is in November when the weather is less likely to be suitable for this kind of performance).



图 15. 英国海军旗。

Figure 15. The British naval ensign.



图 16. 纳尔逊将军在胜利号战舰上发出的著名信号。

Figure 16. Admiral Nelson's famous signal on HMS *Victory*.

The naval equivalent of the army flag is the white ensign (fig. 15), flown since 1606 at the stern of every ship commissioned in the Royal Navy, the use of which is governed by the Queen's Regulations for the Royal Navy²³ (which includes the Royal Marines). The International Code of Signals (see section on Maritime flags below) grew out of the use of flags as a means of communication between naval vessels, a practice which may possibly date back to the ancient Greeks. It was formally codified for the Royal Navy in the 17th century, and one of its best-known uses was to transmit the signal "England expects that every man will do his duty", sent by Vice-Admiral Nelson from his flagship HMS *Victory* as the Battle of Trafalgar was about to commence at 11.45 a.m. on 21 October 1805. The same signal is hoisted on HMS *Victory* on Trafalgar Day each year (fig. 16), and the ship still flies the white ensign at her stern because—although she has been in dry dock since 1922—she has never been decommissioned, allowing the Royal Navy to claim her to be the longest serving warship anywhere in the world.

The Royal Air Force has its own version of the Queen's Regulations,²⁴ and its own flag, showing the concentric rings (or roundel) of red, white, and dark blue on a pale blue field (fig. 17). The same colours are used for the smoke trails produced by the Red Arrows, the RAF's aerobatic display team (fig. 18).



图 17. 皇家空军旗。

Figure 17. The Royal Air Force flag.



图 18. 英国皇家空军特技表演队的烟迹。

Figure 18. The Red Arrows' smoke trail.

墨西哥-统计学家可能需要注意的是，陆军版本的条例在494页中提到了194次旗帜，海军法规在779页中提到了728次，而空军法规在502页中只提到了98次。海军条例中更多的引用反映了管理在船上使用国旗的规则的特殊复杂性。

这三套法规包含了关于军旗（包括标准、标志、颜色、三角旗、燕尾旗和旗幡等不同类型）的展示、祝圣和处理的详细规则。用旗帜敬礼的规定，悬挂皇家和其他个人标准的规定，高级军官使用识别旗帜的规定，在军事总部和其他被称为“旗帜站”的机构展示旗帜的规定，在船只、飞机和汽车上使用旗帜的规定，在各种公职人员和军事人员去世时降半旗的规定，在葬礼和哀悼期间使用旗帜的规定，以及关于为慈善筹款而举行的“旗帜日”的规定。

《女王陆军条例》中一个特别有趣的章节涉及“封存”因破损不再适合日常使用的军旗。（图19）。这通常是在教堂进行的，但也可以放在博物馆或其他公共建筑中。军旗会被永久封存，但若旗帜最终完全破损，条例中有详细规则规定如何火化或安葬布料碎片，以及如何处理旗杆、流苏等旗帜其他部件。

Vexi-statisticians may care to note that the army version of the regulations refers to flags 194 times in 494 pages, the naval regulations do so 728 times in 779 pages, and the air force regulations do so a mere 98 times in 502 pages. The greater number of references in the naval regulations reflects the particular complexity of the rules governing the use of flags on board ships.

All three sets of regulations contain lengthy and detailed rules relating to the presentation, consecration and disposal of standards, guidons, colours, burgees, and pennants (i.e., the various types of military flag), to saluting with flags, to the hoisting of the royal and other personal standards, to the use of distinguishing flags by senior officers, to the display of flags at military headquarters and other establishments known as “flag stations”, to the use of flags on ships, aircraft, and motor cars, to the half-masting of flags on the death of the holders of various public offices and of military personnel, to the use of flags at funerals and in periods of mourning, and to the holding of “flag days” for charitable fund-raising.



图 19. 军旗在教堂里“封存”。

Figure 19. Military flags “laid up” in a church.

One especially interesting section of the Queen's Regulations is that which deals with the “laying up” of military flags when their condition means that they are no longer fit for regular use (fig. 19). This is often done in churches but can be done in museums or other public buildings. Flags are laid up in perpetuity, but when and if they disintegrate completely there are detailed rules governing how the fragments of cloth are to be cremated or buried, and

“旗官”这个术语用来指代那些级别足够高，有权悬挂旗帜以标记他们行使指挥权位置的任何人。[25] “旗舰”是由一组海军舰艇的指挥官使用的船只。更宽泛地使用时，它是舰队中的第一艘、最大、最快、武装最重或最知名的船只。多年来，“旗舰”这个术语已经成为广播、车辆、教育、航空公司和零售等行业的隐喻，用来指代它们的最高知名度或最昂贵的产品和地点《女王陆军条例》对军人具有约束力，但它们不是民事法律的一部分，因此平民遵守其规定是出于礼貌而非法律要求。

海事法

关于英国注册商船的管理法规是《1995年商船法》，[26] 其中包含了一些与旗帜有关的规定。最重要的是，一艘在英国注册的船只唯一有权悬挂的旗帜是红旗（图20），除非政府特别授权它悬挂其他颜色。英国船只的船长或船主为隐瞒其国籍而做出或允许做出任何事情（如悬挂国旗），即属刑事犯罪。同样，任何非英国船只的船长的船长或所有人，为了使其看起来是英国船只而采取或允许做任何事情（例如悬挂红旗），均属犯罪。有一个有趣的例外，即“为了逃避敌人或外国战船而承担英国国籍，则不承担任何责任。”



图 20. 英国红船旗。

Figure 20. The British red ensign.

how other elements of the flag, such as the pike or tassels, are to be treated.

The term “flag officer” is used to denote anyone of sufficiently senior rank to be entitled to fly a flag to mark the position from which they exercise command.²⁵ A “flagship” is the vessel used by the commanding officer of a group of naval ships. Used more loosely, it is the lead ship in a fleet of vessels, typically the first, largest, fastest, most heavily armed, or best known. Over the years, the term “flagship” has become a metaphor used in industries such as broadcasting, vehicles, education, airlines, and retailing to refer to their highest profile or most expensive products and locations.

The Queen’s Regulations are binding on service personnel, but they are not part of the civil legal code and therefore observance of their provisions by civilians is a matter of courtesy rather than law.

Maritime law

The governing statute for British-registered merchant vessels is the Merchant Shipping Act 1995,²⁶ which contains a number of provisions relating to flags. The most important is that the only flag which a British-registered ship is entitled to fly is the red ensign (fig. 20), unless it has been specifically authorised by the government to fly some other colours. It is a criminal offence for the master or owner of a British ship to do or permit anything to be done (such as the flying of a national flag) for the purpose of concealing its nationality. Similarly, it is an offence for the master or owner of any ship which is not a British ship to do or permit anything to be done (such as the flying of the red ensign) for the purpose of causing it to appear to be a British ship. There is an interesting exception to this, which is that “no liability arises where the assumption of British nationality has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.”

“在任何英国船只上未经特别授权悬挂除红船旗或带有白边的联合旗帜（即民用旗，不常见）之外的任何独特国家颜色，或通常由陛下的船只佩戴或携带的任何颜色或标志，或类似于陛下的船只的标志（在外国港口作为礼节旗帜除外）（图

21），也是违法行为。除了渔船以外的每艘英国船只在陛下的船只向其发出信号时，以及在进入或离开任何外国港口时，都有义务悬挂红船旗——对于总吨位50吨或以上的船只，在进入或离开任何英国港口时也必须这样做。

除了《商船法》的正式法律要求外，还有大量航海传统（即航海界对行为的期望）通常被称为船旗礼仪。这方面的详细信息由皇家游艇协会（RYA）公布，[27] 涵盖诸如市民、礼仪旗、信号旗和房屋旗帜的大小、维护和展示等事项，以及海上不使用“陆地旗帜”（如英国国旗、威尔士龙旗以及圣乔治十字旗、圣安德鲁十字旗和圣帕特里克十字旗），因为它们海上具有特殊含义，它们可能会被误解为信号旗或代码旗。RYA 有一个非常好的旗帜，但作为品牌重塑活动的一部分，它被一个非常可疑的替代品所取代（图22）。

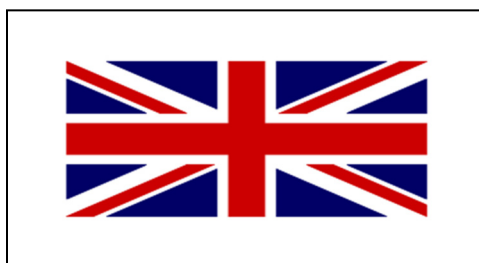


图 21. 英国民用船首旗。

Figure 21. The British civil jack.

It is also an offence to hoist (without specific authorisation) on board any British ship any distinctive national colours other than the red ensign or the Union flag with white borders (i.e., the civil jack, which is not often seen) (fig. 21), or any colours or pendant usually worn or carried by His Majesty's ships or resembling those of His Majesty (except as a

courtesy flag when in a foreign port). Every British ship other than a fishing vessel has a duty to hoist the red ensign on a signal being made to it by one of His Majesty's ships, and on entering or leaving any foreign port, and—in the case of ships of 50 or more tons gross tonnage—on entering or leaving any British port.

In addition to the formal legal requirements of the Merchant Shipping Act, there is a substantial body of maritime tradition (i.e., expectations of behaviour within the seafaring community) generally referred to as flag etiquette. Details of this are published by the Royal Yachting Association (RYA),²⁷ and cover such matters as the size, upkeep and display of burgees, courtesy flags, signal flags, and house flags, as well as the non-use of at sea of “land flags” such as the Union flag, the Welsh dragon, and the crosses of Saints George, Andrew, and Patrick because these have special meanings at sea where they can be misinterpreted as signal or code flags. The RYA had a perfectly good ensign but has replaced it with a very questionable substitute as part of a rebranding exercise (fig. 22).



图 22. 皇家游艇协会的前任和现任旗帜。

Figure 22. Former and current flags of the Royal Yachting Association.



图 23. 国际信号规则。 Figure 23. International Code of Signals.

国际信号准则[28]现在由国际海事组织维护，[29]联合国专门机构成立于1958年，有176个成员国（图23）。该代码是一个国际上供用户使用的信号系统，能传达有关导航安全和相关事项的重要信息，可通过各种方式发送，包括标志信号。对于英国商船队来说，它在1855年正式起源于贸易委员会（尽管它早在那之前就被皇家海军使用），并从1901年开始被作为世界标准采用。

它由一个标准化的字母表（字母A到Z和十位数字），以及每个字母的口语形式（以避免混淆发音相似的字母，如“b”、“p”和“v”），并将这个字母表与标准化的旗帜联系起来。它们有简单大胆的设计，最多有三种颜色，因为从远处可以立即正确识别它们是至关重要的。

这些字母数字字符的组合被用作各种标准化消息的代码。例如，Alfa意味着“我有潜水员在水下；请保持距离，慢速行驶。”，Bravo意味着“我正在装卸或携带危险物品”，Charlie意味

The International Code of Signals²⁸ is now maintained by the International Maritime Organisation,²⁹ a specialised agency of the United Nations founded in 1958 and with 176 states in membership (fig. 23). The Code is an international system of signals for use by vessels to communicate important messages regarding safety of navigation and related matters, which can be sent by various means including flag semaphore. For the British merchant navy, it officially originated with the Board of Trade in 1855 (although it had been in use by the Royal Navy long before then) and has been adopted as a world-wide standard since 1901.

It consists of a standardized alphabet (the letters A to Z and the ten digits), along with a spoken form of each letter (to avoid confusing similar-sounding letters, such as “b”, “p”, and “v”), and associating this alphabet with standardized flags. These have simple bold designs, and a maximum of three colours, because it is critically important that they should be instantly and correctly recognisable from a distance at sea.

Combinations of these alphanumeric characters are assigned as codes for various standardized messages. For example, Alfa means “I have a diver down; keep well clear at slow speed”, Bravo means “I am taking

着“肯定”，Delta意味着“请与我保持距离；我正在困难地操纵”，Echo意味着“我正在向右转舵”，等等。[30] 但再次强调，就像与旗帜相关的许多事物一样，这个代码没有正式的法律支持——它之所以有效，仅仅是因为对有可能需要使用它的人来说都是有意义的。

教会法

英格兰长期以来享有完全的宗教自由。每个人都有权选择他们信仰的宗教，或者实际上不信仰任何宗教。但由于可以追溯到16世纪新教改革和17世纪宗教战争的历史原因，基督教的英国国教分支仍然是“国教”，这一地位赋予了它某些特殊特权——尤其是其26位最高级别的主教有权自动在上议院拥有席位。尽管如此，现在只有15%的英格兰成年人认同英国国教，而活跃的追随者则更少。

这一地位也带来了与旗帜相关的某些传统。这些传统在旗帜研究所出版的《教堂旗帜》一书中得到了非常有用的阐述（图24）。[31] 这本书解释了哪些旗帜（和/或旗幡）可以在英国国教的建筑和场所上悬挂，何时以及如何悬挂，旗帜作为棺材上的覆盖物的使用，以及如何照顾旧旗帜。它顺便提到，其他基督教派别也有一一并使用——他们自己的旗帜。但所有这些指导性，不是法律，直到我们涉及到教区管辖权的问题。这是一种制度，英国国教和其他四个主要基督教派别直接对教堂和教堂墓地行使规划控制权，取代了地方规划当局。

in or discharging or carrying dangerous goods”, Charlie means “Affirmative”, Delta means “Keep clear of me; I am manoeuvring with difficulty”, Echo means “I am altering my course to starboard”, and so on.³⁰ But once again, as with so much that relates to flags, there is no formal legal backing for this code—it works simply because it makes sense to everyone who may need to use it.

Ecclesiastical law

England has long enjoyed complete religious freedom. Everyone is entitled to subscribe to the religion of his or her choice or, indeed, to none. But for historical reasons that date back to the Protestant reformation in the 16th century and the religious wars of the 17th, the Anglican branch of Christianity remains the “established church”, a status which gives it certain special privileges—not least the right of its 26 most senior bishops to sit *ex officio* in the House of Lords. This is despite the fact that only 15% of English adults now identify with Anglicanism, and many fewer are active followers.

This status also brings with it certain traditions in relation to flags. These are set out very helpfully in a Flag Institute publication called *Flags for Churches* (fig. 24).³¹ This explains which flags (and/or pennants) can be flown on Church of England buildings and premises, when and how they should be flown, the use of flags as palls on coffins, and how to look after old flags. It notes in passing that other Christian denominations have—and use—their own flags. But all of this is guidance, not law, until we come to the matter of Faculty Jurisdiction. It is a system whereby the Church of England and four other major Christian denominations directly exercise planning control over churches and churchyards, in place of the local planning authority.



图 24. 《教堂旗帜》，旗帜研究所出版物。

Figure 24. *Flags for Churches*, a Flag Institute publication.

他们这样做要归功于两项标题简单的次要立法，即《2010年教会豁免（列出的建筑和保护区）（英格兰）令》[32]以及《2019年教师管辖权（修正案）规则》，[33]使这些房屋免受与历史建筑和保护区有关的正常规划限制，并管理教区在未经许可的情况下可以做什么。因此，这意味着，例如，如果一个教区希望在教堂墓地或教堂塔顶上竖立一根旗杆，它不必获得规划同意。

但学院的规定明确排除了“放置旗帜，或移除或处置已放下的旗帜”。如前所述，搁置是指保存旧军旗脆弱时需要更换时的做法。正如已经讨论过的那样，管理这种做法的规则在女王的条例中有规定。但教堂也可能装有其他旗帜，例如代表国家授予的骑士勋章以表彰军事或民事功绩的旗帜。

这张照片展示了悬挂在伦敦威斯敏斯特教堂亨利七世教堂的巴斯骑士的个人旗帜（图25）。色彩缤纷的旗帜与屋顶错综复杂的扇形拱顶和哥特式拱形窗户的结合，形成了一幅令人惊叹的形象。

英国国教会提供了关于如何处理和保存历史旗帜的详细指导，这是一项高度专业化的技能。不可避免的是，会不时出现关于使用教堂中保存的旗帜和旗帜的问题，教会有自己的内部法学体系，即宗教法庭，[34]通过它可以解决这些问题。

They do so thanks to two pithily titled pieces of secondary legislation, the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010³² and the Faculty Jurisdiction (Amendment) Rules 2019,³³ which exempt these premises from the normal planning restrictions relating to historic buildings and conservation areas and govern what parishes can do without seeking permission. So it means that, for instance, if a parish wishes to erect a flagpole in a churchyard or on top of a church tower, it does not have to obtain planning consent to do so.

But the Faculty Rules specifically exclude the “laying up of flags, or the removal or disposal of flags that have been laid up”. As already mentioned, laying up is the term used for the practice of preserving old military flags when their fragile condition requires them to be replaced. The rules governing this practice are set out in the Queen’s Regulations, as already discussed. But churches may also contain other flags,

such as the banners representing the members of orders of chivalry awarded by the state as honours in recognition of military or civil merit.

The personal banners of the Knights of the Order of the Bath hang in King Henry VII’s chapel in Westminster Abbey in London (fig. 25). The combination of the colourful flags with the intricate fan vaulting of the roof and the Gothic-arched windows makes for a stunning image.

Detailed guidance is provided by the Church of England on how historic flags should be treated and conserved, which is a highly specialised skill. Inevitably, issues will arise from time to time regarding the use of flags and banners preserved in churches, and the Church has its own internal system of jurisprudence, the Consistory Court,³⁴ by means of which these can be resolved.



图 25. 威斯敏斯特大教堂内的巴斯勋章旗帜。

Figure 25. Order of the Bath banners in Westminster Abbey.

消费者保护法

2008年的《消费者保护免受不公平交易法规》[35]是一系列法律的一部分，这些法律旨在规范商业活动，并确保在市场（在这个术语的最广泛意义上）中遵守道德标准。支撑这一体系的执行机制之一是广告标准局（ASA）[36]，其存在的目的是保护消费者免受误导性声明的侵害。它发布了两套准则，一套针对广播广告，另一套针对非广播广告和销售材料，为广告商、代理机构和媒体渠道设定了遵循的规则。这些准则并非法律，但它们构成了良好实践，因此，通常来说，有真诚意图遵守这些准则的证据将是对抗任何不当行为指控的有效辩护。

就在广告中使用国旗而言，ASA的建议是，营销人员可以在其营销传播中使用国旗，只要这样做不会造成严重或广泛的冒犯或严重误导消费者。他们必须避免错误地暗示官方的承认或认可，他们必须注意不要暗示一个误导性的原籍国，他们必须确保他们得到拥有国旗的机构的任何必要许可。

外交法

在汽车上使用标志来识别被各国或组织的官方代表所乘坐的车辆。这些旗帜被称为外交旗帜，悬挂在固定于汽车引擎盖（或发动机罩）两侧的小型旗杆上。在英国，车辆会在左侧行驶，主方官员通常坐在后排左侧座位，客方官员坐在右侧座位。如果双方官员来自不同国家或具有不同身份级别，他们各自的国旗将悬挂在其座位对应的车身一侧。

就像英国大量使用国旗一样，这通常是一个惯例问题，而不是法律问题。但在外交工具上使用旗帜实际上是两项国际条约明确允许的。一个是1963年的《维也纳领事关系公约》，[37]其

Consumer protection law

The Consumer Protection from Unfair Trading Regulations 2008³⁵ are part of a substantial body of law which exists to regulate commercial activity and to ensure that ethical standards are observed in the marketplace (in the widest sense of this term). Part of the enforcement mechanism which underpins this is the Advertising Standards Authority (ASA),³⁶ which exists to protect consumers from misleading claims. It publishes two codes, one for broadcast advertisements and one for non-broadcasting advertising and sales materials, which lay down rules for advertisers, agencies, and media outlets to follow. These codes are not law, but they constitute good practice, so evidence of a *bona fide* intent to act in compliance with them would normally be a valid defence against any accusation of malpractice.

As far as the use of flags in advertisements is concerned, the ASA's advice is that marketers may feature national flags in their marketing communications provided that by doing so they do not cause serious or widespread offence or materially mislead consumers. They must avoid falsely implying official recognition or endorsement, they must take care not to imply a misleading country of origin, and they must make sure that they have any requisite permissions from flag-owning bodies.

Diplomatic law

Flags are used on cars to identify vehicles occupied by the official representatives of countries or organisations. These are referred to as diplomatic flags and are flown from miniature staffs affixed to the wings of the car's bonnet (or hood). In England, traffic drives on the left, and a host official will normally sit on the left-hand side of the rear seat, with a guest official on the right-hand side. If the officials are from different countries, or have different personal standards, their respective flags will be flown on whichever side of the car they are seated.

As with so much of flag use in Britain, this is generally a matter of custom and practice rather than law. But the use of flags on diplomatic vehicles is in fact expressly permitted by two international treaties. One is the Vienna Convention on Consular Relations 1963,³⁷ article 29 of which states that:

中第29条规定，“派遣国有权使用其国旗……根据本条的规定，在接受国使用。派遣国的国旗可以……在领事馆占用的建筑物和入口门、领事馆负责人的住所和从事公务时的交通工具上悬挂。在行使本条所赋予的权利时，应当参照接受国的法律、法规和惯例。”

1961年《维也纳外交关系公约》第20条[38]对外交使团团团长作出类似的规定。

英国大使们有一面官方国旗，上面有君主盾形纹章的英国国旗，他们的车辆——尽管出于明显的原因，这在英国本身通常看不到（图26）。



图 26. 大使旗。

Figure 26. Ambassadorial flag.

“The sending State shall have the right to the use of its national flag ... in the receiving State in accordance with the provisions of this article ... The national flag of the sending State may be flown ... on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post, and on his means of transport when used on official business ... In the exercise of the right accorded by this article regard shall be had to the laws, regulations, and usages of the receiving State.”

Article 20 of the Vienna Convention on Diplomatic Relations 1961³⁸ makes similar provision in relation to the heads of diplomatic missions.

British ambassadors have an official flag, which consists of the Union Flag defaced with the coat of arms of the monarch, and it is this which is used on their vehicles—though for obvious reasons this is not normally to be seen in Britain itself (fig. 26)

最后，土地利用规划法

最后，但绝非最不重要的，是与旗帜学家和一般旗帜使用者最相关的立法体系。这就是土地使用规划法，特别是2007年的《城乡规划（广告控制）条例》（在2012年和2021年进行了修订）。[39] 这些条例的范围远不止旗帜，涵盖了各种类型的广告，包括（例如）选举中推广候选人的海报、气球上的广告，甚至电话亭中广告。但它们对旗帜使用者很重要，因为它们规定了在英格兰，旗帜被视为规划制度下的广告，以确保它们不会对安全或便利造成不利影响。

政府的“提升、住房与社区部”在网上发布了一份名为《悬挂旗帜：简易实用指南》的文

And finally ... land use planning law

Last, but far from least, is the body of legislation which has easily the greatest relevance to vexillologists and to flag users generally. This is land use planning law, and specifically the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended in 2012 and in 2021).³⁹ These regulations range far more widely than flags and cover all sorts of advertising including (for example) posters promoting candidates in elections, advertisements on balloons, and even advertisements in telephone kiosks. But they are important to flag users because they lay down that in England flags are treated as advertisements for the purposes of the planning regime, to ensure that they do not impact adversely on safety or amenity.

The government's Department for Levelling Up, Housing and Communities has helpfully published, on-line, a document titled *Flying flags: a plain English guide*.⁴⁰ This claims in its introduction that

件，这份文件非常有帮助。[40] 它在引言中声称，“旗帜是表达喜悦和骄傲的非常英国的方式——它们是情感的象征，可以增强地方和国家认同，加强社区凝聚力，彰显公民自豪感。”为什么这使得它们“非常英国”并没有解释，因为几乎任何其他国家也可以提出同样的主张，旗帜的普遍吸引力就是如此。

该指南继续说，“政府希望看到更多的旗帜被悬挂，特别是联合旗帜……它是国家团结和自豪的象征。政府最近发布了指导方针，鼓励在全年期间在所有英国政府建筑上悬挂联合旗帜，以及其他国家和地方旗帜。我们希望地方政府和其他当地组织也能效仿。我们已经让联合旗帜更容易与其他旗帜一起悬挂，这样组织就可以突出他们的地方身份，以及他们的国家身份，并庆祝特别的日子或活动，以彰显公民自豪感。”

所有旗帜悬挂都需遵守一些标准条件。由于篇幅限制，无法详细描述这些条件，但总的来说，所有旗帜必须：

- 保持良好状态，不损害场所的整体视觉效果；
- 保持安全状态；
- 获得展示旗帜的场地所有者的许可；
- 不遮挡官方的道路、铁路、水路或航空标志；
- 在规划当局要求时小心移除。

在遵守这些标准条件的前提下，旗帜分为三类：

(a) 不需要规划许可的旗帜。这些包括任何国家的国旗、英国是成员的任何国际组织的旗帜、英国任何地方当局或地区或英国以外任何行政区的旗帜、任何陛下军队的旗帜，以及武装部队日旗帜。

(b) 在遵守关于其大小、数量、位置和旗杆高度的某些限制的情况下，不需要同意的旗帜。这

“Flags are a very British way of expressing joy and pride—they are emotive symbols which can boost local and national identities, strengthen community cohesion and mark civic pride.” Why this makes them “very British” is not explained, since the same could be claimed by almost any other country too, such is the universal appeal of flags.

The guide goes on say that “The government wants to see more flags flown, particularly the Union Flag ... It is a symbol of national unity and pride. The government has recently issued guidance encouraging the flying of the Union Flag on all UK government buildings throughout the year, alongside other national and local flags. We are keen for local authorities and other local organisations to follow suit. We have made it easier for the Union Flag to be flown alongside other flags, so organisations can highlight their local identities, as well as their national identities, and celebrate special days or events which champion civic pride.”

All flag-flying is subject to some standard conditions. Space does not allow these to be described in detail, but in summary all flags must:

- be maintained in a condition that does not impair the overall visual appearance of the site,
- be kept in a safe condition,
- have the permission of the owner of the site on which they are displayed,
- not obscure official road, rail, waterway or aircraft signs, and
- be removed carefully where so required by the planning authority.

Subject to compliance with these standard conditions, there are three categories of flag:

a) Flags which do not require planning consent. These include any country's national flag, the flag of any international organisation of which Britain is a member, the flag of any local authority or locality in Britain or any administrative area outside Britain, any flag of His Majesty's forces, and the Armed Forces Day flag.

b) Flags which do not require consent subject to compliance with certain restrictions on their size, number, positioning, and the height of their poles. These include personal flags, corporate house flags, sports club flags, the Rainbow flag, the flags of certain

些包括个人旗帜、公司旗帜、体育俱乐部旗帜、彩虹旗、某些奖励计划的旗帜（如投资人和人民以及蓝旗和绿旗奖（分别针对海滩和公园）），以及英国国家医疗服务体系（NHS）旗帜。

(c) 所有其他需要规划许可的旗帜。

在这些列表包括武装部队日和NHS旗帜有些令人惊讶，因为两者都没有正式的存在或普遍认同的设计，而且两者都违反了旗帜学中反对在旗帜上使用字母的原则（图27）。



图 27. 武装部队日和国家医疗服务体系旗帜。

Figure 27. Flags of Armed Forces Day and the National Health Service.

在英格兰最近的一个发展是，足球迷在国际系列赛期间在汽车上使用国旗来表达他们的忠诚（图28）。为什么许多英格兰球迷选择在国旗上加上他们国家的名字尚不清楚，因为国旗的象征意义应该不言而喻。从法律上讲，这些旗帜视为广告，《城镇和乡村规划（广告控制）条例》第 39 条的规定与《1986 年道路车辆（建造和使用）条例》[41] 一起适用，该条例禁止附加任何可能遮挡驾驶员前方交通视线或可能对行人或其他道路使用者构成危险的东西。



图 28. 英国体育迷的车旗。

Figure 28. An English sporting fan's car flags.

One fairly recent development in England is the habit of football fans using flags on cars to display their allegiance during international series (fig. 28). Why

many England fans choose to add the name of their country to its flag is not clear, since the symbolism of the flag should speak for itself. Legally speaking, these flags are advertisements, and the provisions of the Town and Country Planning (Control of Advertisements) Regulations 39 apply, together with the Road Vehicles (Construction and Use) Regulations 1986⁴¹ which prohibit the attachment of anything which may obscure the driver's view

of traffic ahead or which may constitute a danger to pedestrians or other road users.

建议司机：“在放置要展示的标志时，必须确保它不会妨碍驾驶员的能见度，因为这可能会给道路带来麻烦。旗帜的放置方式应不会妨碍驾驶员对窗户或后视镜的视线，从而最大限度地降低事故风险。”

“此外，考虑对其他司机的潜在影响至关重要；旗帜挡住他们的视线或造成干扰可能会导致危险情况。因此，仔细放置和考虑旗帜对于维护所有道路使用者的安全至关重要。” [42] 不难找到没有严格遵循这一建议的情况的例子。

最佳的实践方案

这就是英格兰法律所涉及的范围，人们可能会认为这已经足够了。但它并没有涵盖旗帜使用中可能出现的其他一系列问题。这些问题包括：当多面旗帜一起悬挂时的优先顺序和定位、旗帜的升起和降下、从桅杆上悬挂旗帜、在游行中携带旗帜、垂直悬挂旗帜、在单根旗杆上悬挂多面旗帜、将旗帜用作棺槨上的覆盖物、在车辆上（包括飞机）悬挂或绘制旗帜、将旗帜用作制服上的肩章、使用三角旗、降半旗作为哀悼的标志，以及旗帜的正确保养和处理。

幸运的是，帮助就在眼前，因为由格雷厄姆巴特拉姆（旗帜研究所的首席旗帜学家）撰写的小册子23《英国旗帜悬挂指南》[43]，详细阐述了管理所有这些事项的既定但非官方的规则（图29）。该书由旗帜研究所和议会旗帜与纹章委员会共同赞助出版，可以从研究所的网站上免费下载。

Drivers are advised: “When positioning a flag for display, it’s essential to ensure it doesn’t impede a driver’s visibility, as this could spell trouble on the road. Flags should be placed in such a way that they do not obstruct the driver’s view of windows or rear-view mirrors, minimizing the risk of accidents.”

“Furthermore, it’s crucial to consider the potential impact on other drivers; a flag blocking their view or causing distractions could lead to hazardous situations. Therefore, careful placement and consideration of flags are paramount to maintaining safety for all road users.”⁴² Examples of situations in which this advice has not been closely followed are not hard to find.

Good practice protocols

This is as far as the law goes in England, and it may be thought probably to be far enough. But it does not cover a whole range of other questions which can and do arise in the use of flags. These include the order of precedence and positioning when multiple flags are flown together, the raising and lowering of flags, the flying of flags from yardarms, the carrying of flags in processions, the hanging of flags vertically, the flying of multiple flags on a single pole, the use of flags as palls on coffins, the flying or painting of flags on vehicles including aircraft, the use of flags as shoulder patches on uniforms, the use of pennants, the half-masting of flags as a sign of mourning, and the proper care and disposal of flags.

Fortunately, help is at hand, because the well-established but non-statutory protocols governing all of these matters are set out in the booklet *Flying Flags in the United Kingdom*,⁴³ authored by Graham Bartram (the Flag Institute’s Chief Vexillologist) (fig. 29). It is published under the joint auspices of the Institute and the Parliamentary Flags and Heraldry Committee and is downloadable free of charge from the Institute’s website.



图 29.《英国旗帜悬挂指南》是旗帜研究所的出版物。

Figure 29. *Flying Flags in the United Kingdom*, a Flag Institute publication.

结束语

这张照片中的红箭飞行表演队的飞机尾部装饰着一种相当花哨的联合旗帜版本，这可能在某种程度上反映出英国人（除了在北爱尔兰，那里使用它具有强烈的政治含义）对他们国旗的普遍态度。我们很少有法律规范其使用，除了军事用途外，即使那些确实存在的法律也是以相当临时的方式采纳的，并不是所有人都知道，当然也不是严格执行的。因此，你可以看到它被用作各种设计元素的例子，正如这些图片所说明的。你可以看到这个来自英国知名连锁店的袋子背后有同样的心态，该连锁店正在寻求宣传其对英国水果种植者的支持。

我认为，这些例子表明，英国人通常对这个标志有一种相当放松的态度。这种态度是否可以被恰当地描述为成熟，这是一个意见问题。如果你在街上焚烧一面英国国旗，或者以其他方式亵渎它，在英国，这种行为可能会被许多人认为是低级趣味的，但肯定不是犯罪，除非你故意试图破坏和平。这面旗帜已经存在了400多年，因此在大部分时间里被认为是理所当然的（图30）。

这里是一些非正式使用这面旗帜的进一步例子——女士们在皇家婚礼上观礼。一位（当时）未来的英国首相被晾在一边，以及一个机场，人们被邀请踩着旗帜才能进入国家。我确实感到好奇——我只是将此作为一个可能的辩论话题提出——为什么有些其他国家似乎赋予这些标志更深层的象征意义，因此选择制定法律要求更加尊敬地对待他们的旗帜？可能在学术界某处有一篇论文我没有发现，但如果没有，我认为至少有一个硕士学位等待着愿意撰写论文探讨不同国家对他们各自旗帜的态度，以及这些态度对他们集体性格的启示。这个想法至少值得讨论。

A closing thought

The picture of the Red Arrows planes with a rather jazzed up version of the Union Flag on their tails may be indicative of something rather more profound when it comes to the attitude of British people in general towards their national flag (other than in Northern Ireland, where its use has strong political overtones). We have very few laws regulating its use, except by the military, and even those which do exist have been adopted on a rather *ad hoc* basis, are not all widely known and are certainly not rigidly enforced. So one can see examples of it being used as a design element in all sorts of ways, as these images serve to illustrate. And you can see the same mentality behind the carrier bag from a well-known British chain store, which is seeking to advertise its support for British fruit growers.

What these examples demonstrate, I think, is that the British generally have a quite relaxed attitude towards this emblem. Whether that attitude can properly be characterised as mature is a matter of opinion. If you were to burn a Union Flag in the street, or otherwise desecrate it, in England such conduct might be regarded by many people as being in poor taste, but certainly not criminal unless you were deliberately seeking to commit a breach of the peace. The flag's been around for more than 400 years and is therefore largely taken for granted. (fig. 30).

Further examples show its informal use—of a (then) future British prime minister being hung out to dry, of ladies spectating at a royal wedding, and of an airport at which one is invited to walk over the flag in order to enter the country. I do wonder—and I simply offer this as a possible topic for debate—why it is that some other countries appear to invest these emblems with deeper symbolism and therefore choose to have laws requiring their flags to be treated rather more reverently? It may be that there is a paper on this somewhere out there in academia, which I've not discovered, but if not, I think there's at least a master's degree awaiting whoever who is prepared to write a thesis exploring different countries' attitudes to their respective flags, and what insights these offer into their collective personalities. It's an idea which at least merits discussion.



图 30. 英国国旗使用的当代例子。

Figure 30. Contemporary examples of British flag use.



尾注

1. 苏格兰与英格兰联合法案1706
2. 爱尔兰与英国联合法案1800
3. 2000年人权法案
4. 纹章学
5. 英国国旗
6. 纹章法
7. 2024年英国国旗升旗日
8. 1986年公共秩序法案
9. 2000年恐怖主义法案
10. 1994年刑事司法和公共秩序法案
11. 保护工业产权巴黎公约
12. 世界知识产权组织（WIPO）的介绍页面
13. WIPO第6条
14. WIPO Lex主要立法数据库
15. 2005年一般产品安全条例
16. BSI集团
17. 1865年机车法案
18. 维多利亚女王41-42年法案第77号
19. 1896年36号法案
20. 2001年561号法案
21. 英军1975年女王条例
22. 1964年国防（职能转移）法案
23. 英国皇家海军条例
24. 英国皇家女子空军条例修订版
25. 军官旗语
26. 1995年商船法案
27. 皇家游艇协会
28. 国际信号代码
29. 国际海事组织介绍
30. 航海旗帜背后的意义及如何理解它们

End Notes

- ¹ <legislation.gov.uk/aep/Ann/6/11/contents>
- ² <legislation.gov.uk/apgb/Geo3/39-40/67/contents>
- ³ <legislation.gov.uk/ukpga/Geo5/10-11/67/contents>
- ⁴ <britannica.com/topic/heraldry>
- ⁵ <en.wikipedia.org/wiki/Flag_of_the_United_Kingdom#cite_note13>
- ⁶ <college-of-arms.gov.uk/resources/the-law-of-arms>
- ⁷ <college-of-arms.gov.uk/resources/flag-flying-days-2024>
- ⁸ <legislation.gov.uk/ukpga/1986/64>
- ⁹ <legislation.gov.uk/ukpga/2000/11>
- ¹⁰ <legislation.gov.uk/ukpga/1994/26>
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- ¹² <wipo.int/about-wipo/en/>
- ¹³ <wipo.int/web/article-6ter>
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- ¹⁶ <bsigroup.com/en-GB/>
- ¹⁷ <vlex.co.uk/vid/locomotives-act-1865-808255757>
- ¹⁸ <legislation.gov.uk/ukpga/Vict/41-42/77>
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- ³⁰ <nauticalchannel.com/new/the-meaning-behind-nautical-flags-and-how-to-understand-them>

Proceedings of the 30th International Congress of Vexillology, Beijing, China, August 2024

31. 教堂旗帜

32. 2010年第1176号法案

33. 2019第1184号法案

34. 宗座法院（Consistory Court）是天主教会的一个司法机构，主要负责处理与教会法有关的案件，尤其是那些涉及教会内部事务的案件

35. 2008年消费者保护免受不公平交易法规

36. 广告标准局关于旗帜和徽章的建议

37. 1963年维也纳领事关系公约

38. 1961年维也纳外交关系公约

39. 2007年城乡规划（广告控制）（英格兰）法规

40. 悬挂旗帜的简易指南

41. 1986年道路车辆（构造和使用）法规

42. 系统驾驶学校旗帜页面

43. 英国悬挂旗帜指南

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³² <legislation.gov.uk/ukxi/2010/1176/contents/made>

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⁴¹ <legislation.gov.uk/ukxi/1986/1078/contents>

⁴² <systemdrivingschool.co.uk/flag/>

⁴³ <flaginstitute.org/wp/wp-content/uploads/2021/01/Flying-Flags-in-the-United-Kingdom.pdf>

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