



Allegations of Extrajudicial Killings by UK Special Forces in  
Afghanistan

*Systemic, Domestic, and International Factors*

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## TABLE OF CONTENTS

ACKNOWLEDGEMENTS .....	3
ACRONYMS .....	4
ABSTRACT .....	5
I. INTRODUCTION.....	6
II. DOMESTIC SPHERE .....	8
II.1. Oversight of the UK Special Forces: Allegations of Extrajudicial Killings .....	8
II.2. Obstacles to Altering the Current Status of Oversight .....	12
II.2a. Military Culture .....	12
II.2b. Legal Framework: The Intentionality of Gaps .....	14
II.2c. International Complicity: And Then There Were None .....	15
III. INTERNATIONAL SPHERE .....	15
III.1. International Law of War and International Oversight .....	17
III.1a. Notable Reports and Investigations of War Crimes .....	20
III.2. The Five Eyes: Conduct of Special Forces in Action .....	20
III.2a. Canada .....	20
II.2a. i. The Somalia Inquiry .....	21
II.2a. ii. The Somalia Affair .....	23
II.2a. ii. Reception and Reactions .....	23
III. 2b. Australia .....	26
III.2b. i. The Brereton Report .....	26
III.2b.ii. Reception and Reactions .....	29
III.2c. The United States .....	31
III.2c.i. Investigations and Incidents .....	32

III.2c.ii. Reception and Reactions .....	35
III.2d. Cross-Case Comparisons .....	36
<b>IV.</b> UK INDEPENDENT INQUIRY RELATING TO AFGHANISTAN .....	39
<b>V.</b> SUGGESTIONS.....	41
<b>VI.</b> CONCLUSIONS.....	44
BIBLIOGRAPHY .....	46

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## ACRONYMS

<b>ACID</b>	US Army's Criminal Investigation Command
<b>ADF</b>	Australian Defence Force
<b>AOAV</b>	Action on Armed Violence
<b>CAR</b>	Canadian Air Regiment
<b>Cpt</b>	Captain
<b>ICC</b>	International Criminal Court
<b>ICJ</b>	International Court of Justice
<b>ISAF</b>	International Security Assistance Force
<b>IHAT</b>	Iraq Historic Allegations Team
<b>FVEY</b>	The Five Eyes
<b>LCol</b>	Lieutenant Colonel
<b>MoD</b>	Ministry of Defence
<b>RMP</b>	Royal Military Police
<b>Rt Hon</b>	The Right Honourable
<b>UKSF</b>	United Kingdom Special Forces

## **ABSTRACT**

This report focuses on the alleged extra-judicial killings committed by the UK Special Forces in Afghanistan. Using a case-study approach, the authors investigate what core aspects of the domestic and international political, legal, and military structures contributed to enabling cover-ups and inaction, and hindered investigations. This report focuses on the UK, comparing it to the cases of US, Canada, and Australia. While the report was being edited, an independent inquiry into the alleged extra-judicial killings was opened, led by Rt Hon. Sir Charles Haddon-Cave. The policy recommendations and the conclusions of this report will reflect on the inquiry as well.

## I. INTRODUCTION

In September 2022, BBC Panorama aired ‘SAS Death Squads Exposed: A British War Crime?’. The BBC investigated a series of raids conducted by the Special Air Service (SAS) squadron of the UK in Afghanistan between 2010-2011. The documentary found evidence that members of the squadron **allegedly** killed 54 unarmed men which, under International Humanitarian Law, can be classified as an ‘unlawful’, or ‘extrajudicial’ killings. The BBC reported that the killings were brought to the awareness of General Sir Mark Carleton-Smith, head of the SAS at the time, but **it was claimed** he did not pass the evidence to the Royal Military Police.<sup>1</sup> One SAS soldier confided, under anonymity: ‘Illegal killings was part of our job [...] the tactics were gruesome’.<sup>2</sup>

**But when** Britain’s Special Forces, units that operate in secrecy and with lethal force, are accused of human rights abuses, who watches the watchmen?

This is the central question addressed in the report. It aims to provide an explanation as to the elements of the domestic and international architecture that enabled these allegations of killings to take years to surface and only when journalists and charities pursued the truth. We do so by considering relevant case studies through the lenses of UK domestic legislation and international humanitarian law. This report builds on the work already done by BBC Panorama and especially on ‘*Killing in the Shadows*’, an in-depth report of the events that unfolded in Afghanistan, written by the London-based research charity, Action on Armed Violence.

The report is divided into five sections. The present section offers an overview of the issue and outlines the remaining sections of the report. The second section examines the domestic sphere, by providing an overview of the existing investigations into the alleged extrajudicial killings committed by the UKSF as well as exploring precedents of inquiries, such as the Iraq Historical Allegations Team. The second section concludes by offering an overview of the existing legal, political, and military framework which shape the investigation and/or prosecution of the matter. The third section focuses on how similar situations have been handled in the international

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<sup>1</sup> BBC News, *SAS unit repeatedly killed Afghan detainees, BBC finds*, July 2022, <https://www.bbc.co.uk/news/uk-62083196>

<sup>2</sup> Samuelson, Kate. “MoD vs BBC: Panorama stands by SAS death squad exposé”, *The Week*, <https://www.theweek.co.uk/news/defence/957327/ministry-defence-bbc-panorama-sas-expose>

sphere, focusing on three case studies, namely those of the US, Canada, and Australia. These cases were chosen because of the states' affiliation to the Five Eyes alliance. The penultimate section offers an overview of the newly launched Independent Inquiry regarding Afghanistan, and the final section offers a set of recommendations based on the cases explored throughout the report.



## II. DOMESTIC SPHERE

### II.1 Oversight of the UK Special Forces: Allegations of Extrajudicial Killings

#### *'Killing in the Shadows', Action on Armed Violence*

In 2022, Action on Armed Violence (AOAV) released 'Killing in the Shadows', a report that focuses on the extrajudicial killings committed by the UK Special Forces (UKSF) in Afghanistan. 'Killing in the Shadows' complements the evidence unveiled by the BBC Panorama documentary, provides insightful analysis into what factors enabled the extrajudicial killings to be carried out, and outlines systemic challenges in subsequent attempts at prosecution.

Analysing the actions of the UKSF, the report highlights potential techniques deployed by the Special Forces troops in Afghanistan to cover up human rights abuses. A particularly common technique that was allegedly used in action were throwdowns: the planting of a weapon next to dead Afghan civilians to suggest they were a legitimate target. In addition, the soldiers' superiors and Ministry of Defence (MoD) officials would apparently use boilerplate language in post-incident reports and not question the legitimacy and truthfulness of the descriptions.

Moreover, Operation Northmoor, a government investigation launched in 2014 into these allegations, ended in 2020 without any soldier being prosecuted. Assessing the challenges which arose during Operation Northmoor, two issues became particularly prevalent: obstruction of witness hearings and lack of transparency. AOAV's report highlights that in the few instances where cases were investigated, 'key suspects were dropped without being interviewed, crucial witnesses who had scrutinised the allegations at the time were never interviewed, video footage, potentially of some of the fatal shootings, wasn't collected and key data was ignored'.<sup>3</sup> Such individual shortcomings were complemented by systemic faults: 'it appears potential accessories to crimes were known to be attempting to make highly restrictive, or to even delete, evidence,

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<sup>3</sup> Action on Armed Violence, *Killing in the Shadows: Investigating allegations of British Special Forces extra-judicial killings in Afghanistan*, 2022, p. 24.

and that suspects and/or witnesses delivered similar and seemingly coached responses to investigators'.<sup>4</sup>

*Precedents and Lessons (not) Learned: Iraq Historic Allegations Team*

Unwillingness of the UK government to carry out proper investigations of extrajudicial killings by soldiers is not a new phenomenon. In 2010, the then Labour government set up the Iraq Historic Allegations Team (IHAT) within the Ministry of Defence to review and investigate allegations of extrajudicial killings and war-crimes by UK armed forces against Iraqi civilians from March 2003 to July 2009. IHAT received or identified a total of 3,629 allegations. David Cameron's subsequent Conservative government dismissed many of the cases as fabricated, with a government spokeswoman protesting: 'we'd seen our legal system abused to falsely impugn our armed forces, and we are putting an end to that'<sup>5</sup> and that 'stamping out the many spurious claims will mean IHAT is better able to focus on the few credible ones'.<sup>6</sup> Consequently, IHAT was shut down in June 2017, meaning that around 70% of allegations were dismissed and never reached full investigation because 'there was not a case to answer or it was considered not proportionate to conduct a full investigation'.<sup>7</sup> The UK maintained that a full investigation was 'disproportionate' in cases 'falling at the lower end (ranging from very minor ill-treatment to assaults occasioning actual bodily harm) or middle (ill-treatment of medium severity and/or assault not reaching the threshold of grievous bodily harm) of the spectrum'.<sup>8</sup>

A civil society shadow report submitted to the UN Committee against Torture by 74 NGOs and founded on research by Dr Elizabeth Stubbins Bates provided an alternative perspective to the UK's sixth periodic report to the committee, submitted in November 2017.<sup>9</sup> It found that limiting investigations to cases of grievous bodily harm was in part hampering the

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<sup>4</sup> Jones, Murray. "How the RMP Failed to Properly Investigate the EJK", *Action on Armed Violence*, 12 July 2022, <https://aoav.org.uk/2022/how-the-rmp-failed-to-properly-investigate-the-ejk/>

<sup>5</sup> Slater, Anna. "Former Prime Minister David Cameron wanted to shut down murder, torture, and abuse investigations", *The Guardian*, September 2016, <https://www.guardian-series.co.uk/news/14751687.former-pm-david-cameron-wanted-shut-murder-abuse-torture-investigations/>

<sup>6</sup> Ibid.

<sup>7</sup> UK Governmental archive, *Iraq Historical Allegations Team (IHAT)*, <https://www.gov.uk/government/groups/iraq-historic-allegations-team-ihat>

<sup>8</sup> European Centre for Constitutional and Human Rights. *War Crimes by UK forces in Iraq*.

<sup>9</sup> Civil Society Alternative Report. *The UK's Implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 2019.

investigation, as allegations of the ‘five techniques’ in Iraq would not fall under domestic criminal law of assault. The ‘five techniques’ are interrogation methods originally developed by British forces to not legally count as torture. They were first applied to detainees during the ‘Troubles’ of Northern Ireland and were widespread in Iraq. The techniques are prolonged adoption of painful positions, noise bombardment, deprivation of sleep, hooding, and deprivation of food and drink. Through limiting the scope of torture and degrading treatment, the UK government ensured that these techniques, along with religious and sexual degradation, would not be investigated, despite their strong likelihood of constituting war crimes under Article 8(2)(a) of the Rome Statute.<sup>10</sup>

One of the government’s key justifications for shutting down IHAT, was their allegation that solicitor Paul Shiner had been paying fixers in Iraq to find clients.<sup>11</sup> The Solicitor’s Disciplinary Tribunal found Shiner guilty of twelve allegations of professional misconduct.<sup>12</sup> Allegations were made that Shiner paid victims while they were taking time off work to allow them to leave Iraq to give their testimony, and the High Court found nothing improper about this, noting that it had ‘difficulty in seeing how it could credibly be argued that there was anything improper by the standards of the law of England and Wales in making a payment to secure the availability of a potential witness for interview’ and adding that such steps appeared to be clearly necessary in order to take witness statements.<sup>13</sup> None of the Solicitor’s Disciplinary Tribunal’s findings suggests that Shiner’s cases lacked credibility; in fact, in all four test cases brought before the High Court, the claimants were found to have been subjected to inhuman and degrading treatment by UK forces.<sup>14</sup>

Investigation into the closure of IHAT by the European Centre for Constitutional and Human Rights argued that ‘taking all of this as a whole, the inescapable conclusion is that the MoD and the UK government and investigatory bodies are very disingenuously attempting to use these disciplinary proceedings, which were initiated by the MoD, in an effort to discredit the

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<sup>10</sup>Majumder, Indrasish. “The Overseas Operations Bill: Counter Lawfare or Lawfare?”, *Human Rights Consortium*, 2021, <https://humanrights.blogs.sas.ac.uk/2021/08/19/the-overseas-operations-bill-counter-lawfare-or-lawfare/>

<sup>11</sup>BBC. *UK government and military accused of war-crimes cover-up*, November 2019, <https://www.bbc.co.uk/news/uk-50419297>

<sup>12</sup>The International Criminal Court. *Situation in Iraq/UK, Final Report*, December 2020, <https://www.icc-cpi.int/sites/default/files/itemsDocuments/201209-otp-final-report-iraq-uk-eng.pdf>

<sup>13</sup>*Solicitors Regulation Authority vs Philip Joseph Shiner* (23<sup>rd</sup> March 2017), *Solicitors Regulation Authority vs Day & Ors* (19<sup>th</sup> October 2018).

<sup>14</sup>*Alseran & Ors vs Ministry of Defence*

testimonies of Iraqis and thus to shield themselves from legal proceedings in connection with the actions of British forces in Iraq'.<sup>15</sup>

As well as exploiting legal definitions to impede proceedings, the MoD placed direct pressure on IHAT personnel to stifle lines of inquiry that pointed towards the complicity of senior members of government and the military. One former IHAT detective said that he wanted to investigate the chain of command and in one case he requested permission from IHAT's leadership to interview a senior army officer about his connection to an alleged extrajudicial murder.<sup>16</sup> His request was refused. Every time he tried to investigate this line of inquiry, it was shut down by IHAT's leadership or by the MoD's lawyers. Another IHAT detective similarly recounted how 'many complained that they had gathered what they thought was enough evidence to prosecute, and then they'd have an MoD lawyer go to the senior leadership of IHAT and tell them to drop the case'.<sup>17</sup> This suggests that the IHAT leadership deliberately restricted its proceedings so that the responsibility for the atrocities was attributed to low-level perpetrators and single soldiers, and never allowed to implicate high-level individuals and the MoD.

Investigations that were part of IHAT were strongly critiqued, Defence Secretary Sir Michael Fallon called the entire process an 'unmitigated failure'. IHAT cost the taxpayer £34m and did not result in a single prosecution. This seems to have resulted from a combination of a failure to coherently plan the scope of the investigation and of anti-investigation rhetoric from the MoD. IHAT was predominantly criticised for its inefficiency, chiefly because it was opened eight years after UK's involvement in Iraq. No proper scope was set for the investigation, which resulted in an expanding numbers of cases with no evidence supporting them. Moreover, its efforts were rhetorically discredited by the MoD. Notably, the prosecution and arguable scapegoating of Shiner bears distinct parallels to Australia's prosecution of David McBride, whilst the MoD's termination of IHAT is strikingly similar to Canadian Defence's reaction to the Somalia Inquiry, explored in depth in section III.

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<sup>15</sup> European Centre for Constitutional and Human Rights. *War Crimes by UK forces in Iraq*.

<sup>16</sup>Shackle, Samira. "Why we may never know if British troops committed war-crimes in Iraq" *The Guardian*, 2018, <https://www.theguardian.com/news/2018/jun/07/british-troops-war-crimes-iraq-historic-allegations-team>

<sup>17</sup> Ibid.

Allegations of Extrajudicial Killings by UK Special Forces in  
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## II.2. Obstacles to Altering the Current Status of Oversight

### II.2a. Military culture

In the UK case, core issues in the military leading to breaches of the international humanitarian law by soldiers can be divided into i) a culture of silence and complicity and ii) systemic issues. Though these issues cannot be truly disaggregated, taking them in turn proves useful for clarity of analysis.

The culture of silence and complicity encompasses intentional inaccuracy in reporting, lack of transparency, and lack of accountability, and cover-ups among military and non-military officials alike. Beyond individual faults, however, it is also important to underline the deep-rooted cultural legacies which appear to suffocate accountability and a search for justice. One such case is a seeming culture of gratuitous violence among the UK's Special Forces, which encourages blind obedience to commanders and encourages violence for violence's sake.

These issues reinforce and are in turn reinforced by systemic challenges, such as the lack of redress mechanisms. They are further accentuated by non-compliance with military and legal norms and by the lack of sufficient intelligence, which lead to operations resulting in either disproportionate or unnecessary civilian deaths and a lack of satisfactory investigation thereafter. These issues, which permeate military and political circles alike, are often framed as 'gaps' in oversight or action. Yet, to what extent are such gaps truly a product of circumstance?

### II.2b. Legal Framework: The Intentionality of Gaps

On May 5 2021, the Overseas Operations Bill (hereinafter 'the Act') passed the House of Commons by a majority of 85, with 345 in favour and 260 against.<sup>18</sup> The Act protects British soldiers from prosecution for murder and torture which occurred five years or more before an allegation is formally made. The criminal law clauses of the Act impose a 'presumption' against prosecution for any offences other than rape and sexual violence, meaning that a British soldier who rapes and murders on deployment would, in the first instance, be charged with rape but

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<sup>18</sup> Redress. *Overseas Operations Bill passes but with crucial amendments thanks to concerted campaign*, 2023, <https://redress.org/news/overseas-operations-bill-passes-but-with-crucial-amendments-thanks-to-concerted-campaign/>,

not with murder. The government argues that the Act will protect British soldiers from biased, fictional, and spurious allegations, with former Defence Secretary, Ben Wallace, saying it is important that British forces are able to concentrate on ‘the operations in hand’ when deployed overseas and ‘not on whether they will have a lawsuit slapped on them when they get home’.<sup>19</sup>

The Bill was met with criticism from within the government, army, and human rights groups, many argued that the Act would effectively decriminalise torture by British soldiers abroad. Conservative MP Mr. David Davis, a former Cabinet Minister and ex-Territorial soldier, said he was ‘deeply troubled by government plans to decriminalise torture by British personnel’.<sup>20</sup> Labour MP Mr. Dan Jarvis, similarly argued that ‘by not excluding torture on the face of this bill, the government is I believe taking another step backwards on international law and on human rights’<sup>21</sup>. The Act violates Article 8(2)(a) of the Rome Statute which defines what sort of violence constitutes a crime against humanity, as well as Article 29, which enumerates that ‘crimes within the jurisdiction of the International Criminal Court shall not be subject to any statute of limitations’.<sup>22</sup> The Bill also appears to infringe Articles 2 and 3 of the European Convention on Human Rights which respectively safeguard the right to life and freedom from torture.

Criticism was issued not only by government officials, but also by military personnel. Charles Guthrie, a field marshal who served as both Chief of the General Staff and Chief of Defence Staff, warned that ‘if we start down the slippery slope of arguing that rules apply to others, but not to ourselves, it is we who will suffer in the end’.<sup>23</sup> Perhaps the most damning critique came from the UK’s most senior military judge, Jeffrey Blackett, who described the Bill as one that is ‘ill-conceived’ and that risks counterproductively ‘bringing the UK armed forces into disrepute’.<sup>24</sup>

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<sup>19</sup>Cobain, Ian. “UK troops to be shielded from torture prosecutions under proposed law”, *Middle East Eye*, 2020, <https://www.middleeasteye.net/news/uk-parliament-pushes-forward-bill-limit-torture-prosecutions>

<sup>20</sup> Ibid.

<sup>21</sup> Chappel, Elliot. “Labour votes against controversial overseas operations bill - but it passes Commons”, *Labourlist*, 2020, <https://labourlist.org/2020/11/labour-votes-against-as-commons-passes-overseas-operations-bill/>,

<sup>22</sup> UK Governmental archive, *Iraq Historical Allegations Team (IHAT)*, <https://www.gov.uk/government/groups/iraq-historic-allegations-team-ihat>

<sup>23</sup> *Alseran & Orv vs Ministry of Defence*

<sup>24</sup> Centre For Military Justice. *The Overseas Operations Bill – a very significant intervention from the Judge Advocate General*, 2020, <https://centreformilitaryjustice.org.uk/the-overseas-operations-bill-a-very-significant-intervention-from-the-judge-advocate-general/>

### **II.2c. International Complicity: And Then There Were None**

Where domestic oversight falls short, international organisations become the first port of call for scrutinizing cases on non-compliance with the international law of war and related international agreements. However, when powerful international actors are themselves complicit in such crimes, how far reaching can the arm of justice be?



### III. INTERNATIONAL SPHERE

#### III.1. International Law of War and International Oversight

The international law of war is separated into two spheres – laws prohibiting the use of force and regulating recourse to war – otherwise known as *jus ad bellum* – and the laws regulating conduct of armed conflict – otherwise known as *jus in bello* or International Humanitarian Law (IHL).

*Jus ad bellum* was created in the aftermath of World War II with the aim of curbing large-scale interstate conflict and limiting the circumstances under which war can be legitimately waged. The concept of *jus ad bellum* was first formalised in the 1945 United Nations Charter, Article 2(4) of which prohibits the use of force between states. It has two direct exceptions: Article 51 which regulates individual and collective self-defence, and Chapter VII which permits the use of force under UN Security Council authorisation to act in the defence of collective security. Since then, practices surrounding *jus ad bellum* have risen and waned be it through state practice – such as the 2003 Bush doctrine – or International Court of Justice (ICJ) jurisdiction – such as decisions in the landmark Nicaragua v. USA, or the DRC v. Uganda cases. Nonetheless, the stipulations of the UN Charter remain foundational as a mechanism of norm creation, as a point of reference, and as a basis for actions and reactions of the international community regarding international armed conflict.

*Jus in bello* regulates the conduct of hostilities in armed conflict, and as such it will be focus of this report. It has a much longer history than *jus ad bellum*, having been ‘created’ by Swiss Humanitarian Henry Dunant after witnessing the Battle of Solferino in 1859. IHL has four core principles: humanity, military necessity, proportionality, and distinction. The principle of necessity limits military measures only to those which are strictly necessary to accomplish a legitimate and just military purpose.<sup>25</sup> The principle of distinction requires constant differentiation between combatants and civilians; and relatedly, the principle of proportionality

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<sup>25</sup> International Committee of the Red Cross. *How Does Law Protect in War; Military Necessity*, <https://casebook.icrc.org/glossary/military-necessity#:~:text=The%20%E2%80%9Cprinciple%20of%20military%20necessity,prohibited%20by%20international%20humanitarian%20law.>

guides decision-making factors regarding attacks and strategy, prohibiting actions which may cause injury or death of civilians, or damage to civilian objects.<sup>26</sup> Among the first legal codifications of IHL were the 1863 Lieber Code and the 1864 Geneva Conventions, the 1868 Additional Protocol I to the Geneva Convention, the 1899 and 1907 Hague Conventions, the 1949 Geneva conventions and the 1977 Additional Protocols I and II to the Geneva Conventions.

IHL can be understood as being split into two ‘streams’: the Geneva Stream and the Hague Stream. The Geneva Conventions have been ratified by all states and achieved the status of customary international law. It offers distinctions between combatants and non-combatants (civilians), places restrictions on targeting, and includes laws clarifying the Prisoner of War (POW) status and regulating the appropriate treatment of POWs and other hurt combatants. The Hague Regulations address the means of warfare, in other words accepted and prohibited the weapons. Though they have not been universally ratified, some argue that they have reached customary law status.<sup>27</sup>

IHL is enforced through international criminal law and the International Criminal court (ICC) is the international body which investigates, judges, and prosecutes grave violations of IHL. It prosecutes individuals (as opposed to states, as the ICJ does) and it is the only Court with jurisdiction to prosecute crimes such as genocide, war crimes, crimes against humanity, and the crime of aggression. The court was formally established in 2002, with the adoption of the Rome Statute. The Rome Statute functions on an opt-in basis, which has two implications: i) only states that have signed and ratified the agreement are liable to its regulations but they can renounce the Statute if they so choose; and ii) the ICC holds jurisdiction only over signatory states, meaning that individuals from states that are not parties cannot be tried by the ICC. The Rome Statute addresses war crimes and crimes against humanity, and the Kampala Amendment also enshrined

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<sup>26</sup> Gillard, Emanuela-Chiara. “Proportionality In The Conduct of Hostilities – The Incidental Harm Side Of Assessment”, *Chatham House*, 2018, <https://www.chathamhouse.org/sites/default/files/publications/research/2018-12-10-proportionality-conduct-hostilities-incident-harm-gillard-final.pdf>

<sup>27</sup>UN OCHR. *Protecting human rights under conflict situations*. <https://www.ohchr.org/en/protecting-human-rights-conflict-situations/international-standards#:~:text=The%20Hague%20Regulations%20are%20generally,Conventions%20have%20attained%20universal%20ratification.>

the crime of aggression – a leadership crime which addresses the planning and execution of large-scale use of military force – in the Statute.

Different from *jus ad bellum* which is centred around state relations, *jus in bello* regulates armed conflict both within and between states, and also accounts for non-state actors such as guerrilla groups, and dynamics such as civil wars. As with *jus ad bellum*, *jus in bello* is continually challenged by shifting state interests, modernisation of militaries, and emergence of new technologies not yet regulated through international policies and accords. It is important to note that, as Morrow highlights, ‘the laws of war shape but do not determine how states fight’.<sup>28</sup> Nonetheless, the laws of war have become a crucial aspect of the international governance architecture of the 21<sup>st</sup> century, and their normative power cannot be overlooked. The section below explores two seminal war crime investigative reports.

### III.1a. Notable Reports and Investigations of War Crimes

#### *2003 Taguba Report: US War Crimes in Abu Ghraib*

The Taguba Report focuses on one particular site of war crimes carried out by American troops on Iraqi soil, in the Abu Ghraib prison. Following Saddam Hussein’s regime collapse, Abu Ghraib became the site of a U.S. military prison for ‘common criminals, security detainees suspected of ‘crimes against the coalition’; and a small number of suspected high-value leaders of the insurgency against the coalition forces’.<sup>29</sup> The site itself however, with time and executive changes, had become a detention facility based on torture and abuse. Among many other torture methods, soldiers were found to be ‘forcibly arranging detainees in various sexually explicit positions for photographing, forcing naked male detainees to wear women’s underwear, forcing groups of male detainees to masturbate themselves while being photographed and videotaped, arranging naked male detainees in a pile and then jumping on them” and a male MP guard was found to have had sex with a female detainee’.<sup>30</sup> Consequent reports have also highlighted the

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<sup>28</sup> Morrow, James D. “When Do States Follow the Laws of War?”, *The American Political Science Review*, Vol. 10, No. 3 (Aug 2007), pp.559-572.

<sup>29</sup> Hersch, Seymour M. “Torture at Abu Ghraib. American soldiers brutalized Iraqis. How far up does the responsibility go?”, *The New Yorker: Annals of National Security*, April 2004, <https://www.newyorker.com/magazine/2004/05/10/torture-at-abu-ghraib>

<sup>30</sup> *Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade*, 2003, p. 17.

high number of deaths which resulted from the aforementioned practices and extrajudicial killings.

Despite complaints about the situation, the command had not been substituted, further worsening the dysfunctionality of Abu Ghraib. Denigration of army standards and practices was also observed, with soldiers straying from military rules not only in relation to the inmates but also in everyday practice. The Report suggests the co-dependency of the two factors. Illegal practices were furthered not only by maliciousness, but also by non-compliance – obstruction of investigations – and ignorance during training – more specifically, lack of adequate training and a clear chain of accountability.

#### *2020 International Criminal Court: Situation in Iraq/UK*

The 2020 International Criminal Court (ICC) ‘Situation in Iraq/UK’ is an examination of alleged claims of war crimes by British Troops in Iraq. The Report is an analysis of the allegation, and reaches the conclusion that investigation by the ICC is not necessary: ‘for the reasons set out in this report, the Prosecutor does not conclude that the UK authorities have been unwilling genuinely to carry out relevant investigative inquiries and/or prosecutions (article 17(1)(a)) or that decisions not to prosecute in specific cases resulted from unwillingness genuinely to prosecute (article 17(1)(b)). On this basis, having exhausted reasonable lines of enquiry arising from the information available, the office has determined that the only appropriate decision is to close the preliminary examination without seeking authorisation to initiate an investigation’.<sup>31</sup>

The ICC report goes significantly beyond the analysis of extrajudicial killings, and includes a wider comprehensive analysis of war crimes entailing rape, sexual assault, torture and mistreatment of the prisoners of war. The crucial findings revolve around systemic patterns of ignorance towards more complex systems of glossing over IHL principles, especially surrounding torture, and treatment of POWs. The Report also underlines that UK officials’ initial investigations fell short of the adequate procedures and standards set out in the Rome Statute. Despite that, none of the cases were submitted for prosecution.<sup>32</sup> Following, the ICC’s decision not to continue with the examination and following prosecution of the UK officials, the UK has

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<sup>31</sup> The International Criminal Court. *Situation in Iraq/UK, Final Report*, December 2020, <https://www.icc-cpi.int/sites/default/files/itemsDocuments/201209-otp-final-report-iraq-uk-eng.pdf>

<sup>32</sup> Ibid.

not been required to take responsibility for the actions of its officials, despite, or perhaps because of, the complex structure of military accountability.

*Open Society Foundation Report on US Night Raids in Afghanistan*

The 2011 Open Society Foundation Report on US Night Raids in Afghanistan discloses quantitative and qualitative data on night raids in Afghanistan carried out by international military forces stationed in the region. As AOAV's report has argued, night raids remain one of the most concerning actions in which extrajudicial killings take place. This claim is supported by the Open Society Foundation's report. Despite there being changes in tactics put in place between 2010 and 2011, night raids endured. Such operational tactics have repeatedly been found to endanger not only insurgents but also civilians. It has been argued that the need for multiple raids was a consequence of insufficient intelligence resulting in the capture of individuals who, without direct connection to insurgent groups, were simply either providing food or shelter, had been named in incidental information, or were victims of mistaken identity. Some connections to insurgents were even put down to the inability of hosts being able to refuse Taliban demands of assistance.<sup>33</sup>

The year 2011 saw an increase in search and seizure operations, often in the form of night raids, leading to a rise in civil casualties.<sup>34</sup> Such night operations are said to be continuously lacking in accountability, transparency, and redress mechanisms. Under the IHL framework, 'collateral harm to civilians' is possible in any type of detention operation, of course, whether taking place in the daytime or at night. However, if an action that is less harmful to civilians than a night raid is possible without excessive loss of military advantage or risk to soldiers, then such means should be adopted'.<sup>35</sup>

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<sup>33</sup> Open Society Foundations. *The Cost of Kill/Capture: Impact of the Night Raid Surge on Afghan Civilians*. 19 September 2011, p. 10.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*, p. 27

## II.2. The Five Eyes: Conduct of Special Forces in Action

Neither the actions of the UK, nor of the US were committed in political and legal void. In addition to the laws of war, and to the watchdogs previously outlined, international agreements play a crucial part in the international architecture regulating the conduct of military forces. The alliance which is most relevant to this report is the Five Eyes (FVEY), which is an intelligence alliance between Australia, Canada, New Zealand, United Kingdom and the United States. This section will analyse the conduct of Australian, Canadian, and American special forces in combat, with the aim of i) understanding the actions of the UK within their broader context, and ii) bringing to light the chronic lack of accountability and regulation in the countries' special forces. This section will examine Canada and the Somalia Affair, Australian Defence Forces (ADF) in Afghanistan, and the US Green Berets in Afghanistan. By exploring these cases, common trends will emerge in relation to military culture and political complicity.

### III. 2a. Canada

#### III.2a. i. The Somalia Inquiry

In 1992, Somalia was wracked by both a famine and civil war, while warlords were competing for power in the vacuum left by the collapse of the Barre government. Brian Mulroney, then Canadian President, believed Canadian intervention in Somalia would help Canada exert international influence through peacekeeping and intended to send the Canadian Airborne Regiment (CAR) to participate in the American-led Operation 'Restore Hope'.<sup>36</sup> For a brief moment, a debate on this decision arose. Canadian generals expressed doubts about the quality of CAR's training and leadership, and suggested that another regiment be deployed, or that the mission be cancelled entirely. Most notably, Lieutenant Colonel Morneault, then CAR commanding officer, suggested CAR was unfit for service, declaring it a 'rogue commando' unit. However, to admit that Canadian special forces were unable to conduct a routine mission would be a 'national disgrace'; as such, LCol. Morneault was replaced by LCol. Mathieu and CAR was deployed in Somalia.<sup>37</sup>

<sup>36</sup> Zwanenburg, Marten. *Accountability of Peace Support Operations*. Leiden, The Netherlands: Brill | Nijhoff, 2005.

<sup>37</sup> Desbarats, Peter. *Somalia cover-up: A commissioner's journal*. Toronto: McClelland and Stewart, 1997.

What followed became one of the largest national scandals and made waves within the international community. The events which transpired during CAR's deployment in Somalia came to be known as 'the Somalia Affair' and it was investigated both by national governmental channels - the Somalia Inquiry opened by the Chrétien government in 1993 - and independent channels such as independent and broadcast journalists.

### III.2a. ii. The Somalia Affair

#### *The Torture and Murder of Shidane Arone*

On March 16<sup>th</sup>, 1993, Captain Michael Sox found 16-year-old Shidane Abukar Arone hiding in a portable toilet in an abandoned American base. Arone said that he was looking for a lost child, but Cpt. Sox believed he was attempting to scavenge or steal supplies and turned him over to another soldier who took him to a storage bunker. In the bunker, the Warrant Officer began 'savagely' kicking Arone and the other soldiers joined the abuse.<sup>38</sup> Discussing torture methods over beers, one soldier suggested stubbing cigarette butts on his feet. Another suggested using a ration-pack or phonebook to beat Arone because they would not leave any traces.<sup>39</sup> Arone was beaten with a ration-pack, sodomised with a broomstick, held at gunpoint while a baton was forced in his mouth and waterboarded - despite this torture method having been made illegal in the Third Geneva Convention of 1929. Medics later discovered burn marks on his genitals.<sup>40</sup> After several hours of beatings, Arone died, his chanting of 'Canada! Canada! Canada!' on his lips.<sup>41</sup> As a celebration of their atrocities, the soldiers took sixteen trophy-photos of the torture.<sup>42</sup>

In addition to those who were actively involved in Arone's torture, the beatings happened under the eyes of 15-80 other soldiers who did not intervene.<sup>43</sup> When the acting duty sergeant was asked by a soldier about a 'long dragged-out howl' he heard coming from the vicinity of the bunker, the sergeant refused to stop playing with his Gameboy to investigate.<sup>44</sup> Concerningly, but also indicative of the culture of impunity, one of the soldiers involved in Arone's torture

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Brown, Kyle and Worthington, Peter. *Scapegoat: How the Army Betrayed Kyle Brown*, Toronto: Seal Books, 1997, p. 112.

<sup>41</sup> Coulon, Jocelyn. *Soldiers of Diplomacy*. Toronto: University of Toronto Press, 1998, p. 94

<sup>42</sup> Dawson, Grant. *Here is Hell: Canada's Involvement in Somalia*, Toronto: UBC Press, 2006. p. 157

<sup>43</sup> Coulon, Jocelyn. *Soldiers of Diplomacy*. Toronto: University of Toronto Press, 1998, p. 94

<sup>44</sup> Ibid.

emphasised, almost with a tone of justification: ‘in Canada we cannot do that and here they let us do it’.<sup>45</sup>

### *March 4<sup>th</sup> Killings*

On March 4<sup>th</sup> 1994, CAR troops set an ambush to try to catch petty thieves stealing from their military base. Cpt. Michel Rainville redefined petty theft as ‘sabotage’, a distinction which allowed the troops to use lethal force.<sup>46</sup> This decision was justified by arguing that fuel pump used to service American evacuation helicopters had been stolen to deliberately hinder the military effort, ignoring the fact that any saboteur would have ignited the thousands of gallons of fuel surrounding it.<sup>47</sup>

Cpt. Rainville set a trap consisting of food and water in a trailer visible to Somalis walking past on the nearby road and instructed soldiers to lie in wait with rifles to catch the saboteurs. When two Somalis, Ahmed Arush and Abdi Hunde Bei Sabrie, approached the trap, the soldiers opened fire, killing both men. Air Force flight surgeon, Major Barry Armstrong, examined Arush’s body and concluded the cause of his death was ‘suspicious’, suggesting he was breathing for two or three minutes before the final shots were fired.<sup>48</sup>

### *Racism among CAR Soldiers*

In 1997, a whistle-blower revealed videos of CAR troops engaging in racist activities. One soldier was filmed saying that ‘we ain’t killed enough n\*\*\*\*\*s yet’, and photographed in front of a swastika, wearing a T-shirt with Hitler’s image.<sup>49</sup> As the Somalia Inquiry unfolded, videos of CAR initiation-rites began circulating in the media, which the MoD condemned as ‘disgusting, demeaning, and racist’. These actions came against the backdrop of an ongoing investigation into allegations of Petawawa CAR Base being a hotbed of white supremacy, with the

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<sup>45</sup> Razack, Sherene. *Dark Threats and White Knights: The Somalia Affair, Peacekeeping, and the New Imperialism*. Toronto: University of Toronto Press, 2004.

<sup>46</sup> Desbarats, Peter. *Somalia cover-up: A commissioner's journal*. Toronto: McClelland and Stewart, 1997.

<sup>47</sup> Ibid.

<sup>48</sup> O’Reilly, Michael. “MD at centre of Somalia controversy finds peace in Northern Ontario”, *Canadian Medical Association Journal*, 1998, [https://epe.lac-bac.gc.ca/100/201/300/cdn\\_medical\\_association/cmaj/vol-158/issue-2/0244.htm](https://epe.lac-bac.gc.ca/100/201/300/cdn_medical_association/cmaj/vol-158/issue-2/0244.htm)

<sup>49</sup> Razack, Sherene. *Dark Threats and White Knights: The Somalia Affair, Peacekeeping, and the New Imperialism*. Toronto: University of Toronto Press, 2004.



confederate flag being adopted as the commando's barracks-room decoration.<sup>50</sup> Despite the gravity of these instances, Kim Campbell – who was running for Prime Minister at the time – dismissed the allegations of racism in the Canadian military as commonplace 'youthful folly'.<sup>51</sup>

### III.2a.iii. Reception and Reactions

#### *Challenges*

The progress of the Inquiry was significantly challenged by the obstruction of access to accurate information. A number of soldiers, commanders, officials of the Canadian Armed Forces and government officials alike tampered with the investigation by obstructing access to official documents, forging reports, and giving false testimonies.

One instance of false testimonies occurred with respect to the investigations of the March 4<sup>th</sup> killings. Soon after the murders happened, an anonymous person sent Member of Parliament John Brewin a letter, claiming to have witnessed the execution of Somali civilians.<sup>52</sup> Consequently, an inquiry was opened. During their testimonies the soldiers defended Cpt. Rainville, testifying that Sabrie confessed to being a saboteur during an interrogation conducted by American Special Forces Chief Warrant Officer Jackson. This position contradicted all other available evidence, suggesting that the soldiers most likely lied during an official investigation.<sup>53</sup>

Another hurdle in the March 4<sup>th</sup> investigations was the forging of reports, more specifically Arush's autopsy report. Among those who witnessed the killing, Lt. Col. Mathieu decried Major Armstrong as bordering on insanity.<sup>54</sup> Among officials in Canada, the MoD sought to discredit the findings of the inquiry by offering a leaked pathology report to a journalist of The Toronto Star, Canada's largest newspaper. This report, conducted two months after Arush's murder, asserted that Arush was not displaying any of the characteristics identified by Major

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<sup>50</sup>Bercuson, David. *Significant Incident: Canada's Army, the Airborne, & the Murder in Somalia*. Toronto: McClelland and Stewart Inc, 1997

<sup>51</sup>Armstrong, Martha. *A Tale of Two Videos: Media Event, Moral Panic, and the Canadian Airborne Regiment*, McGill University, December 1997

<sup>52</sup> Winslow, Donna and Klep, Christ. "Geneva Centre for the Democratic Control of Armed Forces – The Parliamentary Inquiry into the Canadian Peace Mission in Somalia", in Hänggi Heiner, *The Double Democratic Deficit*, London: Routledge, 2019

<sup>53</sup> Report of the Somalia Commission Inquiry, <https://nkitson.files.wordpress.com/2010/01/somalia-inquiry-report1.pdf>

<sup>54</sup> Desbarats, Peter. *Somalia cover-up: A commissioner's journal*. Toronto: McClelland and Stewart, 1997.

Armstrong. The journalist took the report offered by the MoD as evidence of a doctored leak, thus supporting Armstrong's findings.

One particular instance best exemplifies how obstruction, forging, and false testimonies were employed in tandem to hinder the investigations. In 1995, reporter Michael McAuliffe wanted to challenge and confirm his informal knowledge of the CAR's role in Operation Restore Hope and hence requested access to 68 Response to Query forms.<sup>55</sup> He was charged CAD \$4,080 in order to access the documents because, allegedly, the document retrieval had taken 413 man-hours; however the documents were, in fact, readily available.<sup>56</sup> Moreover, the documents were given to him only after they had been altered in such a way as to confirm the information he had previously received.<sup>57</sup>

The forging of official documents for an Access to Information request was a crime under s.67.1 of the Access to Information Act. Given the illegality of the action, a question soon arose: was Jean Boyle, Chief of Defence Staff, aware of the forging and if not, why? On 5<sup>th</sup> September 1995, a clerk at the National Defence Headquarters was discovered collecting documents related to Somalia to destroy in a burn-bag.<sup>58</sup> After this event, Boyle admitted that there had been Ministry-level attempts to cover-up details of both the March 4<sup>th</sup> killings and Arone's torture and murder.<sup>59</sup> Ultimately, Boyles was forced to resign after blaming his subordinates for previous wrongdoing under his command.

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<sup>55</sup> Ibid.

<sup>56</sup> Commission of Inquiry into the Deployment of Canadian Forces to Somalia, Document Book 103, tabs 12 & 13.

<sup>57</sup> Commission of Inquiry into the Deployment of Canadian Forces to Somalia, Testimony of Lt. Brayman, transcript pp. 12947-12948 & 13079-13080

<sup>58</sup> Desbarats, Peter. *Somalia cover-up: A commissioner's journal*. Toronto: McClelland and Stewart, 1997.

<sup>59</sup> Coombs, Howard. *Insubordinate and the Noncompliant: Case Studies of Canadian Mutiny and Disobedience, 1920 to Present*, Toronto: Dundurn Press, 2009, p. 423.

*Recommendations provided by the Inquiry*

Despite – and perhaps because of – the challenges faced, the conclusions of the Somalia Inquiry were scathing. Most notably, the Inquiry revealed the government’s complicity in the events of the Somalia Affair. The Inquiry stated that ‘the government’s decision [to deploy] CAR in Somalia effectively allowed many of those in senior leadership positions during the deployment to avoid entirely accountability for their conduct, decisions, and actions during and after the mission’.<sup>60</sup> Additionally, ‘evasion and deception, which in our view were apparent with many of the senior forces who testified before us, reveal much about the poor state of leadership in our armed forces and the careerist mentality that prevails at the Department of National Defence’.<sup>61</sup>

The Inquiry issued a sweeping set of recommendations centred around reforming the military justice system. Three suggestions were particularly potent. One measure suggested that the ‘Chief of Defence Staff adopt formal criteria for the accountability of leaders’, and another encouraged the establishment of an independent review body.<sup>62</sup> This second suggestion came as a powerful remedy to the cover-ups which hindered much of the Inquiry. A third recommendation suggested that the ‘National Defence Act be amended to require a detailed annual report to Parliament regarding matters of major interest and concern to the operations of the National Defence portfolio and articulating performance evaluation standards.’<sup>63</sup> This measure would ensure Parliamentary oversight and widespread knowledge among the highest echelons of government regarding the state of the military. Despite their potential, the Inquiry said that the reforms were ‘hastily crafted and mostly cosmetic’ and doubted their long-term efficacy.

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<sup>60</sup>Commission of Inquiry into the Deployment of Canadian Forces to Somalia, *Dishonoured Legacy: Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia*, <https://publications.gc.ca/site/eng/479844/publication.html>

<sup>61</sup>The Canadian Encyclopaedia. *The Somalia Affair*, 2019, <https://www.thecanadianencyclopedia.ca/en/article/somalia-affair>

<sup>62</sup> Bercuson, David. *Significant Incident: Canada's Army, the Airborne, & the Murder in Somalia*. Toronto: McClelland and Stewart Inc, 1997

<sup>63</sup> Ibid.

### *Reactions*

One of the most significant outcomes of the Inquiry was the disbandment of CAR in 1995.

In 2002, Defence Minister, Douglas Young accused the Inquiry of overstepping its mandate and thus halted it just as it was ‘beginning to question the highest levels of leadership of the Canadian Forces and the Department of National Defence and to the allegations of cover-up with respect to some incidents’<sup>64</sup>. This meant that the Inquiry could address systematic issues but ‘could not identify any individual misconduct or failings involved’.<sup>65</sup> Despite ending the Inquiry before its due time, Young did subsequently implement wide-ranging reforms. Most notably, he encouraged the modernisation of the education system for soldiers, required soldiers to be degree-holders, and created a Monitoring Committee whose role was to processes and implement more than 300 recommendations received from the various reports on the Somalia Affair.<sup>66</sup>

## **III.2.b. Australia**

### **III.2b. i. The Brereton Report**

Australia was involved in the Afghanistan War from its inception in 2001 until the withdrawal of American troops in 2021. When accusations of extrajudicial killings committed by the Australian Defence Forces (ADF) started to surface, military sociologist Samantha Cromptvoets used a political and cultural lens to analyse ADF soldiers’ testimonies. ADF soldiers deployed in Afghanistan shared with her unsettling stories about the war crimes they and their units committed and talked about their fear of repercussions. At the time, her work sparked outrage among the Australian public and political officials and in 2016 it prompted the commissioning of the Brereton Report. The Report exposed extrajudicial killings committed by Australian Special Forces and analysed the culture of silence which permeated the military. This section

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<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Bercuson, David J. “Up from the ashes: the re-professionalisation of the Canadian Forces after the Somalia Affair”, *Canadian Military Journal*, Vol. 9, No. 3, 2009, pp.31-39.

will detail and analyse key findings of the Brereton Report, comparing them with soldiers' testimonies gathered by Cromptoets.

After investigation, the Report concluded that the extrajudicial killings in Afghanistan were wilfully committed by those on the ground and knowingly covered up by soldiers, commanders, and military bureaucrats alike. Three practices were particularly highlighted: 'blooding', unjustified killings, and throwdowns and cover-ups.

According to the Report, a significant proportion of the murders were committed during 'blooding', a ritual in which new recruits would make their first kill to be fully accepted into the group. Not only were the recruits pressured by their peers to 'blood' themselves, but they were in fact ordered by their commanders to do so. According to the Report, 'typically, the patrol commander would take a person under control and the junior member ... would then be directed to kill the person under control'.<sup>67</sup> Because new recruits saw their superiors as 'god-like', they were unlikely to disobey direct orders.<sup>68</sup>

To conceal their crimes, the ADF, similarly to the UKSF, often used throwdowns (weapons left at the sight of the murder, to suggest that the victims was armed).<sup>69</sup> The Report hypothesised that 'this practice probably originated for the less egregious though still dishonest purpose of avoiding scrutiny where a person who was legitimately engaged turned out not to be armed'<sup>70</sup>, but 'evolved to be used for the purpose of concealing deliberate unlawful killings'<sup>71</sup>.

Some of the testimonies gathered by Cromptoets during interviews with soldiers reinforce these findings. One soldier reported that the ADF would take men and boys – villagers who were suspected but not confirmed to be harbouring or collaborating with Taliban – 'to these guest houses and interrogate them, meaning tie up and torture them'.<sup>72</sup> Several soldiers

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<sup>67</sup> Knaus, Christopher. "Australian Special Forces involved in murder of 39 Afghan civilians, war-crime report alleges", *The Guardian*, 2020: <https://www.theguardian.com/australia-news/2020/nov/19/australian-special-forces-involved-in-of-39-afghan-civilians-war-crimes-report-alleges>

<sup>68</sup> NZ Herald. *Samantha Cromptoets inside story of Australia's Afghanistan war-crimes report*. 2020: <https://www.nzherald.co.nz/world/samantha-cromptoets-inside-story-of-australias-afghanistan-war-crimes-report/HQ5EDKYZU2NSCGYQPXFZHVMM/>

<sup>69</sup> ABC News. *Afghanistan war-crime report released by Defence Chief Angus Campbell includes evidence of 39 murders by Special Forces*. 2020: <https://www.abc.net.au/news/2020-11-19/afghanistan-war-crimes-report-igadf-paul-brereton-released/12896234>

<sup>70</sup> Australian Government Defence. *Inspector-General of the Australian Defence Force Afghanistan Inquiry*: <https://www.defence.gov.au/about/reviews-inquiries/afghanistan-inquiry>

<sup>71</sup> Ibid.

<sup>72</sup> McKenzie, Nick & Masters, Chris: 'Bloodlust, killings, cover-ups': Report describes Australia's 'Abu Ghraib' moment. *The Age*, 2020: <https://www.theage.com.au/national/blood-lust-killings-cover-ups-report-describes-australia-s-abu-ghraib-moment-20201027-p5692v.html>

confessed that on multiple occasions men and boys ‘would be tied up and tortured by Special Forces, sometimes for days. When the Special Forces left, [they] would be found dead: shot in the head or blindfolded and with throats slit’.<sup>73</sup> Another soldier detailed an account in which ‘two 14-year-old boys suspected of being Taliban sympathisers had their throats slit’, after which their bodies were ‘bagged and thrown into a nearby river’.<sup>74</sup> Another account detailed how an Afghan man was used as ‘target practice’ by an ADF patrol even after he surrendered. A signal officer accompanying the patrol said that ‘[the Afghan man] put his hands up...and as we got closer to him the soldier then just fired...and from there he just moved on’.<sup>75</sup>

Some testimonies even appear to challenge the conclusions of the Report, particularly in regard to the responsibility of higher-ranking military officials. The Brereton Report largely absolved higher-ranking officials such as corporals and sergeants of accountability, stating that it ‘found no evidence that there was knowledge of, or reckless indifference to, the commission of war crimes’ on the part of the commanding officers from the platoon level upward.<sup>76</sup> It concluded that while senior commanders ‘must bear some responsibility’, ‘it was at the patrol commander level that the criminal behaviour was conceived, committed, continued, and concealed, and overwhelmingly at that level that responsibility resides’.<sup>77</sup> However, the testimonies gathered by Cromptvoets appear to contradict these conclusions, and indicated that the Report only partially acknowledged the full extent of involvement of higher-ranking officials.

One soldier told Cromptvoets of an instance when an ADF member stood over an unarmed civilian and asked his superior, ‘you want me to drop this c\*nt?’, before receiving the affirmative and murdering him.<sup>78</sup> Another commented on the general inclinations of ADF members, stating that these ‘guys just had this bloodlust. Psychos. Absolute psychos. And we

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<sup>73</sup> Australian Financial Review. *Special Forces accused of brutal murders*, 19 November 2020, <https://www.afr.com/politics/federal/special-forces-accused-of-brutal-murders-20201119-p56g46>

<sup>74</sup> Ibid.

<sup>75</sup> Knaus, Christopher. “Australian special forces involved in murder of 39 Afghan civilians, war crimes report alleges”, *The Guardian*, 2020: <https://www.theguardian.com/australia-news/2020/nov/19/australian-special-forces-involved-in-of-39-afghan-civilians-war-crimes-report-alleges>

<sup>76</sup> Sliedregt, Elies and KC Gerry, Felicity. “Leadership Liability for Torture: Complementarity and the age-old problem with complicity in the UK and Australia”, *Australian and New Zealand International Law Society*, <https://anzsilperspective.com/leadership-liability-for-torture-complementarity-and-the-age-old-problem-with-complicity-in-the-uk-and-australia/#:~:text=Recently%20ANZSIL%20member%20Douglas%20Guilfoyle,Task%20Group%20Commanders%2C%20or%20higher>

<sup>77</sup> The Organisation for World Peace, *Brereton Report Released to Public: Australian Defence Force Personnel Committed War Crimes in Afghanistan*, December 2020, <https://theowp.org/brereton-report-released-to-public-australian-defence-force-personnel-committed-war-crimes-in-afghanistan/>

<sup>78</sup> Ibid.

bred them'.<sup>79</sup> More broadly, an important factor was commanders' and soldiers' disregard for the rules of engagement, interpreting them so loosely that it enabled them 'to commit just about any atrocity that took their fancy'.<sup>80</sup>

Other interviewees described complicity in cover-ups. Commenting on practices of cover-ups in the field, one soldier recounted that 'if they [ADF members in Afghanistan] didn't do it, they saw it. And if they didn't see it, they knew about it. If they knew about it, they probably were involved in covering it up and not letting it get back to Canberra ... and to make it even harder, if they didn't know about it, the question will be why didn't you, because you should have'.<sup>81</sup> In the offices of the Australian military, operational summaries 'were routinely embellished, often using 'boilerplate' language, to demonstrate apparent compliance with rules of engagement, and to minimise the risk of attracting the interest of higher headquarters'.<sup>82</sup> Complicity to cover-ups may have extended to Australian Defence Force lawyers as well, with one insider telling Cromptoets that 'any investigation into the alleged misconduct was 'set up' to find the person not guilty'.<sup>83</sup>

### III.2b.ii. Reception and reactions

The impact of the Brereton Report's was explosive. The Australian Defence Minister, Linda Reynolds, said she felt 'physically ill' after reading the report and Angus Campbell publicly apologised for the troops' conduct and resolved to take action on numerous occasions.<sup>84</sup> The Australian Prime Minister, Scott Morrison, called Afghani President, Ashraf Ghani, to apologise for the Report's findings. The squadron most implicated in the crimes was disbanded, 36 of the allegations were referred to the Australian Federal Police for investigation,

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<sup>79</sup> The Organisation for World Peace, *Brereton Report Released to Public: Australian Defence Force Personnel Committed War Crimes in Afghanistan*, December 2020, <https://theowp.org/brereton-report-released-to-public-australian-defence-force-personnel-committed-war-crimes-in-afghanistan/>

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> Jones, Murray. *Special Forces Around The World: Conduct, Oversight, and Opacity*, 12 July 2022, <https://aoav.org.uk/2022/special-forces-around-the-world-conduct-oversight-and-opacity/>

<sup>83</sup> The Organisation for World Peace, *Brereton Report Released to Public: Australian Defence Force Personnel Committed War Crimes in Afghanistan*, December 2020, <https://theowp.org/brereton-report-released-to-public-australian-defence-force-personnel-committed-war-crimes-in-afghanistan/>, p. 68

<sup>84</sup> Perth Now. *Afghanistan Inquiry. Australian war crimes 'made me physically ill', says Defence Minister Linda Reynolds*, 2020: <https://www.perthnow.com.au/news/conflict/afghanistan-inquiry-australian-war-crimes-made-me-physically-ill-says-defence-minister-linda-reynolds-ng-b881727259z>

and Morrison's government established a new Office of the Special Investigator to investigate further criminal conduct and recommend the prosecution of those involved.<sup>85</sup>

Former British major and Australian defence lawyer David McBride, who was serving at the time of the allegations, whistle-blew to the Australian Broadcasting Corporation and was consequently charged with five offences<sup>86</sup>. This was met with strong backlash, with Brereton himself saying that 'perhaps the single most effective indication that there is a commitment to cultural reform is the demonstration that those who have been instrumental in the exposure of misconduct, or are known to have acted with propriety and probity, are regarded as role models'.<sup>87</sup> Similarly, senator Rex Patrick said that 'persecution of whistle-blowers is not in the public interest' and that 'Mr McBride is a hero'. As of June 2023, McBride is still being prosecuted with a court date set for the 6 November; his application for protection under Australian whistleblowing laws has been denied.<sup>88</sup>

The future of the Brereton Report is mired in legal and political uncertainty. Any statement or disclosure made to The Inspector-General of the Australian Defence Force cannot be used in criminal prosecutions because Brereton's witnesses have been granted immunity from prosecution in exchange for telling the truth on oath, although the immunity only covers the evidence, they have given his inquiry.<sup>89</sup> Therefore, the Australian Federal Police must find evidence that has not already been used in the Brereton Report and therefore been immunised from prosecution. This proves to be a difficult task given how much time has elapsed since the atrocities were committed and the increasing unreliability of witness memory.

And yet, Australian troops have reported that these atrocities were inspired by atrocities committed by other members of the alliance, with one soldier saying that, 'whatever we do, though, I can tell you the Brits and the US are far, far worse. I've watched our young guys stand

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<sup>85</sup> Indaily. *Profound betrayal: War crimes report refers Australian soldiers to police over Afghan murders, SAS unit disbanded*, 2020, <https://indaily.com.au/news/2020/11/19/profound-betrayal-war-crimes-report-refers-australian-soldiers-to-police-over-afghan-murders-sas-unit-disbanded/>

<sup>86</sup> Burgess, Katie. "Afghanistan war crimes inquiry: calls to drop prosecution of whistle-blower David McBride", *Canberra Times*, 2021, <https://www.canberratimes.com.au/story/7019615/afghanistan-inquiry-calls-to-drop-prosecution-of-whistleblower-david-mcbride/>

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> McKenzie, Nick & Masters, Chris. "David McBride will face prosecution after blowing whistle on alleged war crimes in Afghanistan", *The Age*, 2020, <https://www.theage.com.au/national/the-soldiers-of-today-need-to-deal-with-the-wrongs-of-the-past-sas-leader-20201030-p56a15.html>



by and hero worship what they were doing, salivating at how the US were torturing people. You just stand there and roll your eyes and wait for it to end'.<sup>90</sup> To this end, the following sub-section will present and analyse the conduct of the American Green Berets, with a focus on the Maidan Wardak crimes.

### III.2c. The United States

The United States (US) was the political, financial, and operational leader of the campaigns in Afghanistan, with American troops making up two thirds of international forces in 2013<sup>91</sup>. This section will focus on US war crimes in the central Afghan province of Maidan Wardak and the parallels it bears to Australian war-crimes in Afghanistan.

#### *Background*

In the autumn of 2012, a team of American special forces arrived in Nerkh, a district of Wardak Province. They were U.S. Army Green Berets, a special operations force tailored towards activities that include unconventional warfare, foreign internal defence, counterinsurgency, information operations, and security force assistance.<sup>92</sup> They were sent to Nerkh to pursue remaining Taliban troops and increase the resolve of ailing government forces. Six months after their arrival, they were forced out of Nerkh by the Afghan government in response to allegations of eight murders and ten disappearances committed by the forces.

### III.2c.i. Investigations and Incidents

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<sup>90</sup> The Organisation for World Peace, *Brereton Report Released to Public: Australian Defence Force Personnel Committed War Crimes in Afghanistan*, December 2020, <https://theowp.org/brereton-report-released-to-public-australian-defence-force-personnel-committed-war-crimes-in-afghanistan/>

<sup>91</sup> NATO. *International Security Force (ISAF): Key Facts and Figures*. [https://web.archive.org/web/20140816101818/http://www.isaf.nato.int/images/stories/File/Placemats/20130624\\_130624-mb-isaf-placemat.pdf](https://web.archive.org/web/20140816101818/http://www.isaf.nato.int/images/stories/File/Placemats/20130624_130624-mb-isaf-placemat.pdf)

<sup>92</sup> Lee, Michael. *The US Army's Green Berets quietly helped tilt the battlefield a little bit more toward Ukraine*, <https://web.archive.org/web/20220601160941/https://www.msn.com/en-us/news/world/the-us-army-green-berets-quietly-helped-tilt-the-battlefield-a-little-bit-more-toward-ukraine/ar-AAVqOfJ>

The United Nations and the Red Cross undertook separate investigations into the incidents and they both found the witnesses and their allegations credible. The UN report ‘documented two incidents of torture, three incidents of killings and 10 incidents of forced disappearances during the months of November 2012 to February 2013 in the Maidan Shahr and Nerkh districts of Wardak province. Victims and witnesses stated ... that the perpetrators were U.S. soldiers accompanied by their Afghan interpreters’.<sup>93</sup>

### *Execution and torture*

On November 12<sup>th</sup> 2012, a roadside bomb hit the Green Berets as they patrolled in Nerkh, causing minor injuries to an American soldier and an Afghan translator working for the Green Berets.<sup>94</sup> The Green Berets stormed into a civilian residency nearest to where the bomb was planted and found two male civilian residents. After killing one and beating the other, they took the second man to an American base and there subjected him to intense torture over two days. The translator and the Green Beret soldiers suspended the man with his hands above his head, beat him, and twisted his testicles, as part of their interrogation which aimed to discover if he had any connections to, or information about, Taliban-related militias in the area. Even when it became clear that he knew nothing about the militias, they continued torturing him for amusement and promised that they would kill him like they killed his friend.<sup>95</sup>

A few days later, one of the man’s fellow villagers went to the local police headquarters to ask for his release, but the police told them they were powerless to help. However, an American officer was visiting the headquarters as the discussion unfolded and upon hearing of the execution and detainment, he seemed surprised and promised to investigate the matter. That same evening, the tortured man was handed to the local Afghan army camp.

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<sup>93</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/>

<sup>94</sup> Aikins, Matthieu. “The A-Team Killings: Last spring, the remains of 10 missing Afghan villagers were dug up outside a U.S. Special Forces base – was it a war crime or just another episode in a very dirty war?”, *Rolling Stone*, 2013, <https://www.rollingstone.com/interactive/feature-a-team-killings-afghanistan-special-forces/>

<sup>95</sup> *Ibid.*

### *Missing civilians*

In another incident, Green Beret soldiers stormed a civilian residence and took 40 civilians to the local military centre, where the local authorities scanned the detainees' fingerprints and retinas and swabbed their hands for explosive residue. Although no explosive residue was found and neither was any detainee found to have militia affiliations, US soldiers selected eight men and took them to their base. Most of the men were released, but two remained detained. A similar roundup occurred again, and four men were taken to the American base.<sup>96</sup> Later, the missing men's families, acting on a tip, obtained permission to inspect the base for their bodies but found nothing.<sup>97</sup> A week later, a shepherd who had moved his flock to previously untouchable grounds just outside the Green Beret's base said he saw a wild dog digging at what appeared to be human remains. A group of relatives and local officials arrived and found various bone fragments, including the lower portion of a human jaw, along with distinctive local clothing. They belonged to one of the first civilians to disappear at the hands of the Green Berets.<sup>98</sup>

Over the next two months, human remains were found at six different sites all around the base; all sites well within the sight of guard towers, and the closest site was within 50 yards from the base. As more bodies were inspected, the locals believed they had identified the ten missing men. One was in a heavy-duty black body bag resembling those used by the Green Berets and extremely unlikely to have been obtained by the local government or civilians. Another missing civilian's body was found under a bridge near the Green Berets' base. The man had been 'tortured mercilessly': his left hand and the index finger of his right hand had been cut off, his throat was cut off, and his chest had holes cut in it, most likely from multiple stabbings.<sup>99</sup>

The discovery of these missing people and especially the last instance led to President Karzai ordering the Green Berets to leave Maidan Wardak. Karzai made the decision at a meeting of Afghanistan's National Security Council, with his office accusing the Green Berets of 'harassing

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<sup>96</sup> Aikins, Matthieu. "The A-Team Killings: Last spring, the remains of 10 missing Afghan villagers were dug up outside a U.S. Special Forces base – was it a war crime or just another episode in a very dirty war?"; *Rolling Stone*, 2013, <https://www.rollingstone.com/interactive/feature-a-team-killings-afghanistan-special-forces/>

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

<sup>99</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/>, p. 91

... torturing and even murdering innocent people’, citing the ‘enforced disappearance of nine people and the torture and killing of the civilian found under the bridge’.<sup>100</sup>

### *Translators’ Dilemma*

After the Green Berets left Nerkh, the Afghan translator involved in the November 12 torture was arrested by local Afghan police after the discovery of a video in which he was beating prisoners in custody. An Afghan interpreter part of the interpreters’ group for the Green Berets confessed that they blamed the translator for the killings, saying ‘[he] liked to act like a gangster. He actually enjoyed killing people. He wasn’t a normal person’. He recounted an incident where the Green Berets arrested a local mullah whom the translator then shot in the face, despite being asked to release him after the interrogation.

Although the translator was a perpetrator of the atrocities, the Green Berets cannot be absolved of guilt. Numerous eyewitnesses report seeing soldiers murder civilians and bury them outside the base points, which indicated US awareness of and complicity to these crimes. The translator himself said ‘they knew what was happening...Of course they knew. If someone does something on the base, everyone sees it. Everyone knows everything that’s going on inside the team’<sup>101</sup>. To reinforce this, when reporters asked the Afghan army commander installed in Nerkh after the Green Beret’s exit whether there was any chance somebody could have buried a body 50 yards outside the perimeter without the Green Beret’s being aware of it, he said that ‘there is no possibility’ and that ‘the Americans must have known they were there’.<sup>102</sup>

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<sup>100</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/>, p. 91; Relief Web. *Natioanl Security Council Meetin Discusses Situationi Wardak and Logar Provinces*, 2013, <https://reliefweb.int/report/afghanistan/national-security-council-meeting-discusses-situation-wardak-and-logar-provinces>

<sup>101</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/>

<sup>102</sup> Ibid.

### III.2c.ii. Reception and Reactions

The Green Berets – and the American military more widely – engaged in sustained efforts to hinder investigations. They accused the family members of the missing people of fabricating evidence, of not being ‘completely upfront about everything that occurred’ and of being part of a Taliban campaign aimed at discrediting the American military.<sup>103</sup> For instance, the day after President Karzai’s declaration was issued, the International Security Assistance Force (ISAF) immediately responded, saying they had found ‘no evidence connecting US troops to allegations of abuse, torture, harassment and murder of innocent Afghans in the region’.<sup>104</sup> ISAF added that ‘after thorough investigation, there was no credible evidence to substantiate misconduct by U.S. or ISAF forces relating to the detainees or deaths in Nerkh’.<sup>105</sup> In response to new information provided in the Red Cross report, Colonel Chrichton, the ISAF spokeswoman, notified the US Army’s Criminal Investigation Command (ACID). Although ACID opened an investigation in July 2013, the victims’ families reported they had never been contacted by American military investigators.<sup>106</sup>

In August 2019, in response to allegations of war crimes in Afghanistan, the commander of special-forces operations General Richard Clarke ordered a ‘comprehensive ethics review’.<sup>107</sup> On the one hand, the report admitted to an ‘unhealthy sense of entitlement among special operators’ and underlined that ‘in some cases [its] cultural focus on Special Operations Forces employment and mission accomplishment is to the detriment of leadership, discipline, and accountability’.<sup>108</sup> On the other hand, it concluded that the special forces did not have a ‘systematic ethics problem’, which led to the report being condemned by some as ‘mostly a whitewash, full of vague language about improving leadership and accountability’.<sup>109</sup>

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<sup>103</sup> Ibid.

<sup>104</sup> Wendle, John. “Did U.S. Special Forces Commit Atrocities In A Key Afghan Province?” *Time*, 2013: <https://world.time.com/2013/02/28/did-u-s-special-forces-commit-atrocities-in-a-key-afghan-province/>

<sup>105</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/> p. 90.

<sup>106</sup> Ibid., p. 90-91.

<sup>107</sup> Harp, Seth. “The Fort Bragg Murders”, *Rolling Stone*, 202. <https://www.rollingstone.com/culture/culture-features/fort-bragg-murders-1153405/>; *United States Special Operations Command Comprehensive Review*. 2020: <https://sof.news/pubs/USSOCOM-Comprehensive-Ethics-Review-Report-January-2020.pdf>

<sup>108</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/> p. 103.

<sup>109</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/> p. 102

### III.2d. Cross-Case Comparisons

#### *Soldiers' agency*

There are striking similarities between allegation of Canadian, American, Australian and British soldiers' committing war crimes. The narrative of killings, if true, reveal a sadistic military culture of gratuitous violence that dehumanised Afghan civilians. The troops thought themselves to be a law unto their own, as demonstrated by the brazenness of their actions and refusal to submit to external investigations. In all cases, the troops appeared to conduct cover-ups which were supported by the military institution more widely. There was a pervasive lack of independent oversight and the seeming absence of checks, balances, and accountability on the ground was a key contributing factor to the above.

The testimonies speak to the extent of the soldiers' and commanders' dehumanising attitudes towards their victims. Military staff often used the phrase of 'clean up the mess' to refer to the disposal of the corpses, which indicates an emotional and cognitive distancing from the human dignity of their civilian victims.<sup>110</sup>

It is also unsurprising that soldiers appeared to be often too scared to oppose the status quo during the mission or to make revealing claims during their testimonies. During deployment, the authority of commanders was unquestionable and the soldiers feared the retribution they would incur. In all cases, the testimonies which did go on record highlight the extent to which those involved were certain of and indeed reliant on impunity: although they knew the bodies would be discovered, they trusted that nobody would take relevant disciplinary action against them.

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<sup>110</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/> p. 70

### *Military Culture*

As opposed to these extra-judicial killings being isolated incidents instigated by a small number of immoral soldiers, the testimonies point towards a pervasive culture of gratuitous violence among military ranks and institutions. As Cromptvoets pertinently observed, in the case of Australia ‘the gravity of these descriptions does not simply come from the details of particular events, it comes from the emphasis that most often accompanied these stories - ‘it happened all the time’. They pointed to a disturbing regularity and normality’.<sup>111</sup>

The code of silence and the complicity within military ranks were two key elements which enabled the killings and their cover-ups. Embellished reports and investigations created a watertight net where no word of the troops’ actions could reach the DoD/MoD and war-crimes in Afghanistan could continue unchecked. When this unspoken code of silence and complicity was broken, allegations were frequently overlooked or muted. This was in part enabled by ‘the absence of adequate whistleblowing channels that should have enabled soldiers to report war crimes without fear of retribution’.<sup>112</sup>

### *Political Complicity*

In each case, government officials were, to differing extents, involved in covering up the crimes or downright overruling investigations. The Canadian case demonstrates an on-the-ground culture of sadism and complicity, and a departmental one of cover-ups and persecution of whistle-blowers. The Somalia Affair is particularly instructive because it reveals how cover-ups can reach the highest echelons of government and how political interests can prevail in favour of thorough investigations. As with the Green Berets and Australian special forces, the lack of intervention by soldiers demonstrates the culture of complicity among the CAR and the refusal on the part of the sergeant demonstrates higher-level complicity at worst and gross negligence at best; the attempted cover-up by the Ministry of Defence conclusively demonstrates attempts at cover-ups at the highest level.

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<sup>111</sup> RedFlag. *SAS Australia: TV’s Celebration of War Criminals*, November 2020, <https://redflag.org.au/node/7454>

<sup>112</sup> Amnesty International. *Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan*, August 2014, <https://www.amnesty.org/en/documents/ASA11/006/2014/en/> p. 6

In the Canadian government's resistance to letting the Inquiry take its own course, one observes clear parallels with Australia's prosecution of whistle-blower McBride and the ISAF's dogged denial of guilt and lack of cooperation with external inquiries. While reform is welcome, it seems like the reform served as a smokescreen for the highest-level officials quietly evading investigation and accountability.

More generally, these instances can be traced back to the culture of silence and cover-ups, which can be observed in each of the analysed cases. Cover-ups were conducted by all special forces units, notably through weapon throwdowns. The cover-ups in the field translated into the doctoring of reports and investigations such as the 'whitewashed' ethics review by the American General, Richard Clarke, and 'boilerplate' field reports such as those by Australian commanders who sought to 'demonstrate apparent compliance with rules of engagement, and to minimise the risk of attracting the interest of higher headquarters'.<sup>113</sup> Those who did want to dig deeper into the matter, such as McBride in Australia, Shiner in the UK, and McAuliffe and Canada, were met with hurdles at every step, and faced prosecutions for their perseverance. Political motivation, too, played a great role in these cases: the forced closure of IHAT and of the Somalia Inquiry instantiate how political pragmatism can sometimes overcome the importance of truth and justice. These aspects led to lack of significant actions and relatedly, perpetuation of the issues.

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<sup>113</sup> Jones, Murray. *Special Forces Around The World: Conduct, Oversight, and Opacity*, 12 July 2022, <https://aoav.org.uk/2022/special-forces-around-the-world-conduct-oversight-and-opacity/>



#### IV. UK INDEPENDENT INQUIRY RELATING TO AFGHANISTAN

As this report was being written, in December 2022, Rt Hon Ben Wallace MP announced the Government's decision to establish an independent inquiry into the deployment of British armed forces in Afghanistan between 2010-2013. It is important to integrate this new development, as it can shine a light on several issues which were raised throughout this report. The Independent Inquiry relating to Afghanistan (henceforth, 'the Inquiry') is led by Rt Hon Lord Justice Haddon-Cave and it aims to find evidence as to:

1. 'Whether the investigations carried out by the Royal Military Police were properly and effectively conducted (in particular, Operation Northmoor and Operation Cestro).
2. Whether there is credible information that extra judicial killings (EJK) were carried out by British armed forces in Afghanistan during this period (and whether any matters should be passed to the Prosecuting Authorities to investigate).
3. Whether the circumstances of any such EJK were covered up at any stage.
4. What lessons are to be learned'<sup>114</sup>

Several sources of pressure influenced the Government's decision to launch the Inquiry including investigations led by the media such as BBC's Panorama documentary, a Sunday Times' report<sup>115</sup>, and AOAV's research. Domestic legal developments were another driver.<sup>116</sup> Law firm Leigh Day has been representing two families who had been calling for investigation into the death of their loved ones in Afghanistan. Families Saifullah and Noorzai began proceedings against the Ministry of Defence in 2019 and 2020 respectively, challenging the (in)adequacy and

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<sup>114</sup> Independent Inquiry relating to Afghanistan, *Independent Inquiry relating to Afghanistan: Home*, <https://www.iiia.independent-inquiry.uk>, last accessed 3 May 2023

<sup>115</sup> The Financial Times, 'UK Inquiry into SAS 'death squad' killings in Afghanistan begins', <https://www.ft.com/content/704f56ba-cd47-4b81-8cbd-4da11c86fc0f>; Anadolu Anjasi, 'UK begins inquiry into British troops' alleged extrajudicial killings in Afghanistan', <https://www.aa.com.tr/en/europe/uk-begins-inquiry-into-british-troops-alleged-extrajudicial-killings-in-afghanistan/2853426>; Army Technology, 'UK Special Forces in Afghanistan investigated for unlawful killings', <https://www.army-technology.com/features/uk-special-forces-in-afghanistan-investigated-for-unlawful-killings/>

<sup>116</sup> Al Jazeera, UK begins inquiry into army's 'unlawful killings' of Afghans, <https://www.aljazeera.com/news/2023/3/22/uk-launches-inquiry-into-british-army-killing-in-afghanistan>

(in)sufficiency of MoD's investigation into the circumstances of the killings.<sup>117</sup> Leigh Day commented that MoD documents indicated widespread knowledge about the UKSF having committed unlawful killings, but they did not report this to the Royal Military Police (RMP).<sup>118</sup> The influence of these factors indicates that while systems may be averse to change, pressure from the private and civic spheres can help raise the profile of certain issues and be a driver of justice.

One question which arises is whether the Inquiry contravenes the Overseas Operations Act (hereinafter, 'the Act'). Section II.2b. expanded on the Act, its provisions, and its impact on investigations into the case of Afghanistan or other similar cases. At first glance, one provision which seems to challenge the inquiry is that investigations into conduct of military personnel cannot be conducted if a period of five years has already lapsed. However, Lord Justice Haddon-Cave said he did not think the Inquiry contravened the Act, commenting that 'the Overseas Operations Act and in particular the schedules to it . . . contain some significant exemptions'.<sup>119</sup> Though the Act may not hamper the Inquiry from being conducted, one question remains: if the Inquiry finds sufficient relevant evidence to prove that extrajudicial killings were indeed carried out, will it be possible for the perpetrators to be brought to justice and prosecuted, given the five-year limit stipulated in the Act? On this matter, too, Lord Justice Haddon-Cave commented that the Act would not preclude prosecution.<sup>120</sup>

When commenting on the Inquiry, Lord Justice Haddon-Cave displays the utmost care, without endorsing the actions of the UKSF<sup>121</sup> - 'The allegations which the inquiry has to consider - and they are, I stress, only allegations at this stage - are extremely serious. [...] The public, and all those who serve in the military, are entitled to expect a fair, fearless and thorough examination the facts and clear answers to the questions raised [...] Either the

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<sup>117</sup> Leigh Day. *Bereaved families welcome unprecedented statutory inquiries into allegations of extra-judicial killings by UK Special Forces in Afghanistan*, <https://www.leighday.co.uk/news/news/2022-news/bereaved-families-welcome-unprecedented-statutory-inquiry-into-allegations-of-extrajudicial-killings-by-uk-special-forces-in-afghanistan/>

<sup>118</sup> Amnesty International: *Afghanistan: Left in the dark: Failures of accountability for civilian casualties caused by international military operations in Afghanistan*. 2014: <https://www.amnesty.org/en/documents/ASA11/006/2014/en/>, 90.

<sup>119</sup> The Financial Times, *UK Inquiry into SAS 'death squad' killings in Afghanistan begins*, <https://www.ft.com/content/704f56ba-ed47-4b81-8cbd-4da11c86fc0f>

<sup>120</sup> Ibid.

<sup>121</sup> Here, note that Lord Justice Haddon-Cave never refers to the extra-judicial killings as having been committed by the UKSF, but by the 'armed forces'. When asked by journalists why UKSF was mentioned neither in his opening statement, nor on the official site of the Inquiry ([www.iaa.independent-inquiry.uk](http://www.iaa.independent-inquiry.uk)), he answered that 'armed forces' is the term to be used but did not elaborate further. For the source, see footnote 122 below.

allegations are untrue, or if some of them are true then the military and the country can hold its head high and say we have looked into these properly and thoroughly'.<sup>122</sup>

## V. SUGGESTIONS IN RELATION TO THE INQUIRY

The military, legal, and political issues identified in this report should be contextualised within the broader context of international investigation and cooperation and not only within the context state-level procedures which are directly affected by protection through support of members of parliament as well as lack of transparency within the inquiry.

Should the Inquiry find conclusive evidence that warrant prosecution, the reactions could be manifold, albeit four immediate paths could be: i) accepting the evidence and taking action (i.e. reforming the system as much as possible), ii) accepting the evidence and taking selective or limited action (i.e. dismissing the perpetrators without also making systemic amendments), iii) accepting the evidence but advocate the impossibility to prosecute on the basis of the Act, or iv) outright refusing, refuting, or ignoring the evidence. The case studies illustrate these outcomes – Canada illustrates path i), USA illustrates path ii), but there are also outliers which fall between categories, such as Australia.

As a result, the following is suggested:

1. It is necessary that those who hold information relevant to the Inquiry act on the IIA's call for cooperation. The process is anonymous and the majority of the proceedings will be held with a closed court because of the sensitivity of the information. The results of the investigation depend on the willingness of people to come forward and help shed a light on the matter, and to help create a more just and accountable system. The case studies indicate that civil society can be a driver of justice. In this sense, the Inquiry could be complemented by initiatives such as BBC's Panorama, AOAV's research and legal firms' expertise on the matter where applicable. Adequate legal scrutiny is advised both on the internal and international level, with strong emphasis on the need of alternative

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<sup>122</sup> Holden, Michael. "UK inquiry vows to get to the bottom of Afghan extrajudicial killings' allegations", *Reuters*, <https://www.reuters.com/world/uk/uk-inquiry-into-allegations-sas-extra-judicial-killings-afghans-start-2023-03-22/>

source of expertise aside from state's civilian and military officials. As the findings of numerous reports show, most of the investigations proved to be successful in supporting the obedience of the laws of war and it is in the great interest of international community as well as UK civil and military officials to support and improve the quality of accountability and scrutiny within the UK forces.

2. Ensuing Governments and individual MPs should take note of the importance of upholding the principles of justice and accountability. In their actions, they ought to balance the need for secrecy inherent in matters of national security and special operations on the one hand, and the need to i) ensure humane conduct of hostilities and ii) adequate mechanisms of accountability. In the interest of national – and sometimes international security – the secrecy surrounding certain military affairs and special operation is, contextually, perhaps justified. Though one may find this point arguable, current politico-legal configurations indicate that this is, for better or for worse, the reality which must be our reference point. In this sense, while we must remain realistic about the nature and extent of parliamentary oversight of special operations, we ought not to endorse the creation of a context of impunity and unaccountability. While desire to protect British soldiers is understandable, this protection should be granted in line with established treaty and customary international humanitarian law. As Lord Justice Haddon-Cave emphasised, ‘It’s about, ultimately, reputation [...] This is critical, both for the reputation of the armed forces and the country’.<sup>123</sup>
3. Soldiers should all be rigorously vetted before recruitment to reject those with racist history and views such as the troops in CAR. They should also have meetings with their superiors and regular meetings with third-parties (e.g. Cromptvoets in the case of Australia) so they can be reminded of the rules of engagement and the correct conduct required of them. This is in line with national entities’ duties to contribute to the dissemination of IHL and compliance with the military manuals of the State. Another benefit that can derive from meetings with third-parties (e.g. Cromptvotes) is the ability to alleviate the culture of silence in a safe space – this way, soldiers can report missteps and the armed forces can take necessary action as to avoid similar events unfolding in

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<sup>123</sup> Quinn, Ben. “UK begins inquiry into alleged SAS extrajudicial killings in Afghanistan”, *The Guardian*, <https://www.theguardian.com/world/2023/mar/22/uk-inquiry-alleged-sas-extrajudicial-killings-afghanistan#:~:text=Ministers%20announced%20the%20statutory%20judge,these%20amounted%20to%20war%20crimes>

the future. Returning to the point of reputation, another quote from an unnamed British officer cited in Lord Justice Haddon-Cave's inquiry proves relevant: 'I find it depressing that it has come to this... Ultimately a massive failure of leadership. If we don't believe this, then no one else will and when the next Wikileaks occurs then we will be dragged down with them'.<sup>124</sup>

4. The reports to senior officials should be circulated among military and government departments and cross-referenced with other reports to assess their veracity and avoid cover-ups. It is also crucial to ensure that investigation of war-crimes is not purely an internal matter and appoint external investigative committees to do the job that IHAT, Australia's Office of Special Investigator, and Gen. Richard Clarke's 'comprehensive ethics review' were meant to do. Governments must take effective action in response to these investigations' findings to uphold the rule of law.

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<sup>124</sup> Leigh Day. *Bereaved families welcome unprecedented statutory inquiries into allegations of extra-judicial killings by UK Special Forces in Afghanistan*, <https://www.leighday.co.uk/news/news/2022-news/bereaved-families-welcome-unprecedented-statutory-inquiry-into-allegations-of-extra-judicial-killings-by-uk-special-forces-in-afghanistan/>

## VI. CONCLUSIONS

‘Who watches the watchmen?’, we asked in the beginning. This report cannot assert to have found an answer to a question which political theory and legal scholars have been trying to grapple with since the dawn of the discipline, through studies of legitimacy, authority, and accountability. What this report has done, however, was to explore the possible signposts from which ‘the watchmen’ can be watched.

The case of Canada showed the importance of watchmen being vigilant among themselves: to create a trusted and rightful institution, one must vet those who are involved in it and limit hateful views and behaviours. The Australian case indicated that researchers and civilian employees in the military can be a driver for change from within, as Crompton was. The Brereton Report and events surrounding it further indicated that civil society and civil servants can play a crucial role in demanding for evidence, truth, and justice. The American case draws these two strings together and, as the Canadian and Australian cases alike, emphasises that allegations must be followed by effective actions. Investigations must be carried out with due diligence and ensuing action ought to be substantive, rather than performative. The IIA places the UK in a crucial moment of opportunity to learn from the cases of its allies and choose the path which, in an IHL vein, best balances necessity with humanity and, most of all, justice. It is our hope that the analysis and suggestions offered in this report serve to create a clearer picture of the drivers which led to the current environment, and possible paths of good practice.

War is necessarily violent, yet it is the national military and governmental bodies, and the international community alike, who are responsible for not letting armed conflict denature into the bloodlust and killing for sport. The failure to do so can create an indelible stain on the legacies of those who contributed to enabling such atrocities. The path to redemption is long and winding, yet it is a path that nations must walk unless they are to regress into the very unaccountability and lawlessness that they so strongly stand against.

We as a society, and national institutions as our representatives, cannot look each other in the eye until every action is taken to remedy the past and safeguard the future.

## BIBLIOGRAPHY

- BBC News. “SAS unit repeatedly killed Afghan detainees, BBC finds.” July, 2022.  
<https://www.bbc.co.uk/news/uk-62083196>
- Samuelson, Kate. “MoD vs BBC: Panorama stands by SAS death squad exposé”, *The Week*, July 12, 2022  
<https://www.theweek.co.uk/news/defence/957327/ministry-defence-bbc-panorama-sas-expose>
- Action on Armed Violence. “Killing in the Shadows: Investigating allegations of British Special Forces extra-judicial killings in Afghanistan.” 2022
- Jones, Murray. “How the RMP Failed to Properly Investigate the EJK”, *Action on Armed Violence*, 12 July 2022.  
<https://aoav.org.uk/2022/how-the-rmp-failed-to-properly-investigate-the-ejk/>
- Slater, Anna. “Former Prime Minister David Cameron wanted to shut down murder, torture, and abuse investigations”, *The Guardian*, September 2016.  
<https://www.guardian-series.co.uk/news/14751687.former-pm-david-cameron-wanted-shut-murder-abuse-torture-investigations/>
- UK Governmental archive, “Iraq Historical Allegations Team (IHAT)”.  
<https://www.gov.uk/government/groups/iraq-historic-allegations-team-ihat>
- European Centre for Constitutional and Human Rights. “War Crimes by UK forces in Iraq”.
- Civil Society Alternative Report. “The UK's Implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. 2019.
- Majumder, Indrasish. “The Overseas Operations Bill: Counter Lawfare or Lawfare?”, *Human Rights Consortium*, 2021.  
<https://humanrights.blogs.sas.ac.uk/2021/08/19/the-overseas-operations-bill-counter-lawfare-or-lawfare/>
- BBC. “UK government and military accused of war-crimes cover-up”. November 2019.  
<https://www.bbc.co.uk/news/uk-50419297>
- The International Criminal Court. “Situation in Iraq/UK, Final Report”. December 2020.  
<https://www.icc-cpi.int/sites/default/files/itemsDocuments/201209-otp-final-report-iraq-uk-eng.pdf>
- Shackle, Samira. “Why we may never know if British troops committed war-crimes in Iraq” *The Guardian*, 2018. <https://www.theguardian.com/news/2018/jun/07/british-troops-war-crimes-iraq-historic-allegations-team>

Redress. “Overseas Operations Bill passes but with crucial amendments thanks to concerted campaign”. 2023.

<https://redress.org/news/overseas-operations-bill-passes-but-with-crucial-amendments-thanks-to-concerted-campaign/>

Cobain, Ian. “UK troops to be shielded from torture prosecutions under proposed law”, *Middle East Eye*, 2020.

<https://www.middleeasteye.net/news/uk-parliament-pushes-forward-bill-limit-torture-prosecutions>

Chappel, Elliot. “Labour votes against controversial overseas operations bill - but it passes Commons”, *Labourlist*, 2020.

<https://labourlist.org/2020/11/labour-votes-against-as-commons-passes-overseas-operations-bill/>

Centre For Military Justice. “The Overseas Operations Bill – a very significant intervention from the Judge Advocate General”. 2020.

<https://centreformilitaryjustice.org.uk/the-overseas-operations-bill-a-very-significant-intervention-from-the-judge-advocate-general/>

International Committee of the Red Cross. “How Does Law Protect in War; Military Necessity”

<https://casebook.icrc.org/glossary/military-necessity#:~:text=The%20%E2%80%9Cprinciple%20of%20military%20necessity,prohibite d%20by%20international%20humanitarian%20law>

Gillard, Emanuela-Chiara. “Proportionality In The Conduct of Hostilities – The Incidental Harm Side Of Assessment”, *Chatham House*, 2018.

<https://www.chathamhouse.org/sites/default/files/publications/research/2018-12-10-proportionality-conduct-hostilities-incident-harm-gillard-final.pdf>

UN OCHR. “Protecting human rights under conflict situations”.

<https://www.ohchr.org/en/protecting-human-rights-conflict-situations/international-standards#:~:text=The%20Hague%20Regulations%20are%20generally,Conventions%20have%20attained%20universal%20ratification.>

Morrow, James D. “When Do States Follow the Laws of War?”, *The American Political Science Review*, Vol. 10, No. 3 (Aug 2007), pp.559-572.

Hersch, Seymour M. “Torture at Abu Ghraib. American soldiers brutalized Iraqis. How far up does the responsibility go?”, *The New Yorker: Annals of National Security*, April 2004.

<https://www.newyorker.com/magazine/2004/05/10/torture-at-abu-ghraib>

The International Criminal Court. “Situation in Iraq/UK, Final Report”, December 2020.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/201209-otp-final-report-iraq-uk-eng.pdf>

Open Society Foundations. “The Cost of Kill/Capture: Impact of the Night Raid Surge on Afghan Civilians”. 19 September 2011.



- Zwanenburg, Marten. “Accountability of Peace Support Operations”. Leiden, The Netherlands: Brill | Nijhoff. 2005.
- Desbarats, Peter. “Somalia cover-up: A commissioner's journal.” Toronto: McClelland and Stewart, 1997.
- Brown, Kyle and Worthington, Peter. “Scapegoat: How the Army Betrayed Kyle Brown”. Toronto: Seal Books, 1997.
- Coulon, Jocelyn. “Soldiers of Diplomacy”. Toronto: University of Toronto Press, 1998.
- Dawson, Grant. “Here is Hell: Canada’s Involvement in Somalia”, Toronto: UBC Press, 2006.
- Razack, Sherene. “Dark Threats and White Knights: The Somalia Affair, Peacekeeping, and the New Imperialism”. Toronto: University of Toronto Press, 2004.
- OReilly, Michael. “MD at centre of Somalia controversy finds peace in Northern Ontario”, *Canadian Medical Association Journal*, 1998.  
[https://epe.lac-bac.gc.ca/100/201/300/cdn\\_medical\\_association/cmaj/vol-158/issue-2/0244.htm](https://epe.lac-bac.gc.ca/100/201/300/cdn_medical_association/cmaj/vol-158/issue-2/0244.htm)
- Bercuson, David. “Significant Incident: Canada's Army, the Airborne, & the Murder in Somalia.” Toronto: McClelland and Stewart Inc, 1997.
- Armstrong, Martha. “A Tale of Two Videos: Media Event, Moral Panic, and the Canadian Airborne Regiment” McGill University, December 1997.
- Winslow, Donna and Klep, Christ. “Geneva Centre for the Democratic Control of Armed Forces – The Parliamentary Inquiry into the Canadian Peace Mission in Somalia”, in Hänggi Heiner, *The Double Democratic Deficit*, London: Routledge, 2019.
- Report of the Somalia Commission Inquiry  
<https://nkitson.files.wordpress.com/2010/01/somalia-inquiry-report1.pdf>
- Commission of Inquiry into the Deployment of Canadian Forces to Somalia. “Dishonoured Legacy: Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia.” 1997.  
<https://publications.gc.ca/site/eng/479844/publication.html>
- The Canadian Encyclopaedia. “The Somalia Affair.” 2019  
<https://www.thecanadianencyclopedia.ca/en/article/somalia-affair>
- Bercuson, David J. “Up from the ashes: the re-professionalisation of the Canadian Forces after the Somalia Affair”, *Canadian Military Journal*, Vol. 9, No. 3, 2009.
- Knaus, Christopher. “Australian Special Forces involved in murder of 39 Afghan civilians, war-crime report alleges”, *The Guardian*, 2020.  
<https://www.theguardian.com/australia-news/2020/nov/19/australian-special-forces-involved-in-of-39-afghan-civilians-war-crimes-report-alleges>

NZ Herald. “Samantha Crompvoets inside story of Australia’s Afghanistan war-crimes report”. 2020.

<https://www.nzherald.co.nz/world/samantha-crompvoets-inside-story-of-australias-afghanistan-war-crimes-report/HQ5EDKYZU22NSCGYQPXFNZHVMM/>

ABC News. “Afghanistan war-crime report released by Defence Chief Angus Campbell includes evidence of 39 murders by Special Forces”. 2020.

<https://www.abc.net.au/news/2020-11-19/afghanistan-war-crimes-report-igadf-paul-brereton-released/12896234>

Australian Government Defence. “Inspector-General of the Australian Defence Force Afghanistan Inquiry”.

<https://www.defence.gov.au/about/reviews-inquiries/afghanistan-inquiry>

McKenzie, Nick & Masters, Chris. “‘Bloodlust, killings, cover-ups’: Report describes Australia’s ‘Abu Ghraib’ moment”. The Age, 2020.

<https://www.theage.com.au/national/blood-lust-killings-cover-ups-report-describes-australia-s-abu-ghraib-moment-20201027-p5692v.html>

Australian Financial Review. “Special Forces accused of brutal murders”. 19 November 2020.

<https://www.afr.com/politics/federal/special-forces-accused-of-brutal-murders-20201119-p56g46>

Sliedregt, Elies and KC Gerry, Felicity. “Leadership Liability for Torture: Complementarity and the age-old problem with complicity in the UK and Australia”, *Australian and New Zealand International Law Society*.

<https://anzsilperspective.com/leadership-liability-for-torture-complementarity-and-the-age-old-problem-with-complicity-in-the-uk-and-australia/#:~:text=Recently%20ANZSIL%20member%20Douglas%20Guilfoyle,Task%20Group%20Commanders%2C%20or%20higher>

The Organisation for World Peace. “Brereton Report Released to Public: Australian Defence Force Personnel Committed War Crimes in Afghanistan”. December 2020,

<https://theowp.org/brereton-report-released-to-public-australian-defence-force-personnel-committed-war-crimes-in-afghanistan/>

Jones, Murray. “Special Forces Around The World: Conduct, Oversight, and Opacity.” 12 July 2022.

<https://aoav.org.uk/2022/special-forces-around-the-world-conduct-oversight-and-opacity/>

Perth Now. “Afghanistan Inquiry. Australian war crimes ‘made me physically ill’, says Defence Minister Linda Reynolds”. 2020.

<https://www.perthnow.com.au/news/conflict/afghanistan-inquiry-australian-war-crimes-made-me-physically-ill-says-defence-minister-linda-reynolds-ng-b881727259z>

Indaily. “Profound betrayal: War crimes report refers Australian soldiers to police over Afghan murders, SAS unit disbanded.” 2020.

<https://indaily.com.au/news/2020/11/19/profound-betrayal-war-crimes-report-refers-australian-soldiers-to-police-over-afghan-murders-sas-unit-disbanded/>

Burgess, Katie. “Afghanistan war crimes inquiry: calls to drop prosecution of whistle-blower David McBride”, *Canberra Times*, 2021.

<https://www.canberratimes.com.au/story/7019615/afghanistan-inquiry-calls-to-drop-prosecution-of-whistleblower-david-mcbride/>

McKenzie, Nick & Masters, Chris. “David McBride will face prosecution after blowing whistle on alleged war crimes in Afghanistan”, *The Age*, 2020.

<https://www.theage.com.au/national/the-soldiers-of-today-need-to-deal-with-the-wrongs-of-the-past-sas-leader-20201030-p56a15.html>

NATO. “International Security Force (ISAF): Key Facts and Figures”.

[https://web.archive.org/web/20140816101818/http://www.isaf.nato.int/images/stories/File/Placemats/20130624\\_130624-mb-isaf-placemat.pdf](https://web.archive.org/web/20140816101818/http://www.isaf.nato.int/images/stories/File/Placemats/20130624_130624-mb-isaf-placemat.pdf)

Lee, Michael. “The US Army's Green Berets quietly helped tilt the battlefield a little bit more toward Ukraine.” March 2022.

<https://web.archive.org/web/20220601160941/https://www.msn.com/en-us/news/world/the-us-army-s-green-berets-quietly-helped-tilt-the-battlefield-a-little-bit-more-toward-ukraine/ar-AAVqQfj>

Amnesty International. “Afghanistan: Left in the Dark: Failures of accountability for civilian casualties caused by international military operation in Afghanistan” August 2014.

<https://www.amnesty.org/en/documents/ASA11/006/2014/en/>

Aikins, Matthieu. “The A-Team Killings: Last spring, the remains of 10 missing Afghan villagers were dug up outside a U.S. Special Forces base – was it a war crime or just another episode in a very dirty war?”, *Rolling Stone*, 2013.

<https://www.rollingstone.com/interactive/feature-a-team-killings-afghanistan-special-forces/>

Relief Web. “National Security Council Meeting Discusses Situation in Wardak and Logar Provinces.” 2013. <https://reliefweb.int/report/afghanistan/national-security-council-meeting-discusses-situation-wardak-and-logar-provinces>

Wendle, John. “Did U.S. Special Forces Commit Atrocities In A Key Afghan Province?”

*Time*, 2013. <https://world.time.com/2013/02/28/did-u-s-special-forces-commit-atrocities-in-a-key-afghan-province/>

Harp, Seth. “The Fort Bragg Murders”, *Rolling Stone*, 2021.

<https://www.rollingstone.com/culture/culture-features/fort-bragg-murders-1153405/>

United States Special Operations Command Comprehensive Review. 2020.

<https://sof.news/pubs/USSOCOM-Comprehensive-Ethics-Review-Report-January-2020.pdf>

RedFlag. “SAS Australia: TV’s Celebration of War Criminals.” November 2020.  
<https://redflag.org.au/node/7454>

Independent Inquiry relating to Afghanistan, *Independent Inquiry relating to Afghanistan: Home*:  
<https://www.iiaindependentinquiry.uk>

The Financial Times. “UK Inquiry into SAS ‘death squad’ killings in Afghanistan begins”. 2023.  
<https://www.ft.com/content/704f56ba-ed47-4b81-8cbd-4da11c86fc0f>

Anadolu Anjasi. “UK begins inquiry into British troops’ alleged extrajudicial killings in Afghanistan.” 2023.  
<https://www.aa.com.tr/en/europe/uk-begins-inquiry-into-british-troops-alleged-extrajudicial-killings-in-afghanistan/2853426>

Army Technology. “UK Special Forces in Afghanistan investigated for unlawful killings”. 2023. <https://www.army-technology.com/features/uk-special-forces-in-afghanistan-investigated-for-unlawful-killings/>

Al Jazeera, “UK begins inquiry into army’s ‘unlawful killings’ of Afghans”. 2023.  
<https://www.aljazeera.com/news/2023/3/22/uk-launches-inquiry-into-british-army-killing-in-afghanistan>

Leigh Day. “Bereaved families welcome unprecedented statutory inquiries into allegations of extra-judicial killings by UK Special Forces in Afghanistan.” 2022.  
<https://www.leighday.co.uk/news/news/2022-news/bereaved-families-welcome-unprecedented-statutory-inquiry-into-allegations-of-extrajudicial-killings-by-uk-special-forces-in-afghanistan/>

Holden, Michael. “UK inquiry vows to get to the bottom of Afghan extrajudicial killings’ allegations”, *Reuters*. 2023.  
<https://www.reuters.com/world/uk/uk-inquiry-into-allegations-sas-extra-judicial-killings-afghans-start-2023-03-22/>

Quinn, Ben. “UK begins inquiry into alleged SAS extrajudicial killings in Afghanistan”, *The Guardian*. 2023.  
<https://www.theguardian.com/world/2023/mar/22/uk-inquiry-alleged-sas-extrajudicial-killings-afghanistan#:~:text=Ministers%20announced%20the%20statutory%20judge,these%20amou%20to%20war%20crimes>