



Time for External Oversight of Britain's Special Forces

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Many of the most damning accusations against special forces were from their fellow soldiers and not from the external lawyers viewed with suspicion.

On Sunday November 17, BBC Panorama and the Sunday Times revealed credible evidence of efforts from within the MOD to “cover up” alleged war crimes committed by British troops, including special forces in Iraq and Afghanistan. The alleged transgressions of international law in Afghanistan demonstrate the need for the UK to establish external oversight of Britain’s special forces.

While other branches of the UK’s armed forces are accountable to Parliament, and UK allies are increasing the accountability and broader public transparency of their special forces, UK policy lags behind. Despite evidence of increased deployments of British special forces over the last two decades, the UK Parliament still has no mechanism to provide oversight. To add to this, the government has maintained a long-held policy not to comment on its special forces – a boiler-plate response ministers employ whenever questions are raised.

This blanket opacity policy can have negative consequences when it comes to providing accountability for harm to civilians where the UK deploys lethal force. However, it also has a significant impact on the UK’s reputation and its efforts to secure military objectives, not to mention for special forces themselves. While representatives of the two major parties appear to agree on the need for

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such transparency it would be prudent for the next government to pre-empt future scandals by committing to concrete reform.

Existing mechanisms

The UK government has itself – on many occasions – acknowledged the vital importance of transparency and owning the narrative in the era of information warfare. In the [2010 Strategic Defence and Security Review \(SDSR\)](#) an emphasis was placed on the need to “win the battle for information, as well as the battle on the ground.” It [also acknowledged](#) that “a more transparent society” aided by “the speed and range of modern global communications” would submit British operations to intense scrutiny. Ten years later, as both civilians on the ground and enemy combatants are increasingly likely to own a smartphone with direct access to the internet, the pace of change and the impact on conflict has perhaps gone even further than anticipated.

[Whether the government likes it or not](#), photos and videos of British special forces regularly enter the media, sometimes operating in theatres that the UK parliament has [not approved and/or are not aware of](#). While some allies chose to address such situations by [openly engaging with media and the public](#) to own the narrative on what they are trying to accomplish, the UK government refuses to do so, and – as it stands - Parliament can do nothing to challenge this.

This is not to say that there haven't been any investigations into possible transgressions. [The Iraq Historic Allegations Team \(IHAT\)](#) and Operation Northmoor were set up in 2010 to examine alleged war crimes in Iraq and Afghanistan. Operation Northmoor, in particular, found that UK special forces were [linked to dozens of suspicious deaths](#). However, in 2016, Phil Shiner, a

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solicitor who had brought over 1000 cases to IHAT was found to have paid an Iraqi middleman to find complainants and was struck off. As a result, both IHAT and Operation Northmoor faced serious pressures from the government, inhibiting them from performing their duties.

In July 2017, an investigation by *The Times* revealed that the MoD was pushing strongly for the premature end of Northmoor. At the same time, they also wrapped up investigations into transgressions in Iraq. While adding immense pressure on Northmoor staff to finish the investigation that summer, the MOD failed to dedicate any additional resources to speed up the process of reviewing claims. This meant staff were simply forced to abandon many of the accusations they were previously investigating. One IHAT investigator told BBC *Panorama* that “The Ministry of Defence had no intention of prosecuting any soldier of whatever rank he was unless it was absolutely necessary, and they couldn’t wriggle their way out of it.”

However, as the allegations uncovered by Operation Northmoor show, the premature end of investigations into war crimes is unlikely to be based on a lack of evidence. Moreover, while there have been fears of claimant lawyers filing cases based on weak evidence, many of the most damning accusations against special forces in the recent *Panorama* programme were from their fellow soldiers and not from external lawyers. This was a point that the Chair of the Defence Committee Dr Julian Lewis noted in 2017, when he suggested to the former Defence Secretary, Sir Michael Fallon, that the “bulk of allegations... have come from members of our own armed forces, NGOs and other bodies working in Afghanistan, rather than claimant lawyers.” Reinforcing the point that these needed to be taken seriously and investigated with the necessary time and resources.

Why does it matter?

Civilian harm – especially when not adequately addressed – can pose real, significant challenges to effectively obtaining strategic objectives. This was something the UK and its NATO allies were forced to reckon with in previous conflicts, most notably in Afghanistan, where International Security Assistance Force (ISAF) commanders came to realise that, [as a direct result of high civilian casualties](#) in the context of an heavy-reliance on air support and weak monitoring mechanisms, the mission to win the “hearts and minds” of the Afghan population was being undermined. This in turn undermined the operation more widely.

A failure to promptly and adequately hold UK forces to account for transgressions is also likely to have serious reputational consequences among its international allies and local populations alike. As the UK embarks on its [“Global Britain” agenda](#), in which influence-building seems to be a major focus, this should raise concern in the MOD. The fact that the International Criminal Court (ICC) is [currently considering investigating the UK](#) - the first time it would act against any UK nationals for war crimes – would significantly discredit the UK’s reputation as a defender of the rules-based system.

As the UK prepares for a new government, providing sufficient oversight over special forces should be a major priority for the next government’s parliamentary reform agenda. The UK currently stands out among its allies in its failure to introduce any form of oversight of its special forces. Oversight is vital, not only to ensure that Britain’s special forces act in keeping with UK values and domestic and international law, but also to ensure that the UK is able to secure its national security interests and maintain its position as a champion for the international rules-based system at home and abroad.

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