



A Call for Dialogue: The Dangers of Polarisation in the Special Forces Debate

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It may have escaped some people's notice that there has been an increasingly polarised debate on the use of special forces over the last twelve months. Following the latest in a series of articles in [the Sunday Times](#), which allege that UK Special Forces (UKSF) committed abuses against civilians in Afghanistan, there have been [a number of articles](#) which reflect the polarising nature of the debate on special forces.

Much of this comes down to a false dichotomy that says, bluntly: if you are calling for oversight of UKSF, then you are pacifist and idealistic; and if you are against oversight, then you believe we have to do bad things “so that ordinary people...can sleep safely in their beds at night.” As we have long argued, this dichotomy is not only false, it is also deeply counter-productive. It splits people into artificial camps and undermines the prospects for debate and discussion.

This article seeks to avoid writing yet another counter-article and, instead, does two things:

1. Provides [an abridged collection of the last four years of our research](#) on UKSF oversight as an evidence base for our own conclusions on the issue.
2. Calls for the end of the polarised dispute over the issue of UKSF oversight and, in its place, pushes forward evidence-based discussion and debate.

It does this by, first, examining the level of oversight of UKSF and then exploring some of the arguments for and against changing the status quo, for UK objectives, local communities and for UKSF themselves.

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The level of secrecy over UKSF

It is worth noting that UKSF are shrouded in a higher level of secrecy than most, if not all, other aspects of UK defence and security infrastructure. While the number and remit of UK Special Forces operations has increased since 9/11, they have continued to lack sufficient scrutiny because of the government's long-held "no comment" policy. This means that any question about their use can be met with the standard line about "the [Ministry of Defence's (MOD)]'s long-held policy ... not to comment on Special Forces". In addition, information about UKSF is specifically exempt from the Freedom of Information Act, and any stories that are leaked are open to prosecution under the Official Secrets Acts.

Unlike intelligence agencies (who are overseen by the Intelligence and Security Committee) there is no committee oversight of UKSF. This was raised by former Chair of the Defence Committee, Julian Lewis in an evidence session with then-Secretary of State for Defence Sir Michael Fallon. Lewis, who has long been a champion of the military, said:

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“ We don’t have a mechanism in parliament for any form of scrutiny for the activities of UK special forces. “Special forces work is classified for understandable reasons but so is the work of the intelligence and security services and we do have a mechanism for scrutiny in the form of the intelligence committee. ”

As we have argued elsewhere, this is not the norm among UK allies. Many, including the U.S., Canada, Australia, France, Denmark and Norway, have some level of oversight of their special forces. This includes, in the Danish example, a fully-fledged parliamentary vote over their use. In other examples, it includes, at the very least, official statements to the legislature on their activities. It is for this reason that we have argued the “no comment” policy and lack of committee scrutiny should be re-examined.

The need to operate effectively

One of the first criticisms we often hear against this recommendation is that it would affect the UK’s ability to operate. [Andrew Roberts recently wrote in the Sunday Times](#) that UKSF should not have to fight “with its hands tied.” However, as we (as well as several senior political and [military decision makers](#)) have argued, this assumption that maximum autonomy provides

maximum effectiveness is dangerous – especially given the limits of hard security instruments in addressing political problems.

In Iraq and Afghanistan, many have argued that the night raids discussed in the Sunday Times piece made us less safe. It created more civilian harm, cemented local grievances, stoked recruitment for militant groups and, in doing so, paved the way for groups like ISIS to thrive. According to estimates from the Watson Institute's Costs of War Project, America's so-called Global War on Terror has cost more than \$6 trillion since 2001; however, terrorism has not been eradicated and – in some countries – conflict has been prolonged and exacerbated.

ORG's own work has shown the dangers of a military approach to political problems. For instance, in the anti-ISIS coalition while the Western footprint on the ground was relatively small, the long-term consequences of working with certain groups in the fight against ISIS are likely to loom large in the Middle East for years to come. For instance, in Syria, working with the Syrian Democratic Forces (SDF) pushed back IS and established enduring governance structures in Kurdish majority areas, but the SDF was not seen as legitimate by Arab communities.

UKSF are not immune to such dangers, especially if – as has been argued elsewhere – they are often engaged in more kinetic activities than regular soldiers. As such, there needs to be an assessment of whether their operations are working. This resonates with comments from the Foreign Affairs Committee in 2016 when it emerged that UKSF had been on the ground in Libya:

“ Special Forces operations in Libya are problematic because they necessarily involve supporting individual militias associated with the [UN-backed Government of National Accord] rather than the GNA itself, which does not directly command units on the ground. ”

Alison Pargeter noted in work commissioned by ORG, that the international approach had “alter[ed] the balance of power on the ground, which has the potential to further undermine the prospects for peace.”

In this sense, a lack of oversight does not make UKSF more effective. Instead, the fact that none of these concerns could be alleviated may mean that fatal assumptions and bad strategy are not properly checked. In turn, this could mean their operations are less effective when measured by these broader, longer term metrics.

Keeping secrets in an information age

There is also an assumption that maintaining a “no comment” policy over Special Forces will be enough to keep them out of mainstream discussion. However, as the recent allegations in the Sunday Times show, this is not true.

There is of course a balance that needs to be struck between the need for secrecy to provide security and the need to open up the choices of government

to scrutiny and debate. However, current policies do not seem up to the challenge of dealing with the ways in which the rapidly expanding access to information is eroding governments' abilities to guarantee secrecy. In a world dominated by smart phones, social media, and burgeoning access to the internet, the current policy of limited transparency may end up exacerbating the low levels of public trust in military interventions that secretive warfare is assumed to avoid.

Certainly, poor transparency and accountability have not removed UKSF from public debate. UKSF are constantly discussed in the media, creating an uneasy coexistence of official opacity and sporadic leaks of information – which may be creating a host of unintended consequences. For instance, it is noteworthy that some of the most prolific coverage of British Special Forces is in Russia Today and Sputnik – and none of it is particularly positive. In this sense, the “no comment” policy does not stop debate but simply hinders the UK's ability to respond.

The deaths of four US special forces in Niger tells a cautionary tale in this regard. The fact that the US government did not properly discuss this deployment with the American public and Congress meant, when soldiers were killed, there was uproar and shock. In response, the US has sought to pull-out of the Sahel completely. In this sense, failing to have a proper discussion now risks a knee-jerk reaction where politicians are forced to withdraw because of electoral rather than strategic reasons.

What does the UK as a “force for good” look like?

Another particularly dangerous argument against our recommendations is that the nature of our enemies mean that we may have to sacrifice our values. This

was clear from Andrews' article:

“ Fighting a non-state terrorist enemy ... that [do] not fight according to the same rules of war as civilised countries requires considerably tougher rules of engagement, and more leeway to be given to soldiers... We have the moral superiority because we are modern liberal democracies and they are totalitarian psychopaths. ”

In the rise of near-peer threats, there has also been an assumption that democratic values put the UK at a disadvantage. In an ORG-run expert roundtable, participants described how the UK and its allies are often on “the backfoot” because they are “open societies” and are uncomfortable with deception.

This assumption requires careful consideration. As another roundtable participant said, the UK at times risks “playing lip service to values and ethics” without living up to them. There are some painful questions to be asked around how many of the local population in places like Iraq and Afghanistan consider us a “modern liberal democracy” which acts as a “force for good.” Unless we unpick these questions and critically analyse what it means to be a liberal democracy, we risk – as another expert told us – a reputation “internationally as hypocrites.”

If the UK wants to be a healthy liberal democracy – and even a “stronger force for good in the world” – it has to practice what it preaches. As one roundtable participant noted, if the UK believes it is fighting for “our way of life, then we have to commit to defend the values” that form this way of life, such as free speech, democracy and human rights.

In this sense, being a “force for good in the world” requires UK soldiers (special and regular) to practice these principles in everything they do and, more importantly, hold people to account when they do not. The UK does not automatically qualify as a force for good by simply being a democracy. Instead, it must earn that right by being better than the enemy and by applying the principles that it claims to be fighting for.

Protecting our forces from litigation

Before he became a British politician and eventually chair of the Foreign Affairs Committee, Tom Tugendhat co-authored a report with fellow soldier, Laura Croft, decrying the impact of litigation on UK armed forces: “Britain’s armed forces are now under threat from an unexpected quarter: the law.” They were referring to the series of rulings that cemented the extra-territorial application of the European Convention on Human Rights, which, according to *The Economist*, had by April 2014 brought “two public inquiries, more than 200 judicial reviews and more than 1,000 damages claims.”

Four years on, many within the current government remain concerned about these developments. In a pre-election panel discussion at the Royal United Services Institute (RUSI) in 2017, when asked what she would like to see less of in defence the Conservative Party spokesperson, Harriett Baldwin MP, responded with a one-word answer: “litigation.” In his recent article, Roberts

also lamented litigation. He criticised “human-rights lawyers, anti-war pressure groups and vengeful relatives.” In our own expert roundtables, we noticed an increasingly antagonistic relationship between government and civil society, with the government unwilling to discuss the legal guidance for current military operations.

In response to these criticisms, it is worth noting that the email cache released by the Times does not show concern from these groups, but from within UK special forces themselves, among special forces commanders other parts of the British army.

It is right that British Armed Forces personnel are not inappropriately pursued based on poor evidence. The case of Phil Shiner demonstrates the damaging effect this can have on the lives of UK personnel. However, the way in which investigations into UK forces have been politicised and bungled by inadequate resourcing has made it more, not less, likely that the cloud of suspicion will continue to hang over UKSF.

This, in turn, may lead civil society groups to pursue more not less litigation in an effort to address perceived gaps in the current system of accountability. In this sense, such an approach leaves the Government, and the armed forces alike, in a position of latent legal liability as we wait for future court rulings in areas that are currently contested in international or domestic law, or that are poorly covered by existing legal guidance.

Protecting soldiers

The final criticism of our recommendation, which was again noted Robert’s article, is that UKSF “[deserve] protection from scrutiny”. This statement

ignores the fact that scrutiny is a necessary way of ensuring that soldiers act within the law, and do not prolong human suffering and violent conflict in the places we engage. However, this argument also ignores the ways in which scrutiny protects individual UKSF.

And, adversely, a lack of scrutiny can mean the safeguards given to UKSF are insufficient. In the US and elsewhere, for instance, it has helped highlight ways in which the current system is failing to protect special forces. In June 2017 a [Washington Times](#) article also revealed reports that the strain of the battlefield was “taking a personal toll on Navy SEALs and members of other special operations elite forces” and had led to an increased use of drugs and alcohol “on deployment and at home.”

The challenging operational tempo has also been identified as a risk by French Special Forces (FSF). In a [testimony to the Assemblée Nationale](#), the head of FSF noted that “I don’t have a recruitment problem. The challenge is to keep personnel, because of the unstoppable rhythm of our work... with time, fatigue builds up.... It is not always the individual who decides that they want a break, it is often their family. The difficulty will therefore be more of a long-term one than an immediate one at the recruitment stages.”

External oversight could add an additional mechanism to ensure UKSF are not subject to unsustainable overstretch. In particular, greater pressure on the government to publicly defend their strategy for their use could provide a greater incentive for it to think more carefully about its priorities, and how and where UKSF might have the most chance of success.

In the past, [British parliamentary committees](#) have served as champions of the interests of the armed forces when government decision-making has failed

them. When the issue of inadequate equipment was brought to the attention of the British public during the deployment of British troops in Helmand, the subject was debated, and the executive held to account. Without any form of external oversight of UKSF; the public and Parliament will be unaware if UKSF are being adequately prepared for the theatres they are being deployed to.

Conclusion: Time for a proper debate

We are increasingly concerned about the health of the debate over the level of oversight of UKSF. In response to a parliamentary question from Yasmin Qureshi MP in July 2016 on whether the government would “assess the potential merits of appointing a committee of parliamentarians to oversee the operations and budget of special forces, similar to the functions of the Intelligence and Security Committee in respect of the intelligence services,” Sir Michael Fallon simply replied: “No.” This typifies the response from many key policy makers and even experts on this issue.

As a result, healthy debate about the pros and cons of more oversight of UKSF is continually undermined. Among policymakers, experts and commentators, it seems that there are many who think the issue was long resolved and doesn't need further discussion. However, if the UK is to keep up with the changing character of conflict, no issue on defence and security can be considered resolved or free from considered debate and discussion. This is perhaps especially true for the “no comment” policy over UKSF. It is an anomaly - both compared to UK allies and to other more secretive elements of the UK defence and security infrastructure (like intelligence agencies). It is because of this we think it is increasingly indefensible. But we would like to hear your thoughts.

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