

Historic Abuse of Iraqi Prisoners

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The PM is right to draw a line in the sand, to protect the freedom with which the military has to operate...

— General Lord Dannatt, ex-Chief of Staff

Prime Minister David Cameron is getting himself all wound up about the nasty slurs on ‘our brave boys’; ‘our brave servicemen and women who fought in Iraq’; ‘the people who risk their lives to keep our country safe’; the veterans of Britain’s illegal invasion of Iraq. Of course, they must ‘act within the law’ etc... Except they didn’t.

The said ‘brave servicemen’ are in danger of being taken to court over their abusive treatment, and in some cases murder, of Iraqi detainees during the invasion of Iraq. Hundreds of complaints have been lodged with the Iraq Historic Allegations Team ([IHAT](#)) which was [investigating](#) between 1300-1500 cases. Many are simple complaints of ill treatment during detention, but some are far more serious:

- Death(s) while detained by the British Army
- Deaths outside British Army base or after contact with British Army
- Many deaths following ‘shooting incidents’



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According to Cameron, 'Our armed forces are rightly held to the highest standards...' One wonders what standards he's thinking of, seeing that it has been proved more than once that the UK military has not complied with international humanitarian law. Britain has a long and ignoble history of practicing torture, as documented by Ian Cobhain in his book [*Cruel Britannia*](#).

Curiously, or perhaps not, just two days after Cameron launched his assault, IHAT [announced](#) it was dropping no less than 58 inquiries into unlawful killings by army veterans. And while so many rushed to the defence of the soldiers accused of abuse, absolutely no one has mentioned [another example](#) of the culture of violence within the armed forces which resurfaced just a few days earlier: the 'notorious' Deepcut Barracks.

The two law firms pursuing the claims on behalf of Iraqis and their families, Public Interest Lawyers, and Leigh Day, have been labelled 'ambulance chasers' and 'tank chasers' by much of the loud, right-wing media. Other insults include 'money-grubbing or grabbing lawyers'. Naturally, goes the refrain, they want to get as many cases into court as possible so they can make a fortune in lawyers' fees. It's what you do if you're defending humanitarian law.

One of the law firms involved, Leigh Day, is now the [subject](#) of an intended action by the government, who want to sue it for failing to supply documents to the al-Sweady inquiry, documents which 'proved that alleged innocent victims (of abuse by UK armed forces) were actually enemy insurgents.'

But Cameron, like other occupants of Number 10, refuses to acknowledge that the invasion of Iraq in 2003 was illegal. And as UK armed forces were in Iraq illegally, any Iraqis who fought them were not 'enemy' insurgents, but citizens legally resisting the invaders of their country. Thus, 'enemy insurgents' could be, and in this case were, also innocent victims of illegal treatment, treatment that did not comply with international law.

International law covering 'enemy' soldiers (in uniform) or insurgents (in any old clothing) ensures proper, humane treatment of any prisoners. No beating, no slapping about, no prevention of sleep by using loud noise, no withholding of food or water, no forced stress positions, no sandbags over their heads, no deliberate extremes of temperature, all techniques which British soldiers were witnessed employing.

Even worse, despite these practices having been banned more than once by Parliament, they were, as evidence at the Baha Mousa inquiry demonstrated, being taught to soldiers and encouraged to use them in Iraq by the Ministry of Defence. Only one soldier ended up with any kind of a sentence after the killing of Baha Mousa (Corporal Donald Payne, one year in prison and dismissal from the Army), but when the inquiry into Mousa's death was held the evidence that came out was [utterly damning](#).

General Lord Dannatt, once Chief of Staff, is one of those backing Cameron's stance. Appearing on the BBC's Today programme on January 22, he defended the high standards of our wonderful army, and spoke of the greed of "lawyers with less integrity than others". Of course, British forces should "act within the law", he said, but many of these claims are "spurious and cannot be substantiated". Not, of course, until they have been tested in court, a point that seems to have escaped the noble lord.

One lawyer with real integrity defending the legal action being taken on behalf of abused Iraqis is Lt Colonel Nick Mercer who, at the time of the invasion, was the Army's chief legal officer in Iraq. He was out in Basra, he saw the abuse, he complained to his superiors and he gave strong and disturbing evidence to the Baha Mousa Inquiry. As he [said](#), "It was my job to protect British commanders and make sure they kept to the right side of the law." But the MoD was 'resistant to human rights'.

The MoD's view was that the government position prevailed over Mercer's interpretation of international law. In 2009 the Supreme Court ruled that the advice he had tried to give the MoD in 2003 was correct. But it was not until 2010 that UK military intelligence interrogators were trained in international law and human rights. Whether that has made any real difference to their standards of practice is as yet unknown. In 2011 the MoD was hit by [more claims of mistreatment](#), when Iraqi victims won the right to an inquiry in the Court of Appeal.

Again and again the MoD had tried to gag Mercer, threatening to report him to the Law Society, and in 2007 he was suspended for conducting a case in Cyprus in a way that disagreed with MoD views. He has now left the Army and is an Anglican priest, his principles and defence of the law as strong as ever. He has come out fighting in defence of Leigh Day and Public Interest Lawyers, saying it was [beyond doubt](#) that British soldiers tortured Iraqi prisoners.

He emphasises that he and others raised their concerns at the time the mistreatment of prisoners was going on; that the International Committee of the Red Cross had raised their concerns with the government; that the European Centre for Constitutional and Human Rights has also raised its concerns - with the International Criminal Court. This is not just about 'money-grabbing lawyers' against the rest of the nation. There are too many others who were and are concerned about the abuse that have no financial motives, says Mercer, and it was wrong to try and polarise the debate in this way.

He points to the fact that the MoD has already paid out £20 million in compensation for 326

cases. "Anyone who has fought the MoD knows they don't pay out for nothing, so there are 326 substantiated claims with almost no criminal proceedings to accompany that. And you have to ask why."

Lord Dannatt said that only 3 of all these cases have been proven - another point he seems to have missed: that the MoD paying compensation prevented the cases coming to court. Dannatt's version of this is that the MoD "opted on the side of generosity rather than try to fight these cases in court".

Cameron says these allegations of abuse are 'spurious legal claims' that must be stopped, 'spurious' being a word that is now used by all those on the MoD's side. Cameron is a master of spurious claims. He produces one or two almost every week in Parliament, during Prime Minister's Questions. A recent example, which earned him a great deal of 'non-credibility', came during the parliamentary debate on whether the UK should bomb Syria.

He said that there were 70,000 moderate fighters in Syria - a claim that the MoD **reportedly asked** to have removed from his statement. His ministers are masters of the spurious as well, constantly being corrected for their statements that the government has done this or that, given extra funding for this or that, when, for instance, the 'extra funding' turns out to be less than the amount they cut a Ministry's budget the year before.

But Britain has to face the fact that not only do we have a spurious* government, but that 'our brave soldiers' have consistently broken both UK and international law, have been encouraged to do so by their masters and that the government will fight tooth and nail to prevent them being taken to court. For the sake of all of those abused, here and abroad, it is time there was a full and independent inquiry into the MoD's non-compliance with international humanitarian law.

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