

Britain: Iraq murder court-martial collapses

By Niall Green
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The court-martial of seven British soldiers accused of murdering an 18-year-old Iraqi man has collapsed. The trial judge ruled that there was insufficient evidence for proceedings to continue.

So unserious was the British military's treatment of the alleged murder that the outcome was a foregone conclusion. Judge Advocate General Jeff Blackett, presiding at the trial, criticised the Royal Military Police Special Investigation Branch (SIB), which was in charge of investigating the incident, for making "serious omissions" in their investigation.

Blackett stated that the Military Police had failed to search for hospital records related to the case and had not established whether there was a register in which the deceased's burial may be recorded. The SIB negligence included delays in interviewing witnesses and defendants. The British army investigators also failed to take crucial DNA samples or take possession of the deceased's clothes before evidence on them became tainted.

So inadequate was the SIB investigation that the medical cause of death could not be established to the satisfaction of the court. "There was no exhumation, there was no post-mortem and the death certificate was issued by an Iraqi doctor who never saw the body himself," one of the defence lawyers told the BBC after the trial.

The seven soldiers, all privates and non-commissioned officers from the Third Battalion of the Parachute Regiment, were accused of beating to death Nadhem Abdullah in the village of al-Ferkah, 60 miles north of Basra, southern Iraq, in May 2003. The killing of Abdullah, a civilian, took place three weeks after the official cessation of the major combat activities.

The hearing was held at the unit's base in Colchester, Essex. Army prosecutors accused the seven of using their hands, feet, helmets and rifle butts to beat several Iraqi civilians during a roadside inspection of a taxi.

Prosecuting, Martin Heslop QC told the court that the soldiers entered the area during a patrol and "brutally assaulted a number of unarmed Iraqi civilians, causing serious injuries from which one died."

"It was, I am afraid to say, nothing more than gratuitous violence meted out on a number of innocent and unarmed Iraqi civilians. These assaults were unjustified and wholly unprovoked," said Heslop.

With very little forensic or documentary evidence provided

by the SIB, Heslop was forced to concede from the outset that the case against the seven soldiers would have to rely on evidence given by "poor, illiterate Iraqi witnesses." In this evidence there would "inevitably be contradictions and inconsistencies in the accounts of what happened."

The main forensic evidence that was provided to the prosecution was that blood matching Abdullah's was found on the rifle of one of the defendants, Private Samuel May. However, this evidence was deemed to be useless due to the failure by the British military police to take DNA swabs from Abdullah's relatives and thus rule them out as the source. The question of why the blood of any member of the family should be on Private May's weapon was deemed not to be germane to the case.

Several Iraqi witnesses gave evidence, including the driver of the taxi in which Abdullah was travelling. He described how soldiers had started to beat him after they discovered he could not speak English. "I fell on the floor from the blows and they continued hitting me and then I passed out. They hit me on my elbow, my head, my back, all over my body," he said.

The driver described how Abdullah was severely beaten by several soldiers, whom he could not positively identify.

Another witness, Sougheir Khalaf, the cousin of the deceased victim, stated that he was also beaten during the search: "They made me lie on the ground and they asked me to put my hands behind my head and they started to beat me."

He said that he was rendered unconscious by the attack and the blows to his side had resulted in renal problems. However, Khalaf was also unable to identify the accused as his attackers and said he thought the soldiers were American.

Under cross-examination Khalaf was accused of lying to the court in order to get compensation. Rex Tedd QC, representing one of the accused, Corporal Scott Evans, put it to Khalaf that he had exaggerated the events of the incident. "What you have done is to pretend you have suffered injuries when that's not true so you can claim compensation for it," said Tedd.

The accusation of fabricating claims for financial gain was also made against Samira Rishek, a woman who had also said she was beaten by soldiers during the incident but who retracted the accusation in court. During the course of the trial two other Iraqi women also rescinded claims they were assaulted.

The soldiers' defence made much play of the fact that the

Iraqi witnesses received \$100 a day from the court while giving evidence, claiming that this was an inducement for poor Iraqis to perjure themselves.

In his testimony, the soldiers' platoon commander, Captain Andrew Blackmore, said threats from insurgents or anti-coalition forces could result in a need to use "lethal force." He said that his men, who were in radio contact with him at the time of the alleged murder, were still on a war footing as, "There was no clear designated date when my men turned off one switch from war fighting to counter insurgency and peace support."

Blackmore recalled that following the soldiers' return to base he had a conversation about a "slight issue with some of the people" encountered in the course of a roadside search. He also stated that the accused appeared "slightly excited" when questioned about the day's events.

Blackmore also said that various other units, both British and American, were moving through the area north of Basra at the time of the alleged murder.

Almost two months after the court-martial commenced, Judge Advocate General Jeff Blackett brought proceedings to a close.

Blackett directed the military panel hearing the court-martial to return a not-guilty verdict after the prosecution concluded its case. Accepting that the Iraqi witnesses had been induced to give evidence by the \$100 daily stipends, he claimed that individuals giving evidence had done so as a product of "corporate recollection discussed by the family or tribe."

Nadhem Abdullah's family have protested against the outcome as an "injustice" and an example of the British occupation's indifference to the daily brutalities faced by ordinary Iraqis. Fadil al-Saqer, a cousin of the dead man, said: "We did not even know that the trial had stopped. We had members of the family and neighbours go to England because we were told that there will be justice. But this is not justice. Who can you trust? This is very sad. We do not know what to do now. Are they saying Nadhem was not killed?"

Democratic rights groups Amnesty International and Liberty criticised the trial and investigation. Amnesty said courts-martial should not be used to try crimes under international law. Its UK director, Kate Allen, said the group had "longstanding concerns" about the treatment of allegations of abuse by members of the British Army.

"International law requires a prompt, impartial, thorough, effective and independent investigation into alleged abuses. A decision over whether to bring charges should be taken independently of the commanding officer and other military bodies," she said.

The criticism of the military's Special Investigation Branch has exposed the inability of the occupying powers to conduct a serious and credible investigation of abuses against the Iraqi people by the occupying forces. Last month the SIB's leading investigator in British controlled Basra, Captain Ken Masters,

was found hung in his military accommodation.

He had examined almost every major case of alleged abuse by the British military of Iraqi civilians, including the fusiliers convicted of abusing prisoners at Camp Breadbasket near Basra. Masters was also actively involved in an ongoing investigation into the events of September 19, when the arrest of two British undercover Special Air Service (SAS) officers in Basra by Iraqi police had resulted in major confrontations between the British Army and local demonstrators and police.

Masters' death was attributed to suicide resulting from stress, although no evidence has been presented to back this up and no suicide note was found.

Despite the patently unserious character of the SIB investigation, military commanders have criticised the army's prosecuting authority and the government attorney general for even bringing to trial this and other allegations against British soldiers in Iraq. Army brass are reported to deeply resent the decision of Attorney General Lord Goldsmith to allow soldiers to be prosecuted for war crimes using the International Criminal Court Act, to which Britain is a signatory. They insist that the threat of such action against British armed personnel undermines morale.

The *Guardian* newspaper reported in October that leaked official correspondence showed the attorney general had claimed senior military officers made a "concerted attempt" to block an investigation into the death of a British soldier in Iraq. The military police was also accused of being insufficiently qualified or experienced to handle investigations into the abuse of Iraqis.

The *Daily Telegraph* editorialised that the army prosecution, "was influenced by political as well as judicial considerations in bringing the case to trial on the evidence produced by the [military police]. In other words, it thought it better, given the volatile conditions in which British forces operate in Iraq and opposition to the war at home, to air the case in court rather than to decide not to proceed. Such a course of action is understandable, but it is very hard on the defendants, and costly to the taxpayer."

The *Telegraph* openly admits that the trial was pursued as a ruse to present British imperialism as maintaining its obligations to prosecute war crimes, while ensuring that nothing would come of the case. But even this is viewed as an impermissible concession that prevents the army from acting with the necessary mixture of brutality and impunity. Coming from this source, it is a view that should be taken as echoing that of the army high command.

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