

# British Army accused of “off the scale” abuses in southern Iraq

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Horrific allegations of torture and killings carried out by the British Army in southern Iraq emerged on January 31.

Based on witness statements, death certificates and video evidence, lawyers Phil Shiner and Martyn Day have claimed that 22 people were killed in British custody following an unequal firefight outside Majar al Kabir, about 100 miles northwest of Basra, on May 14, 2004. The lawyers allege that nine more people survived torture and abuse.

Shiner told Reuters, “This incident, if proven, is off the scale for abuse committed by either British or American troops serving in Iraq. If these harrowing allegations are proven, then you’d be pushed to be able to put it in context—it would be the worst conduct by the British army in the last 100 years.”

Shiner said the allegations were the most harrowing either he or Day had ever heard. The full witness statements, which are still being checked, are expected to be released in conjunction with a BBC documentary on the case.

Until last week, the allegations, and legal action surrounding it, were the subject of a gagging order issued by the High Court at the behest of the government and the Ministry of Defence (MoD).

According to the *Guardian*, the case centres on accusations of abuse, torture, executions and mutilation. Seven of the corpses reportedly showed signs of mutilation and torture.

Allegations first surfaced shortly after the gun battle, on the highway between Amara and Basra, between troops of the Argyll and Sutherland Highlanders, the Princess of Wales’s Royal regiment and insurgent opponents of the British and US occupation.

In June 2004, an article by Richard Norton Taylor in the *Guardian* stated that 28 death certificates had been seen. Among these, Ahmad al Helfi, a 19-year-old labourer, had, according to the death certificate, “signs of beating and torturing all over the body.”

Haider al Lami, 21, also a labourer, had “several bullet injuries to the body, with mutilation of genitalia.”

Hamed al Suadi, 19, had “bullet wounds to the neck and foot. There are signs of torture: the right arm is fractured and there is full distortion of the face.”

Ali al Jemindari, 37, had “several bullet injuries in the head, face and body, with slash marks on the neck. The right arm has been severed at the shoulder. There is a large opening in the right cheek and the removal by gouging of the right eye.”

The death certificates were written the day after the battle by Dr.

Adel Salid Majid, the director of Majar al Kabir hospital. Dr Majid told the *Guardian* that on May 15 “the police asked us to send ambulances to the British base to collect some bodies. When they brought the 22 bodies, it was a surprise to us to see some of these bodies mutilated and tortured.”

The firefight followed a battle the previous day in Najaf between Moqtada al-Sadr’s Shia militia and US forces, in which the Imam Ali shrine was damaged. According to an eyewitness, there was a mood of revenge in the local mosque. Young men grabbed whatever weapons they could, walked out onto the highway and lay in wait for occupying forces.

After the battle, in which British forces suffered two minor injuries while at least 22 Iraqi fighters were killed, British forces rounded up survivors and took them back to their base at Camp Abu Naji in Amara.

At the time, the British Army dismissed allegations of torture as “absurd.” But the case, along with hundreds of accusations arising from its activities in Iraq, has been the subject of calls for a public inquiry ever since. A yearlong investigation by the Royal Military Police (RMP) found no evidence of deliberate mutilation.

Last December, according to the *Telegraph*, the British High Court’s Lord Justice Thomas imposed a ban on press reporting of legal efforts to compel the government to hold a full public inquiry. The ban prevented any reporting of the claims made by families of those killed, and reports by the survivors. It also blocked naming the Iraqi claimants and the accused soldiers pending any criminal prosecutions against soldiers involved in the massacre. At the time, Thomas said that “adverse publicity” from the High Court case would be “highly undesirable.”

On January 31, however, the ban was overturned by Lord Justice Moses following legal moves by the victims’ families, the *Guardian*, the *Times* and the BBC. The *Guardian* reported Moses as ruling that the MoD’s attempt to stop media reporting on the allegations has no basis in law and that their handling of the case was “barmy.”

Regarding the ban on naming soldiers, Moses told the defence secretary’s counsel, “It is not the way it works. If you’re right about that there would be one rule for the Ministry of Defence and another for the ordinary citizen.”

Moses went on: “There is nothing to suggest that the publication of the names would endanger the life of those being investigated.”

The Majid al Kabir allegations further refute the central point made in a recent report published by the British Army into aspects

of its reign of terror in southern Iraq, which whitewashed previous abuses as the result of bad planning, inadequate training and the work of individuals.

In 2005, Brigadier Sir Robert Aitken was commissioned by the then chief of the general staff, Sir Mike Jackson, to investigate the circumstances around claims of abuse of Iraqi prisoners in British custody and the lack of successful prosecutions.

Jackson called for the report after a succession of revelations of abuse and torture threatened to expose the systematic character of the depraved violence repeatedly used to terrorise the civilian population of southern Iraq. Officially, and according to the British media, the occupation in British-controlled areas was somehow less brutal than that of US in the rest of Iraq.

Aitken's report, published January this year, focussed on six cases investigated by the RMP.

Baha Mousa was a 26-year-old hospital worker detained September 2003 during a raid by members of the Queen's Lancashire regiment on a hotel in Basra. Mousa, who witnessed soldiers stealing cash from the hotel, was arrested along with six other workers at the hotel. All were hooded, bound, subjected to stress positions and brutally beaten for days.

Photographs and records show Mousa suffered 93 injuries, including four broken ribs, a fractured nose, smashed wrists and a ligature around his neck. According to one witness, "I heard Baha Mousa screaming. I was still hooded but it sounded like he was in another room. I heard him scream: 'Please help me, blood is coming out, please help me, I am going to die.' The last thing I heard him say was: 'My nose broke.' After this there was silence."

Mousa's murder led to the only war crimes conviction of a British soldier when Corporal Donald Payne pled guilty to acts of inhumanity. Others of his regiment, who pleaded not guilty, were released for lack of evidence. In his trial Payne claimed he was following orders. His defence counsel noted that it was "puzzling" that an unnamed senior army officer was not on trial.

The case was also central to a 2007 ruling by the British Law Lords that the government was in breach of the European convention of Human Rights and the UK's own Human Rights Act for not conducting an independent inquiry.

Ahmed Jabber Kareem drowned in Basra after being forced into the Shatt al Arab canal at gunpoint. Three soldiers were acquitted of the 16-year-old's manslaughter. Said Shabram died two weeks later under identical circumstances. Manslaughter charges were dropped against an officer from the 32 Engineer Regiment and two soldiers.

Eighteen-year-old Nadhem Abdullah was kicked and beaten to death in May 2003, allegedly by seven members of the Parachute Regiment. The soldiers were charged with the murder, but these were later dropped. The judge noted the case had not been properly investigated.

Aitken also reported on the outcome of cases against soldiers accused of brutality following a riot in Amara in 2004. A video showing youths being beaten by British troops was passed to the *News of the World*. No charges were brought.

In the Camp Breadbasket case, four soldiers were finally found guilty of abuse after images showing prisoners being forced to

simulate sex were discovered by a worker at a photo-processing shop. Other images showed prisoners suspended from a forklift truck.

According to Aitken, and the entire Army Board who approved the final report, these cases were unfortunate. There were some worthless noises of contrition. Sir Richard Dannatt, the current chief of general staff, complained that "we must never again allow a few of our people to besmirch the reputation of the majority..."

To the extent that the report recognised that the abuses had roots beyond the behaviour of bad individual soldiers, these were not seen as the systematic operations of an illegal and predatory war, but a result of bad planning, inadequate military resources and confusions in training. This also serves to strengthen the army's repeated demands, championed by Dannatt, for more resources.

Commenting on the small number of legal cases, compared with hundreds of allegations of the worst forms of abuse, Aitken claimed that British troops, having fought a "high intensity" war, were ill-prepared for police operations in a situation where "there was no civil police force, no judicial system to deal with offenders and no prisons to detain them in." National records had been destroyed.

He then presented a series of apologies for the confidence with which soldiers were willing to beat unarmed Iraqi civilians to death. "Mission Command" is the British Army's term for the arrangements through which local commanders have a degree of operational autonomy: "Soldiers are human and humans have failings, and without supervision, these failings can be missed."

Regarding the practices of hooding and the use of stress positions, Aitken claimed that soldiers appeared to be unaware that these were among the "Five Techniques" banned in Northern Ireland by the Heath government in 1972. In any case, claimed Aitken, these might only apply to the intelligence services and in Northern Ireland, and were only used for detention.

Commenting on the report, Baha Mousa's father noted, "As a senior officer in the Iraqi army, I am clear that these terrible actions could not have taken place without support from senior officers within the British army."



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