

Gage Inquiry into Mousa death whitewashes British Army once again

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The official inquiry into the death of hotel worker Baha Mousa continues efforts to minimise and apologise for abuses by UK troops in Iraq. It nevertheless is forced to admit to some of widespread brutality perpetrated by soldiers.

Mousa, a 26-year-old receptionist and father of two, was arrested, along with nine other Iraqis, at the Haitham Hotel in Basra on September 14, 2003, by members of the 1st Battalion The Queen's Lancashire Regiment.

He died after two days in detention. A post-mortem found that Mousa suffered 93 injuries, including four broken ribs, a fractured nose, smashed wrists and a ligature mark around his neck. He and others had been hooded with sandbags, kept in stress positions for long periods, suffered sleep deprivation and used in kickboxing "games," where soldiers competed to see how far detainees could be kicked.

In February 2004, the International Red Cross "expressed concern" to the British government over the treatment meted out to Mousa and other detainees. In 2004 a High Court ruling found in favour of Mousa's family and the relatives of the five other Iraqis killed in 2003 that the UK Labour government was in breach of the European Convention on Human Rights (ECHR) and the UK Human Rights Act 1998 (HRA) by not conducting an independent inquiry into the deaths.

The government opposed this, arguing that the ECHR only applied to Europe and was not applicable to British troops in Iraq, and that the HRA only applied in UK territory.

A six-month court martial was held, ending on April 30 2007, with the imprisonment for just one year of Corporal Donald Payne. Six other soldiers, including the former commander of the regiment, Col. Jorge Mendonca, had their cases thrown out.

On June 13, 2007, a ruling by the Law Lords found that there must be a full independent inquiry whenever detainees such as Mousa suffer inhuman treatment, torture or death in UK military establishments anywhere in the world. The six others were not in custody.

In January 2008, a 38-page report by Brigadier Robert Aitken was issued, three years after being commissioned by the Labour government. It found no evidence of systemic abuse and was dismissed as a whitewash.

On May 14, the inquiry into Mousa's death was finally announced. It opened July 3, 2009, chaired by Sir William

Gage.

Gage's report finds that Mousa died due to a combination of his weakened physical state due to lack of food and water, heat, exhaustion, fear, previous injuries and the hooding and stress positions used by British troops, as well as a final struggle with his guards. He had suffered an "appalling episode of serious gratuitous violence."

Cpl. Payne had violently assaulted Mousa in the minutes before he died and had inflicted a "dreadful catalogue of unjustified and brutal violence" on the detainees, encouraging more junior soldiers to do the same.

Payne is a soft target, having already been convicted. Moreover, on November 9 last year, former British soldier Garry Reader had told the inquiry that he witnessed Cpl Payne and Private Aaron Cooper kicking and hitting Mousa shortly before he died. His previous statements on the death of Mousa had been untruthful, he said.

Payne said he and other soldiers had kicked and punched nine Iraqi detainees, including Mousa. He had lied "about almost everything" in interviews conducted during 2003 and 2004 and had also lied to the court martial hearing. He also stated that the leading officer in his unit, Lt. Craig Rodgers, had taken a direct role in the abuse and his commanding officer, Lt.-Col. Jorge Mendonca, had abused a captive Iraqi civilian in another incident.

But Gage also admits that a "large number" of soldiers assaulted Mr. Mousa. Even so, he still accepts that Mendonca was unaware of the abuse and merely "ought to have known." He finds that two officers, Rodgers and Maj. Michael Peebles, had known that the detainees were being subjected to serious assaults and that Rodgers had not intervened.

Gage blames "corporate failure" at the Ministry of Defence for the use of banned interrogation methods in Iraq that led to Mousa's death.

Emphasis is placed on poor training of soldiers, particularly a failure to remind soldiers that five "conditioning" techniques—a euphemism for torture—are banned: hooding, white noise, sleep deprivation, food deprivation and painful stress positions. Many of his recommendations are along the lines of clarifying, better training in "restraint positions", etc. Even then Gage claims that soldiers were given a clear message regarding compliance

with the Geneva Convention.

The five interrogation methods identified were banned by the UK in 1972 by then Conservative Prime Minister Edward Heath, after the brutal methods used against IRA prisoners in Northern Ireland had been exposed. Gage states that knowledge of this ban had “largely been lost” by the time of the Iraq war and that “this came about by a corporate failure of the MoD.”

Knowledge of the ban was not “lost”, any more than the Geneva Convention was adhered to. The Army *deliberately* ignored the 1972 ban and it was *deliberately* not included in MoD guidelines on the treatment of prisoners issued in 2001.

The BBC writes that “the inquiry found no evidence of a wider culture of entrenched violence among British troops in Basra.” In fact it could not do so, given that it was charged only with investigating the circumstances surrounding Mousa’s death and those detained with him. As is the norm with such toothless inquiries, it had no power to judge any person’s criminal or civil liability and soldiers giving evidence were immune from disciplinary action—even they admitted to having lied under oath previously.

What then of the many other reports of deaths at the hands of the British Army, which prove that torture and other abuses were both endemic and officially sanctioned?

In 2007, following the Law Lords ruling, the lawyer for the Mousa family, Phil Shiner, explained that the ban brought in by Heath in 1972 during the crisis in North Ireland was overturned after the Attorney General Lord Peter Goldsmith declared that the HRA did not apply abroad and thus lower legal standards were permitted. Following this, the Defence, Intelligence and Security Centre at Chicksands in central England became the centre for training in these techniques.

Prior to the Mousa incident, a series of abuses had been revealed at Camp Breadbasket in May 2003 by soldiers in the 1st Battalion, the Royal Regiment of Fusiliers. Detainees had been beaten, forced to simulate oral and anal sex, and were suspended from a forklift truck.

Shiner said, “I have it on good authority that there are hundreds of cases that are going uninvestigated. My guess is that many of them will remain buried.”

He had taken up 33 new cases, including a 16-year-old forced to strip and then raped at knifepoint by two male soldiers at the Shatt-al-Arab British camp in May 2003, as well as detainees who charged that they were photographed naked on top of each other and beaten with electric batons.

In July 2010, The High Court ruled that “There is an arguable case that the alleged ill-treatment [of Iraqis] was systemic, and not just at the whim of individual soldiers.” By this time Shiner had assembled a case on behalf of 102 Iraqis held as prisoners and abused by the British military.

Last October, the *Guardian* obtained access to training manuals that prove the interrogation techniques used by British military personnel in Iraq were officially sanctioned. The “Introduction to Interrogation and Tactical Questioning”

advocates the use of “threats, sensory deprivation and enforced nakedness,” urges interrogators “to provoke humiliation, insecurity, disorientation, exhaustion, anxiety and fear in the prisoners they are questioning, and suggest ways in which this can be achieved.” Interrogators are advised to probe the detainee’s anus and search behind his foreskin. Another recommended technique is “positional asphyxiation.”

The training manuals formed part of courses run by F Branch, which is part of the Joint Services Intelligence Organisation (JSIO). The Labour government deployed the JSIO into Iraq. British military and intelligence were clearly aware that the techniques advocated were illegal, since they stress the need for interrogators to find discreet and “nasty” places, such as shipping containers, “out of hearing” and “away from media,” to conduct interrogations.

These documents were all made available to the Mousa inquiry. All were created after 2005 and indicate that these techniques were in use *after* Mousa’s death. Some were written after January 2008. This is what is now described by Gates as “corporate failure.”

Lawyers for Mousa’s family said the soldiers responsible for his death must face prosecution, but after eight years of such action being blocked this will be determined by the Crown Prosecution Service—which has a track record of rejecting prosecutions. The army has suspended 14 soldiers from duty and said that there may be disciplinary action taken.

Medical officer Dr Derek Keilloh will be examined by a General Medical Council disciplinary tribunal and Father Peter Madden is to be interviewed by the archbishop of Birmingham.

Defence Secretary Liam Fox called the report “fair and balanced,” but insisted, “The recommendation that we institute a blanket ban during tactical questioning on the use of certain verbal and non-physical techniques I am afraid I cannot accept.”

Lord Goldsmith concentrated on defending himself, claiming, “I think there’s evidence... that the MoD’s legal advisers deliberately did not seek my advice” on the use of conditioning techniques on prisoners.



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