

# Ex-UK minister of defence and former army chief of staff named in Iraq war crimes case

**Jean Shaoul****21 January 2014**

Britain has been referred to the International Criminal Court (ICC) at The Hague over allegations of war crimes committed during the occupation of Iraq. There was a call for an ICC investigation under Article 15 of the Rome Statute into the actions of senior British officials during the conflict.

The submission specifically names the former chief of staff General Sir Peter Wall and two ministers in Tony Blair's Labour government, former defence secretary Geoff Hoon and former defence minister Adam Ingram, as officials who should have to answer claims about the systematic use of torture and cruelty.

The secretary general of the European Centre for Constitutional and Human Rights (ECCHR), Wolfgang Kaleck, said, "With the current communication to the ICC we want to move forward the criminal prosecution against those political and military leaders in the UK who bear the most responsibility for systematic torture in Iraq."

The formal complaint, *The Responsibility of UK Officials for War Crimes Involving Systematic Detainee Abuse in Iraq from 2003-2008*, was lodged by Public Interest Lawyers (PIL) and the ECCHR with the ICC's Office of the Prosecutor. It says that its 250-page submission, the result of years of work by both organisations, "is the most detailed ever submitted to the ICC's Office of the Prosecutor on war crimes allegedly committed by British forces in Iraq."

The ECCHR said that given the scope and scale of the crimes carried out between 2003 and 2008, the responsibility and blame lay at the feet of "individuals at the highest levels" of the British Army and political system. UK military commanders "knew or should have known" that forces under their control "were committing or about to commit war crimes," but failed to act. "Civilian superiors knew or consciously disregarded information at their disposal, which clearly indicated that UK services personnel were committing war crimes in Iraq."

The report cites evidence from more than 400 Iraqis, representing "thousands of allegations of mistreatment amounting to war crimes of torture or cruel, inhuman or

degrading treatment". They included "hooding" prisoners, burning, electric shocks, "cultural and religious humiliation", sexual assault, mock executions, threats of rape, death, and torture, both against the victims and their families.

There is, according to the authors, evidence of the "systematic use of brutal violence that in some cases led to the death of detainees while in the custody of UK Services Personnel."

It claims "there is evidence of brutality combined with cruelty and forms of sadism, including sexual abuse, and sexual and religious humiliation", and points to the widespread use of hooding, forcing people to remain in painful stress positions, sleep deprivation, noise bombardment and deprivation of food and water.

One victim who suffered more than 60 punches to his head said that a soldier brought the prisoner's eight-year-old son into the room and started slapping the boy about the face and shouting at him. Another victim who was hooded said, "Sand kept coming into the hood. It was extremely uncomfortable and difficult to breathe.... We were left to kneel in the sun for hours. If I moved position and bent my head forward at all, a soldier would come and kick me hard."

These interrogation techniques were widely used by British soldiers against IRA prisoners in Northern Ireland until public outrage led to their being banned in 1972. The army ignored the ban, and it was not included in the 2001 Ministry of Defence guidelines on the treatment of prisoners.

The report says that there are "clear patterns" of the banned techniques being used "in a variety of different UK facilities [in Iraq]...from 2003 to 2008," and that "failures to follow-up on or ensure accountability for ending such practices became a cause of further abuse. The obvious conclusion is that such mistreatment was systematic."

This pattern of abuse by UK military services personnel continued over almost six years of military occupation.

Britain's practices were not very different from those of the infamous US torture prison, Abu Ghraib.

In submitting his report, Kaleck made the point, “The International Criminal Court in The Hague is the last resort for victims of torture and mistreatment to achieve justice. Double standards in international criminal justice must end. War crimes and other severe violations of human rights must be investigated and prosecuted, regardless of whether they are committed by the most powerful.”

Almost all or most of the ICC’s indictees have been African heads of states or officials, while the US, which is not a signatory to the Rome Statute that established the ICC, and the other major powers get off scot-free and use the court to target figures hostile to their interests. The ICC has turned a blind eye to the most blatant human rights abuses in Iraq, Afghanistan, Libya, the West Bank and Gaza, where their perpetrators are protected by a US veto at the United Nations Security Council.

In 2006, the ICC’s then-prosecutor, Luis Moreno-Ocampo, said that he had received more than 240 complaints relating to alleged war crimes during the Iraq war and occupation, mostly by the US and Britain. He concluded that there was little doubt that wilful killing and inhuman treatment, crimes that fell within the ICC’s jurisdiction, had been committed. He refused to mount an investigation because of the small number of cases—fewer than 20. Since then, hundreds of other claims have surfaced, making a mockery of his decision.

Legal experts have backed the referral to the ICC. Professor William Schabas, an expert on human rights law at Middlesex University, said, “There is definitely a case for an investigation by the ICC.” Professor Andrew Williams, a law expert at the University of Warwick, said the complaint amounts to “a *prima facie* investigation mapped out for the prosecutor” and is “supported by sophisticated legal argument which adheres to the requirements of the [ICC].” Williams is the author of *A Very British Killing: the Death of Baha Mousa*.

The officials concerned, Wall, Hoon and Ingram, have declined to comment.

Foreign Secretary William Hague said there was no need for the ICC to investigate the allegations. “These allegations are either under investigation already or have been dealt with already in a variety of ways, through the historic abuses system that has been established, through public inquiries, through the UK courts or the European courts.”

“There have been some cases of abuse that have been acknowledged and apologies and compensation have been paid appropriately,” he added. “But the government has always been clear and the armed forces have been clear that they absolutely reject allegations of systematic abuses by the British armed forces.” The Ministry of Defence said, “We reject the suggestion the UK’s Armed Forces—who operate

in line with domestic and international law—have systematically tortured detainees.”

They are all lying through their teeth. The government has resisted every effort to be held to account for its infamous practices in Iraq.

Baha Mousa, a hotel worker, was brutally beaten to death while in British custody on September 15, 2003. Corporal Donald Payne was found guilty at a court martial in 2007 of inhumane treatment. He was sentenced to just one year in jail. Six of his colleagues, including his commanding officer, Colonel Jorge Mendonca, were cleared of serious charges relating to Mousa’s death. The government was forced to hold a public inquiry, which when it reported in 2011 was a whitewash.

Apart from this one conviction, as Phil Shiner, the lead lawyer in PIL, which compiled the report, said. “Nobody has been found guilty of anything of any seriousness at all.”

Yet in July 2010, the High Court ruled in response to an appeal case brought by Shiner to order a public inquiry into claims by more than 200 Iraqi civilians that they were systematically abused and mistreated while in detention, “There is an arguable case that the alleged ill-treatment [of Iraqis] was systemic, and not just at the whim of individual soldiers.”

The government was forced to establish the Iraq Historic Allegations Team (IHAT) in 2010. In three years, it has spent £15 million hiring former detectives employed by multinational security corporations to investigate. It has completed just 6 out of 144 cases on its books, fining one soldier a measly £3,000 fine for badly beating an Iraqi, which was captured on video.

This is in addition to the long-running Al-Sweady inquiry into incidents of mistreatment after the Battle of Danny Boy in southern Iraq in May 2004.

Last month, the *Daily Telegraph* disclosed 11 new inquest-style inquiries are due to begin into abuses by British troops in Iraq after a human rights ruling by the High Court to fulfil the requirements of Article 2 (the right to life) of the European Convention on Human Rights (ECHR), requiring an investigation of suspicious deaths involving the state.



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