New Zealand Afghan inquiry declares SAS killings of civilians were “legal”

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The official inquiry into the New Zealand Defence Force’s (NZDF) handling of a 2010 Special Air Services (SAS) raid in Afghanistan announced its findings last month. It confirmed that a child was killed, the NZDF top brass misled ministers and the public about the civilian deaths, and an insurgent leader captured by SAS troops was assaulted and handed over for torture.

The Labour-led government established the Operation Burnham Inquiry in 2018 to whitewash the NZDF, under conditions of intensifying US-led preparations for war against China, of which NZ is an integral part. Headed by former Supreme Court judge Terence Arnold and ex-Labour Prime Minister Geoffrey Palmer, the inquiry was largely conducted in secret.

A group of Afghan witnesses withdrew from the proceedings last year, citing frustration over the lack of transparency. Barrister Deborah Manning slammed the “skewed” process for focusing on the NZDF’s “need to be able to defend themselves and their public reputation” at the expense of victims.

The inquiry was purportedly called to investigate claims raised by journalists Jon Stephenson and Nicky Hager in their 2017 book *Hit & Run*. The NZDF initially responded by seeking to tarnish the reputations of the authors, claiming that the raids never occurred. Even after being forced to admit that they had taken place, the military maintained that no civilian casualties resulted. The government’s hand was forced when the media published evidence corroborating the book’s main allegations.

The SAS operation took place in two remote Afghan villages in Bamyan province in August 2010. The SAS was part of the US-led International Security Assistance Force that was tracking insurgents. According to the inquiry’s report, at least seven men were killed in the operation which also involved a US Apache helicopter. At least six civilians were injured, including two women and two girls, one of whom was killed.

In relation to the main accusation, the killing of civilians, the inquiry exonerated the SAS, declaring that the operation was “justified,” complied with the rules of engagement and international law and that the troops had “acted legally and professionally.” It stated the raids were not carried out in revenge for the killing of a NZ soldier on an earlier mission, as Hager and Stephenson had claimed.

However, the inquiry also confirmed that SAS soldiers had beaten, then handed over captured insurgent Qari Miraj to Afghanistan’s notorious National Directorate of Security (NDS). Miraj was targeted for his role in the earlier attack that killed the NZ soldier. The SAS likely knew Miraj was tortured by NDS, and did nothing. The NZDF had breached the Geneva Convention, the inquiry admitted, but made no recommendations about prosecuting those involved.

The inquiry’s report described the NZDF as “inept and disorganised” in its response to the charges revealed in *Hit & Run*. It confirmed evidence in the book that the NZDF made false statements in briefings to ministers and the public for seven years after the attack.

Important video evidence was either deleted or “misfiled” by the SAS. Four former SAS officers were found to have acted improperly. They had authored documents and emails denying casualties, directed subordinates to falsify evidence, produced ministerial briefing papers that were false, and in one case deposited documents in a safe where they were allegedly “lost.”

Former National Party government Defence Minister

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Wayne Mapp was forced to admit that he continued to publicly deny claims of civilian casualties, even after being briefed about them in September 2011. Mapp told the inquiry he "completely forgot" about the briefing, revealed in evidence by retired SAS Colonel Jim Blackwell.

The commissioners, however, avoided finding that a deliberate cover-up had taken place. Instead they concluded that the "NZDF did not take any effective steps to investigate the allegations of civilian casualties" and its advice to ministers was "inaccurate." No recommendations were made for accountability, sackings or prosecutions.

The Labour government responded to the report by maintaining that the central issue was not the criminality of the SAS raid on what were basically defenceless villages, but the NZDF's subsequent mishandling of the affair. Attorney-General David Parker defended the killing of civilians, including the young girl, saying it was a "consequence of being caught up in a legitimate military exercise… It was legal, it of course was undesirable."

According to Parker, the most serious finding was that, due to "ineptitude" and suppression of documents, "ministers were not able to exercise the democratic control of the military." The spin was designed to absolve successive governments from any responsibility. This included the Labour government, which along with the "left-wing" Alliance, had sent the SAS to join the US-led invasion in 2001.

Parker endorsed the inquiry's recommendations, including that an Independent Inspector-General of Defence be created to provide "accountability." New policies and procedures will supposedly address how the NZDF responds to alleged civilian deaths and torture, and an "expert review group" will inspect the organisational structure of the NZDF.

NZDF head Air Marshal Kevin Short similarly told the media, "we let our frontline service people down through a series of organisational and administrative failings" that saw "incorrect information" provided to ministers and the public. He declared, "I am deeply sorry," then added: "We must be better at the way we record, store and retrieve information."

Parker praised *Hit & Run* for providing a "valuable public service." Hager in turn welcomed the inquiry's report in a statement saying it contained the "most serious findings against the NZSAS and NZDF in their history" and would prompt "a lot of soul searching inside the New Zealand Defence Force."

The Green Party also welcomed the findings and declared in a thoroughly hypocritical statement: "We are proud to have worked as part of this government to withdraw New Zealand's troops from America's war in Afghanistan." In fact, the Greens supported the NZ army's presence in Afghanistan, describing it in 2010 as a "peacekeeping" mission, only criticising the presence of the SAS.

The new procedures will do nothing to halt similar crimes in the future or their cover-up. The reality is that the crimes of the SAS, an elite unit of highly trained killers, flow inexorably from the predatory and imperialist character of the invasion of Afghanistan. Countless war crimes have been committed by the US and its allies, including Australian SAS soldiers who have recently been implicated in extrajudicial killings.

Claims by the Greens and their pseudo-left and "pacifist" supporters that the repressive institutions of the capitalist state—the police, armed forces and spy apparatus—can be "reformed," are utterly false. In fact, the inquiry's endorsement of the killing of civilians as "legal" and refusal to hold anyone accountable, demonstrates that such actions will be permitted and defended in future.

The Labour Party-led government is ramping up military spending and recruitment as part of the US-led preparations for war against China, which are accelerating due to the economic crisis triggered by the COVID-19 pandemic. The Operation Burnham inquiry fulfilled its purpose: to sanitise the SAS in preparation for expanded wars abroad and the suppression of growing working class opposition to austerity and militarism.

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