

Written evidence from Mark Goodwin-Hudson (OOB022)

Introduction

My name is Mark Goodwin-Hudson. I recently resigned from the British Army after a 27 year career spanning service in the Balkans, the Middle East and Whitehall.

I am the Founder and Director of a company called LION UK, and I am involved in projects looking at future conflict. I am particularly interested in non kinetic/information warfare, and the effects of modern warfare on civilian populations.

Submission

1. I am writing to acknowledge and applaud the good intentions of the Bill in particular its attempt to prevent vexatious or repeated claims against soldiers. However I strongly recommend that the Bill is rejected or substantially amended on the grounds that it is not the correct solution to the problems it seeks to address.
2. The Overseas Operations Bill does not address the root cause of the problem, namely that the MOD does not appear to prioritise¹, nor have the mechanisms in place, to conduct timely, independent or **effective investigations** into allegations of civilian harm attributed to UK Defence, be it Regular Forces or Special Forces².
3. Without a permanent forward deployed investigative capability on overseas operations, the UK has been very slow to react to allegations of civilian harm, and often with inconclusive results. The effect has been to leave victims, be they British Army soldiers or overseas civilians who have been harmed, in the lurch for years.³
4. Such an investigatory body needs to be sufficiently independent from the chain of command in theatre, well resourced, trained and mandated, and be provided access to all evidence held by, and witnesses working for, the MOD.
5. The NATO mission in Afghanistan is the only western overseas military operation that has its own in theatre Civilian Casualty Investigation and Mitigation Team (CCMT), and one of my last roles in the British Army was as head⁴ of the NATO CCMT in Afghanistan.
5. Over the last 5 years up to 2000 civilian casualties per annum have been attributed to NATO and Afghan forces - see for example: 30 Afghan men killed or wounded in NATO airstrike.⁵ During a four month period in 2016, my team was responsible for investigating over 70 allegations, confirming or denying civilian harm attributed to NATO troops or the Afghan Defence Force.

¹March 2020: <https://www.bbc.co.uk/news/uk-51900898> US military says RAF airstrikes may have killed civilians.

²August 2020: <https://www.bbc.co.uk/news/uk-53597137> Did UK Special Forces execute unarmed civilians?

³Major Robert Campbell has been investigated and acquitted 8 times since 2003, after an Iraqi POW drowned in the Shatt al Arab river, during the UK invasion of Basra.

⁴Note the role was double hatted - I was also Deputy Chief Current Operations - which meant that the findings and lessons learnt from the CCMT investigations could have a direct impact on operational planning.

⁵September 2016: <https://www.theguardian.com/world/2016/oct/01/deadly-drone-strike-afghanistan-isis-civilians>. 30 Afghan men killed or wounded in an airstrike in Nangarhar.

6. The obvious strengths of the CCMT is that it can accurately track civilian harm; is able to conduct investigations within hours of an incident as part of the in theatre legal framework; it has direct and immediate access to the military personnel and documentation involved in the incident, and its findings can inform current operations in order to mitigate the potential for future harm as well make recommendations of amends to victims families.
7. The UK does not currently have such a capability.⁶ Despite clear recommendations in the 2016 Chilcot Inquiry Report, increasing evidence of civilian harm collated by monitoring organisations⁷, and detailed and actionable research⁸ provided by civil society, the MOD has not yet established any form of overseas civilian harm tracking cell, either within the MOD itself, or more importantly in-theatre where such tracking and time sensitive investigations can be carried out properly and decisively.
8. Establishing in-theatre civilian harm tracking, investigation, and mitigation teams must be the priority for this Bill. Military commanders and soldiers need legal, transparent, decisive and clear responses to allegations of civilian harm, especially in what has become an increasingly civilian centric battlespace, in which remotely delivered high explosive ordnance is being fired into densely populated urban areas on a scale not previously experienced since WW2.⁹
9. Creating a statutory presumption against the prosecution of soldiers after 5 years from the date of the alleged conduct is not the answer, especially given the MOD's increasingly poor track record on civilian harm mitigation.¹⁰ The MOD continues to demonstrate a protracted and ineffective approach to the investigation of allegations of civilian harm. This is detrimental to the credibility of the MOD's judicial process and appalling for soldier's morale and confidence in the British Army.¹¹ The MOD needs to establish in-theatre investigation teams into civilian harm in order to deliver swift decisive justice which is best for our soldiers, enables commanders to make amends to civilian victims of harm as well as learn important lessons to mitigate further harm.
10. Similarly, the six-year absolute long-stop on civil claims would be detrimental to soldiers' and civilians' protections. Civil and human rights claims are a crucial means

⁶Although not necessarily adhered to, even the Taliban has created a [Commission for the Prevention of Civilian Casualties and Complaint](#) and, in 2019, established a standard operating procedure outlining investigations, procedures to express condolences, and directives against killing, injuring, and torturing civilians. One of the first actions of the CCMT in 2016 was to begin the process of establishing a CCMT within the Afghan MOD.

⁷Airwars, [Credibility Gap United Kingdom civilian harm assessments for the battles of Mosul and Raqqa](#) (September 2018); Dr Larry Lewis, [Lesson from Mosul and Raqqa: Next Time, do "Everything Possible" to Reduce Civilian Casualties](#), Defence Committee evidence.

⁸CIVIC, [The Sum of All Parts: Reducing Civilian Harm in Multinational Coalition Operations](#), (January 2019); Every Casualty, [Standards for Casualty Recording](#) (2016); Tabrizi et. al, [The UK Strategy on Protection of Civilians Insights for the Review Process](#) (February 2019).

⁹October 2017 <https://shar.es/abkmBf> Britain drops 3,400 bombs Syria and Iraq and says no civilians killed.

¹⁰August 2020 [iraq-british-soldiers-abuse-payouts-count-uk-government](#) UK government says payouts for Iraq abuse claims 'too many to count'

¹¹The British Army lost a highly experienced UK and US decorated Officer when Major Bob Campbell in disgust sent his medals back to HM The Queen.

by which breaches in duty of care by the MOD, and institutional and systemic shortcomings are identified and remedied. This provision would undermine the MOD's ability to learn from structural shortcomings identified in claims. Furthermore, it would undercut the public's interest in accountability, scrutiny and justice. Today, bringing a civil claim is among the only ways to identify, and trigger an investigation, into institutional or structural flaws in the MOD that have led to the harm of soldiers as well as civilians.¹²

11. Finally some of the operational pedigree and experience of Field Marshal The Lord Guthrie, who until recently was one of the Colonels of my Regiment, does not support this Bill, may I humbly suggest that MPs across all parties seriously reconsider this Bill.

11/09/2020

¹²The Rt Hon Sir William Gage, The Report of the Baha Mousa Inquiry vol.I; vol.II; vol.III, (September 2011); Iraq Inquiry (6 July 2016)