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### Justice in Shades

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A damning judgement on army killings suggests that officials at every level have covered up torture and murder.

By George Monbiot. Published in the Guardian, 6th October 2009

Robert Ouko was the Kenyan foreign minister with a fatal tendency to speak his mind. In February 1990 he was bundled into a car which allegedly contained the country's permanent secretary for internal security. His body was found shortly afterwards. His leg had been broken in two places, there was a bullet hole in his head and his corpse had been burnt. The Kenyan police conducted a thorough investigation and came to the obvious conclusion that Dr Ouko had committed suicide. This was the beginning of the cover-up that persists to this day, involving police and officials at every level of government.

I was reminded of Dr Ouko after reading the judgement on the case brought to the High Court in London by Khuder al-Sweady and other Iraqis(1). They were seeking a public inquiry into the events of May 2004, when, they claim, they or their relatives were taken to a British army camp and tortured or killed. The judges published their findings on Friday and ordered a proper inquiry. It is the most damning judgement on official collusion and concealment written since Labour came to power. Total coverage in British newspapers so far amounts to one short article in the Guardian(2).

The claimants say that after a battle at a checkpoint in southern Iraq, some of the survivors, including farmers cowering in nearby fields, were taken by the Princess of Wales's Royal Regiment to Camp Abu Naji. Witnesses say that up to 20 prisoners were jumped on while their hands were bound, hit with rocks, had their eyes gouged out and their genitals crushed and mutilated and were then hanged or shot(3). They claim that the corpses were then handed to their families as battlefield casualties.

The Royal Military Police (RMP) were supposed to have investigated these claims, but as a recent report on their methods by Greater Manchester police shows, they messed it up with panache, appointing unqualified detectives, losing evidence and failing to interview witnesses(4). The RMP concluded that no one had done anything wrong, that 20 Iraqi corpses and nine live captives were brought to the camp and all were released without further injury. The Ministry of Defence has stuck to that line like a holy creed.

Reading the High Court judgement, you have to pinch yourself and remember that this isn't Kenya under Daniel arap Moi, but good old Blighty, where the police are impartial, the civil service disinterested and a minister's word is his bond. In a civilised country at least half a dozen senior officials would now be charged with perjury, the secretary of state for defence would be facing impeachment hearings and a number of soldiers would be on trial for torture and murder. But in the United Kingdom, where we see only what we choose, the judgement sinks without a ripple. We carry on believing what we have always been told: that unlike other countries, we do things properly here.

The judges found that civil servants working for the Treasury Solicitor had repeatedly lied to the court, claiming that there were no further documents to disclose which might have cast light on the case. They found that the defence secretary, Bob Ainsworth, “consistently and repeatedly failed to comply” with the obligation to disclose the documents the claimants were seeking. He also slapped a Public Interest Immunity (PII) certificate on some of the evidence, preventing it from being revealed to the court. It turns out that he signed this certificate “on a partly false basis”, seeking to suppress facts that were already in the public domain. This abuse, the judges say, has caused the PII process “potentially very serious damage”. Ainsworth’s lack of candour about the evidence meant that he had wasted “the whole of the cost of these proceedings”.

But the judges were harshest about the Royal Military Police. They found that “the RMP investigation in 2004/5 was not thorough and proficient”. It was blocked for five weeks, its procedures were risible, and none of the nine surviving captives was interviewed. Worse was the quality of the evidence presented to the court by Colonel Dudley Giles, who is the deputy head of the military police and was the secretary of state’s principal witness. Giles, they found, “was overall a most unsatisfactory witness”. The excuse he gave for not disclosing key evidence was “wholly without foundation”, “we are all firmly of the view that he lacked the necessary objectivity, proficiency and reliability”. They suggested that if ever he was presented as a witness for similar purposes again, the court “should approach his evidence with the greatest caution.”

Most important was what the judges found in some of the documents they eventually prised from the grubby hands of the state. They were, the court found, “consistent with the contention that more than nine live detainees” had been taken to the camp. As only nine came out alive, these papers support the claimants’ contention that prisoners were killed there. No wonder the government pretended that the documents didn’t exist.

At the Labour party conference last month, the home secretary rightly observed that “social justice means nothing without criminal justice ... We need to support victims and subject perpetrators to the full range of enforcement powers”(5). But this admirable principle does not extend to military justice, where the army, the military police and the government collude to prevent torturers and murderers from being tried. Friday’s judgement relates to one of several cases of alleged British war crimes in Iraq. Just one - that of the hotel receptionist Baha Mousa who was beaten to death by British soldiers - has so far resulted in a conviction(6). Thanks to an apparently botched investigation and an army cover-up, only one soldier has been convicted of any crime in relation to his killing, and that was merely inhumane treatment, for which he was jailed for one year(7).

Even when soldiers appear to murder people on their own side, the cases are passed to the specialist investigations division of the Keystone Cops. Of the four young recruits who died in suspicious circumstances at the Deepcut training barracks, one had been shot with a bullet to each side of his head and another had five bullet wounds in his chest: the ballistics expert sent to the barracks maintains that four of them were fired from a distance and one at close range(8,9). After the army destroyed crucial evidence, Surrey police decided that all four had taken their own lives. The ghost of Dr Ouko hovers into view again.

One of the tests of a functioning democracy is the extent to which its public servants are subject to the same laws as everyone else. By this measure the United Kingdom is a failed state. When the army is in the dock, Justice swaps her crown for a bandana, her sword for a Kalashnikov and her blindfold for a pair of dark glasses. The state has tried to cover up the crimes of the armed forces since the Peterloo massacre and long before. But surely in 2009 it can do better than this?

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