



Military culture and human rights violations committed in Iraq in 2003

Has the military learnt its lessons?

by:
Louise Henton



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Cover image:
Street art, Banksy, *Girl patting down a soldier*

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**Military Culture and Human Rights
Violations Committed in Iraq in 2003**

Has the Military Learnt its Lessons?

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Introduction

Fifteen years have passed since the pictures of the Abu Ghraib atrocities were broadcast worldwide on CBS '60 Minutes II' and the death of Baha Mousa, while under the jurisdiction of the British Military, became public knowledge. The Abu Ghraib prison scandal occurred in the spring of 2004 when pictures of US soldiers violating the human rights¹ of Iraqi detainees were publicised, causing worldwide outrage. Baha Mousa was an Iraqi hotel receptionist, who in the autumn of 2003 died as a result of the violent assaults and abuse inflicted upon him while in a British detention facility in Basra.

“Culture has been described as the bedrock of military effectiveness”² and is regularly used to explain the military’s motivations, aspirations and conduct. It is said culture provides a sense of belonging, stability and a common purpose for its members and has been used to set the military apart from other civilian organisations. Military culture has also been held responsible for shortcomings, failings such as cover-ups, discrimination, unethical decisions and an inability to adapt.³

Did culture play a role in the abuse committed at Abu Ghraib by American soldiers or the unlawful killing of Baha Mousa by British troops, or, was it as both countries’ militaries and

¹ Article 5 of the Universal Declaration of Human Rights (1948) protects all individuals from torture or to cruel, inhuman or degrading treatment or punishment.

² Allan English, *Understanding Military Culture: A Canadian Perspective* (Montreal: McGill-Queen’s University Press, 2004), 5.

³ Karen Davis, “Culture” in *The Military Leadership Handbook*, Bernd Horn and Robert W Walker (Kingston, ON: Canadian Defence Academy Press, 2008), 200.

governments have described it, “an isolated case of a few bad apples?”⁴ The Judge Advocate at the Baha Mousa Court Martial identified concerns over what he saw as an apparent closing of ranks, and the subsequent Public Inquiry highlighted that many more knew about, or participated in, the abuses inflicted on Baha Mousa and his fellow detainees. Therefore, it was not a bad apple, that there was “something rotten in the entire barrel.”⁵ The same applies in the case of the Abu Ghraib; eleven soldiers were charged, but many more knew about, or encouraged the guards’ behaviour.⁶

In response to these incidents, the UK and the US commissioned investigations to review the causes, identify culprits and ascertain lessons with the intent of preventing repeat occurrences. This paper argues that while some change has been implemented within the British military, the changes introduced have not been sufficient to prevent repeat incidents. To further reduce the likelihood of repeat incidents, the negative effects of culture needs to be recognised and reviewed.

The future battlespace has been identified by DCDC as “congested, cluttered, contested, connected and constrained.”⁷

⁴ Paul Bartone, “Preventing Prisoner Abuse: Leadership Lessons of Abu Ghraib”, *Ethics & Behavior* 20, no. 2 (2010): 163, doi: 10.1080/10508421003595984

⁵ Huw Bennett, “Baha Mousa and the British Army in Iraq” in *The British Approach to Counterinsurgency: From Malaya and Northern Ireland to Iraq and Afghanistan* ed. Paul Dixon, (New York: Palgrave Macmillan, 2012), 173.

⁶ Christopher Graveline and Michael Clemens, *The Secrets of Abu Ghraib Revealed: American Soldiers on Trial*, (Washington, D.C: Potomac Books, 2010), 59-60.

⁷ DCDC, *Strategic Trends Programme: Future Operating Environment, 2035*. (Shrivenham: DCDC, 2015), viii.

It is likely that the ethical dimension to future operational deployments will continue to be placed under great scrutiny, especially as potential enemies use ethics as a powerful method of undermining political narratives concerning decisions to intervene. Any alleged breaches of conduct will be tested not only in law but publicly in terms of political and social support. The voracity of the pace of news and instant media access can result in information reaching the public domain before commanders. Therefore, there is a need to understand what factors cause military personnel to act immorally to enable the Armed Forces to adapt and help arm its personnel against committing atrocities in the future.

This paper aims to analyse whether military culture has had an influence on human rights violations in the past and, for the UK military, whether sufficient lessons have been learnt to prevent a reoccurrence. The core argument is that when such unacceptable behaviour occurs, military culture is one of the causal factors, and to minimise the occurrence of repeat incidents there is more the military could do. This paper will provide military leaders with an understanding of how culture can impact behaviour, positively or negatively, and the importance of using culture to foster a moral environment.

The paper will undertake a literature review of the concept of culture to develop an understanding of the key traits of military culture, how it can be used positively, and what risks culture can present. This paper does not disagree that military culture brings many positive attributes and is an essential feature to sustain effectiveness, morale and cohesion. It focuses on where military culture can be detrimental to such effectiveness and ultimately, reputation.

The paper will then make use of official military reports, government inquiries and social psychology academia to analyse the causal factors behind the behaviour of those individuals involved in the detainee abuse at Abu Ghraib prison and the death of Baha Mousa. It will specifically examine the dispositional, situational, systemic and leadership factors alongside identifying what, if any, cultural factors played a part. The case studies have been selected due to their similar circumstances; they involved western forces operating in the same location in a post-war environment, undertaking counter-insurgency operations and the crimes committed are very similar. Therefore, they are comparable in terms of identifying lessons. The paper considers some of the core elements of military culture identified in the literature review to determine whether culture influenced the actions of those individuals involved and if so, how.

The recommendations of the official investigations will be reviewed to consider whether sufficient action has been taken to address the causal and cultural issues to minimise the occurrence of repeat incidences by UK forces to an “irreducible minimum.”⁸ The paper will focus on the UK recommendations against more recent examples of unacceptable behaviour to identify what more needs to be done and how considering the impact of culture will help.

The paper will conclude that the notorious human rights violations in Iraq in 2003 were not specifically a case of bad apples, that there was a range of factors that affected the actions of those involved, including military culture. For the

⁸ Peter Rowe, ‘Military Misconduct during International Armed Operations: “Bad Apples” or Systemic Failure?’ *Journal of Conflict and Security Law* 13, no. 2 (2008): 189, doi:10.1093/jcsl/krn024.

British military to learn the lessons of the past, it needs to move away from its reliance on the bad apple analogy and review how best to reinforce positive cultural traits to reinforce the military's core values.

Methodology

The situational approach is a popular theory amongst psychologists, and it has been used previously to examine war crimes, including the actions of those soldiers working within Abu Ghraib prison. The analytical framework for this paper will build on the situational approach using Philip Zimbardo's Stanford Prison Experiment. Zimbardo's theory is based on his landmark psychological study of the human response to captivity. Stanley Milgram had identified in the 1960s that ordinary people were likely to follow orders given by an authoritative figure, even if the orders were unethical or illegal. He contended that obedience to authority is ingrained in everyone⁹ and therefore, individuals could be influenced by situations they find themselves in. The Stanford Prison Experiment developed Milgram's studies further, and presented the view that systemic and situational factors can impact negatively on the behaviour of individuals,¹⁰ with situational factors being the stronger of the two.

The counter-argument to the situational approach is the more traditional view that some individuals have a disposition to behave in a certain way, that specific character traits can explain acts of good or evil. Advocates of what is referred to as the interactionist approach, such as Haslam and Reicher, argue that individuals are capable of influencing a situation, just as a situation can influence the individual.¹¹ Carnahan and

⁹ Stanley Milgram, *Obedience to Authority* (Pinter & Martin, 2010), 3.

¹⁰ Philip Zimbardo, *The Lucifer Effect: How Good People Turn Evil* (London: Rider, 2007), 330.

¹¹ S. Alexander Haslam and Stephen Reicher, "Beyond the Banality of Evil: Three dynamics of an Interactionist Social Psychology of Tyranny,"

McFarland also support the interactionist approach, offering an alternative perspective to Zimbardo's research; they contend that individuals involved in extreme cases of cruelty have self-selected to join groups that enable such behaviour. This is because such groups will mutually reinforce an individual's preferred qualities and behaviours in some situations.¹² This could imply that certain circumstances, which could lead down a path of violence, are sought by people who have a taste for such behaviour.

Academic studies to date have highlighted that several factors can affect the likelihood of individuals committing atrocities: these include dispositional, situational, systemic and influence of authority, and most likely it could be a combination of factors. The unique culture of the military has often been held responsible as a root cause for military failings, but arguably, it has not been explored thoroughly to examine if culture has a critical influence on immoral behaviour. This paper will examine the concept of military culture before moving on to consider the causal factors behind military human rights violations using these four recognised factors with the additional factor of culture.

Personality and Social Psychology Bulletin 33, no. 5 (2007): 615, doi:10.1177/0146167206298570

¹² Thomas Carnahan and Sam McFarland, "Revisiting the Stanford Prison Experiment: Could Participant Self-Selection Have Led to the Cruelty?" *Personality and Social Psychology Bulletin* 33, no. 5 (2007): 612, doi:10.1177/0146167206292689.

Chapter One – Military Culture

“Military culture is a coat of many colours”¹³

What is Culture?

Most people have an understanding as to what culture is or means. Academically there are at least 250 interpretations¹⁴ of culture in existence, but in its most basic form, it is “the attitudes and behaviour characteristic of a particular social group.”¹⁵ It refers to common ways of understanding an environment, the priorities and values assigned to things in life, along with beliefs, ideas and norms that, subconsciously, are taken for granted. Culture is a group phenomenon and is described by Geert Hofstede as “the collective programming of the mind that distinguishes the members of one group or category of people from another.”¹⁶ It provides a sense of stability and belonging for its members and is learnt; culture is not something that is inherited.

To help develop the understanding of the subject of culture, Joanne Martin’s three perspectives on culture provides a useful means of analysing culture from the macro to the micro level. At the top level, the *Integration Perspective* is where overall, there

¹³ Williamson Murray, “Does Military Culture Matter?” *Orbis* 43, No 1 (1999): 28.

¹⁴ English, *Military Culture*, 15.

¹⁵ <https://en.oxforddictionaries.com/definition/culture> accessed March 13, 2019.

¹⁶ Geert H. Hofstede, *Culture’s Consequences: Comparing Values, Behaviors, Institutions, and Organizations across Nations* (California: Sage Publications, 2001), 9.

is a high level of similarity within a group in terms of behaviours, values and assumptions, which glues the group together in a consistent manner. This perspective is a useful method to view a country's Armed Force as a whole in terms of core values and standards as they broadly align with each other.

The *Differentiation Perspective* emphasises the subcultures that exist within a group and that it is this mosaic of subcultures that make up the whole group.¹⁷ This perspective highlights that consensus exists within each subculture and that subcultures may operate in harmony, independently or in conflict with one another. The Differentiation Perspective helps explain the differences between the single Services in the Armed Forces, or the occupations or regiments within each of the services or even the difference between officers, SNCOs and enlisted personnel.

The *Fragmentation Perspective* accepts that general frames of reference exist within cultural groupings but focuses on the diversity that exists within these groups. These microcultures are smaller groups that exist within subcultures and are viewed as being in a constant state of flux. The characteristics of this perspective are a “focus on ambiguity, the complexity of relationships among manifestations, and a multiplicity of interpretations that do not coalesce into a stable consensus.”¹⁸ A military example would be the different cultures that exist between the different types of aircrew in the Royal Air Force.

¹⁷ Joseph Soeters, Donna Winslow and Alise Weibull, “Military Culture,” in *Handbook of the Sociology of the Military* ed. by Giuseppe Caforio, (Boston: Springer Science+Business Media, LLC, 2006), 239.

¹⁸ Joanne Martin, *Cultures in Organizations: Three Perspectives* (New York, NY: Oxford Univ. Press, 1992), 130.

For this paper, the Integration Perspective will be used to provide a broad brush analysis of the military's culture. This is due to the similarities within the UK's Armed Forces regarding the core values and standards it expects its members to adopt. Subcultures will be also be reviewed where appropriate to demonstrate how easily a military unit or group can create its own culture that differentiates from that of the overall organisation and how this could prove to be problematic at the strategic level.

Organisational Culture

Organisational culture, another significant area of research, is rooted within sociology and is used to refer to the beliefs and attitudes held by individuals about the organisation they work within. Again, there are a range of definitions in existence; common themes involve the configuration of norms, values and beliefs by an organisation's employees alongside the distinctiveness of an organisation being associated with its history, past decisions and past leaders. Gold describes organisational culture as "a quality of perceived specialness – that it possesses some unusual quality that distinguishes it from others in the field."¹⁹ This is particularly prevalent for the Armed Forces, who see themselves as different to civilian organisations.

¹⁹ Kenneth Gold, "Managing for Success: A Comparison of the Private and Public Sectors," *Public Administration Review* 42, no. 6 (1982): 571, doi: 10.2307/976127.

Edgar Schein's work presents the view that organisational culture is a recognisable concept that consists of a set of behavioural or cognitive characteristics. Schein's work is widely accepted as the framework for the study of organisational behaviour. He developed the concept that three cultural levels; artefacts, espoused values and basic assumptions²⁰ exist within most organisations, levels that build upon each other.

Artefacts are visible structures and processes within an organisation. They can be relatively easy to recognise and observe but not always straightforward to decipher. For the military, such artefacts would consist of doctrine, standard operating procedures, uniform and language. Such documents should not be taken at face value. Doctrine, intent and instructions are not always complied with, despite publication and promulgation. Therefore, a more in-depth look at an organisation's actual behaviour against artefacts is required to understand a culture fully.

Espoused values are conscious, publicly articulated principles of an organisation. They are usually statements which are reflective of the values, morals and beliefs of an organisation and can foster group cohesion. For the military, these would be the Service's Core Values and Standards or Mission Statements. Core Values are introduced from day one of joining the service and are intended to be entrenched in the very being of all service personnel. Such values will enable the prediction of what people may say and how they should act in a range of situations, but it is not always a guarantor of how they will conduct themselves.

²⁰ Edgar Schein, *Organizational Culture and Leadership* (California: Jossey-Bass, 2010), 24.

Basic assumptions are the most central part of an organisation's culture. These implicit and unconscious assumptions are known, but are rarely discussed, nor are they written or easily found. They comprise of unconscious thoughts, beliefs, perceptions, and feelings.²¹ They are primarily taken for granted and offer direction and meaning which allows individuals to interpret events. As they are seldom discussed or dealt with openly, they are therefore difficult to address or change.

Leadership plays an integral feature when it comes to organisational culture. Culture begins with leaders; it is their values and assumptions that are imposed on a group and can have a lasting impact. It is a leader's responsibility to shape and reinforce an organisation's culture and ensure that it is in line with the core values. The actions of leaders, such as how they treat their subordinates, the management of underperformance and the rituals they follow can all be classed as artefacts and are a powerful means of sending messages to the organisation's members.

Organisational culture is an asset.²² It defines appropriate behaviour and reinforces the values held by an organisation. It provides its members with a sense of identity²³ which can foster social cohesion and consensus; this, in turn, can help

²¹ Schein, *Organizational Culture*, 28.

²² Andrew Douglas Brown, *Organisational Culture* (Harlow: Prentice Hall, 2003), 89.

²³ For an in-depth review of social identity theory see Tajfel & Turner's "Integrative Theory of Intergroup Conflict" in *The Social Psychology of Intergroup Relations* or Michael Hogg's "Social Identity Theory of Leadership" in *Personality and Social Psychology Review*.

reduce conflict. The ability to promote a consistent perspective means culture can also enable command and control over the organisation's members, that norms of behaviour are agreed, accepted and conformed to. Culture is a powerful means of influencing how individuals interpret their surroundings, what is important and what is considered acceptable. In turn, this simplifies choices and enables rational action that accords with the organisation's values and beliefs. Organisational culture can also prove to be a valuable motivational tool; when employees adopt and identify with the organisation's values and objectives, they are likely to feel appreciated, secure and therefore more motivated. All of the above creates a positive working environment that can also help provide a competitive advantage in terms of effectiveness, motivation and consistency.²⁴

Organisational Culture also brings with it risks if not monitored and managed. There are times where shared beliefs and assumptions can clash with the needs of the organisation, such as people acting in unacceptable ways as per the cases of Abu Ghraib and Baha Mousa. In instances where it has been recognised that a culture needs to change, it can be hard to implement. The main challenge lies with shifting basic assumptions, the deepest level of culture that is ingrained and as already discussed, rarely confronted. To successfully change a culture, all three of Schein's levels should be targeted, artefacts are the easiest to confront but adapting just these will not be sufficient to change a culture completely. Values need to be reinforced, and basic assumptions and norms unlearned and replaced with new ones. In later chapters, this paper will assess the level of cultural change within the UK military that was

²⁴ Brown, *Organisational Culture*, 89.

required post the events in Iraq that led to the death of Baha Mousa and how successful it has been.

Military Culture

The military has long attracted attention as being one of the more unusual organisations in existence. Several aspects of the military differentiate it from general society; even Clausewitz captured what he viewed as core elements of a military's culture. While he did not use the term culture, he recognised that soldiers saw themselves as members of a guild, defined by regulations, laws and customs.²⁵ The observable differences between the military and other organisations include the emphasis on the importance of hierarchies along with rules and regulations, the acceptance of discipline²⁶ and the degree to which the military has control over the lives of its individuals.

The military can be described as being a specific occupational culture.²⁷ This is where culture is impacted equally by both values and practises, unlike national culture which is influenced more by values, and organisational culture which is influenced more by practices.²⁸ Those within an occupational culture tend to be engaged in the same type of work, have a shared set of values and norms which often extend beyond the workplace and their social relationships merge the boundaries of work

²⁵ Carl von Clausewitz, Michael Howard, and Peter Paret, *On War* (Princeton, N.J: Princeton University Press, 1976), 187.

²⁶ Kurt Lang, "Military Organizations," in *Handbook of Organizations* ed. J G March, (Oxford: Routledge Library Editions, 2013), 855.

²⁷ Soeters, Winslow and Weibull, "Military Culture," 238.

²⁸ Hofstede, *Culture's Consequences*, 414.

and leisure.²⁹ The close proximity many people live in and the encouragement to socialise with one another coupled with the inclusion of an individual's family encourages the creation of an occupational culture or, as some may argue, an institution.³⁰ Occupational culture is frequently given as an explanation as to why different militaries can work well together despite having different national cultures.

Work undertaken by Joseph Soeters in 1998 to analyse military culture against Hofstede's five dimensions of culture demonstrated that there is an international military culture, which when "compared to business is relatively bureaucratic and institutional."³¹ His work demonstrated that collectively, the military yielded higher scores regarding power distance and lower scores relating to individualism when compared to the civilian sector. This indicated that in contrast to civilian organisations a "supranational culture exists,"³² one that is more hierarchy orientated, more collectivistic and less salary driven. Soeters' work also identified that there is a natural cultural heterogeneity between various nations' militaries. That

²⁹ John van Maanen and Stephen Barley, "Occupational Communities: Culture and Control in Organizations," *Research in Organizational Behavior* 6 (1984): 295.

³⁰ Charles Moskos, "Institutional and Occupational Trends in Armed Forces," in *The Military: More than Just a Job?* eds. Charles Moskos and Frank Wood, (Washington: Pergamon-Brassey's International Defence Publication, 1988), 16.

³¹ Joseph Soeters and R Recht, "Culture and Discipline in Military Academies: An International Comparison," *Journal of Political and Military Sociology* 26, No 2 (1998), 183.

³² Joseph Soeters, C Poponete and J T Page, "Culture's Consequences in the Military," in *Military Life: The Psychology of Serving in Peace and Combat. Vol. 4: Military Culture* ed. by Thomas W. Britt, Amy B. Adler and Carl A. Castro, (Connecticut: Praeger Security International, 2006), 16.

there are identifiable variances between countries concerning what is viewed as important, for example approaches to warfighting and use of technology and doctrine. These differences are reflective of national cultural characteristics and can be mapped against Hofstede's five dimensions.

Soeters' top-level findings agree with the integrated perspective of culture and identify key cultural characteristics that broadly exist across all military forces. James Burk's work has been frequently relied upon to understand what comprises military culture. His model identifies four elements of military culture that can be found within any military force: "discipline, professional ethos, ceremonies and etiquette, and esprit de corps and cohesion."³³ His list is not exhaustive, but it is widely agreed that it recognises the fundamental elements of military culture.

Military discipline denotes the orderly conduct of its personnel it is a means of control to ensure a standard of behaviour, conformity and obedience to authority. Discipline also "ritualises the violence of war,"³⁴ it authorises those individuals in combat situations to break with standard societal conventions with regards to killing. Discipline is essential within the military to ensure individuals act in accordance with the required standards of behaviour but also within smaller subcultures where the needs of the group are put before those of the individual to enable success.

³³ James Burk, "Military Culture," in *Stress of War, Conflict and Disaster* ed. George Fink, (Amsterdam: Elsevier, 2010), 210.

³⁴ Don Snider, "An Uninformed Debate on Military Culture," *Orbis* 43, No 1, 1999, 15.

Professional ethos is a set of normative understandings that define the corporate identity, the code of conduct and the social worth³⁵ of the organisation and its subcultures. To provide legitimacy, this ethos needs to be recognised by society as a whole. For the military, this is accepted as the management of violence on behalf of the general population, the profession of arms. The nature of conflict also shapes military ethos, alongside the society it serves and the laws to which it is bound. This professional ethos generates a distinctive solidarity among troops and can result in subgroups, such as regiments and corps, bonding over unit identity,³⁶ an identity and culture that can be different to that of the organisation.

Military ceremonial displays and etiquette are the most easily observed elements of military culture.³⁷ Examples include the wearing of uniforms, rank and insignia, saluting, ceremonies, and emblems, the majority of which date back to historical warfare traditions. Such customs mark a collective identity, distinguishing the military from other organisations and broader society. They are important for culture but play a less direct role in instilling values compared to other core military cultural traits.

Cohesion and esprit de corps relate to morale and the willingness to perform a mission.³⁸ Cohesion denotes the feelings of identity and comradeship that military personnel hold towards those in their immediate group or unit, whereas esprit de corps refers to the commitment to the larger military

³⁵ Burk, "Military Culture," 212.

³⁶ Anthony King, *Frontline: Combat and Cohesion in Twenty-First Century*, (Oxford: Oxford University Press, 2015), 318.

³⁷ Burk, "Military Culture," 213.

³⁸ Snider, "An Uninformed Debate," 15.

establishment to which an individual belongs.³⁹ “Military institutions depend on a level of social cohesion that is matched in few other social groups.”⁴⁰ These elements are important as they can impact on loyalty, trust and the unit’s effectiveness. Behavioural studies have demonstrated that a cohesive military team is more likely to fight, not for idealism or patriotism, but for each other’s well-being. A lack of solidarity is expected to disintegrate a unit and impact on such willingness to fight. The desire to fight becomes stronger if combined with a high sense of belonging, not only to the subculture but to the organisation as a whole.

As discussed, culture is learnt; it is not inherited. For the military, as per the majority of organisations, this is achieved via the process of socialisation. The primary purpose of socialisation is to convey an organisation’s core values to its newcomers. With the military, this starts prior to selection when individuals self-select to apply and is heavily reinforced during initial training. Here the recruits are taught and get to observe the culturally accepted beliefs, values and attitudes, all of which impact on behaviour. Therefore, it is essential to set the right culture from the very beginning. Such socialisation gets repeated throughout an individual’s military career, when they change jobs or get promoted, there are either further training courses which will provide formal socialisation or opportunities for informal socialisation within the workplace. Informal socialisation usually involves peer-to-peer learning about what is considered to be acceptable, expected and desired. For socialisation to be effective for the military, it is

³⁹ Burk, “Military Culture,” 214.

⁴⁰ Anthony King, “The Word of Command: Communication and Cohesion in the Military,” *Armed Forces & Society* 32, no. 4 (2006): 493, doi: 10.1177/0095327X05283041.

essential that the right values, attitudes and behaviour are espoused to the newcomers to establish the desired culture.

Burk's attributes of military culture go some way to explaining why there can be issues within the military concerning culture. The hierarchical structure of the military means that change or adaption is slow, "military cultures are like great ocean liners or aircraft carriers; they require an enormous effort to change direction."⁴¹ This fact, coupled with the vast number of subcultures that need to be influenced means that it can take time and effort to introduce cultural change across all three of Schein's cultural levels.

With regards to discipline, the trait of obeying authority is ingrained from initial training, especially at the more junior level. This makes it difficult to disobey, even when the act prescribed by an authority goes against an individual's conscience or what is ethically right or legal.⁴² As Milgram's studies demonstrated, very few people can resist authority. The carrying out of orders can diminish in an individual's mind their responsibility for the act as they are merely complying with the authority, again this can prevent individuals from challenging what should be perceived to be wrong, unjust or unethical.

The military is a task-focused, closed organisation, and its members are selected in and socialised to conform to the attitudes, behaviour and values of their group. If a culture is misaligned, it can be difficult to identify the difference between right and wrong when one is immersed within said culture or

⁴¹ Murray, "Does Military Culture Matter?" 28.

⁴² Milgram, *Obedience to Authority*, 4.

subculture. Personality traits such as patriotism and bravery are viewed as desirable within the military. This often encourages overt masculine behaviour amongst its members, therefore stepping outside the norm and challenging the group is often looked down upon and difficult to do. The task-focused approach can also lead to corners being cut if it is deemed that the ends justify the means, that certain actions or behaviours are tolerated if they achieve the desired result. The danger with this is that such undesirable behaviours, if tolerated for long enough, become the norm and the level of standards gradually erodes.

Cohesion can potentially be the biggest menace to culture. From initial training, the importance of teamwork is emphasised and is held in high regard across the military. Methods of bonding and creating team cohesiveness within the military often involve pranks and banter, but this isolates those who are different to the norm. Historically within the military this was females, ethnic minorities or homosexuals. While the military has mainly moved on from sexist, racist and homophobic behaviour, there are still too many examples of exclusion.⁴³ Team cohesion encourages individuality to be broken down to enable troops to put the needs of the group and the service ahead of their own. This provides a strong need to comply and can make it difficult to challenge or speak out against wrongdoings due to a risk of exclusion. The perceived closing of ranks to protect their peers during the Baha Mousa

⁴³ The Service Complaints Ombudsman for the Armed Forces 2018 Annual Report highlighted that 25% of the 763 complaints received were related to bullying, harassment and discrimination (BDH). Female and BAME personnel continue to be disproportionately represented in complainant counts (23% and 13%), with continued higher BDH complaints (43% and 39%).

investigation is one such example of where cohesion is not a positive attribute. Indeed, such cohesion prevented the full truth coming out during initial investigations.

Groupthink can be a barrier to the evolution of culture. Groupthink is where members of a group think or act similarly and can prove to be detrimental to critical thinking.⁴⁴ A culture of discipline, obedience to authority and cohesion adds additional challenge when trying to introduce independent thought. Challenges and counter-arguments do not get expressed as they could disrupt team unity. A misconception of invulnerability and unquestioned belief in the group's actions leads to excessive optimism and risk-taking; all which can be highly damaging to an organisation if the wrong decisions are taken or actions carried out.

This chapter has examined the concept of culture and identified appropriate models to analyse and understand it from the macro to the micro level. It has reviewed four key military cultural traits and demonstrated that these can offer advantages and disadvantages to the organisation. The next chapter will now review the case studies to identify whether any of the disadvantages of military culture can be attributed to the human rights violations committed.

⁴⁴ Brown, *Organisational Culture*, 103.

Chapter Two – Iraq 2003

*‘Even if there were no ‘bad apples’
abuse would have been inevitable’⁴⁵*

Abu Ghraib

Spring 2004 saw the worldwide publication of leaked photographs of detainee abuse undertaken by American soldiers while serving in Iraq at Abu Ghraib prison. The pictures depicted male and female soldiers forcing Iraqi prisoners to form naked human pyramids, simulate sexual acts, to stand on boxes with wires attached to their body along with other appalling acts. Public outrage and shock were high, not since the atrocities at My Lai in Vietnam in 1968 had “Americans felt the need to question the fundamental democracy of American troops in wartime.”⁴⁶

The abuse was reported by just one person, Sergeant Joe Derby, in January 2004. Aware of some of the ‘strange’ practices taking place at Abu Ghraib such as the shackling of naked detainees, the true extent of the abuse inflicted on the detainees became apparent when he was loaned a CD of photographs by Corporal Charles Graner. For Derby, the sexually explicit images, the beatings and the torture inflicted crossed a line of acceptability, and he chose to do what he felt

⁴⁵ Christopher Coker, *Ethics and War in the 21st Century*, LSE International Studies (London ; New York: Routledge, 2008), 77.

⁴⁶ Craig R. Whitney, “Introduction,” in *The Abu Ghraib Investigations: The Official Reports of the Independent Panel and Pentagon on the Shocking Prisoner Abuse in Iraq*, ed. Steven Strasser, (New York: Public Affairs, 2004), x.

was morally right over remaining loyal to his colleagues.⁴⁷ He sent an anonymous copy of the CD to the Criminal Investigation Department for investigation. His actions ultimately led to the formal investigations into the abuses at Abu Ghraib and other US military detention facilities alongside global scrutiny over US actions. This was the catalyst that instigated significant changes in how detention facilities were run.

The main reports into the abuse at Abu Ghraib were undertaken by Major General Taguba who reviewed the conduct of the 800th Military Police (MP) Brigade and by Lieutenant General Jones and Major General Fay who reviewed the allegations that the 205th Military Intelligence (MI) Brigade was also involved in detainee abuse.⁴⁸ There have been at least 11 other official investigations into prisoner abuse post Abu Ghraib⁴⁹ to determine the root causes, all identified several similarities. The reports into Abu Ghraib went further than laying the blame at the door of those individuals charged. They highlighted that situational factors at Abu Ghraib along with systemic and leadership failures not only contributed towards the occurrence of the abuses but why they were undiscovered for so long.⁵⁰ Information from the official military reports⁵¹ along with analysis undertaken by social

⁴⁷ Zimbardo, *Lucifer Effect*, 476.

⁴⁸ Vian Bakir, *Torture, Intelligence and Sousveillance in the War on Terror: Agenda-Building Struggles, Classical and Contemporary Social Theory* (Farnham, Surrey, England ; Burlington, VT: Ashgate Publishing, 2013), 135.

⁴⁹ Bartone, "Preventing Prisoner Abuse," 162.

⁵⁰ United States of America, DoD, *Article 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade – The Fay-Jones Report*, Fay Report, 71.

⁵¹ Using the Taguba Report, the Fay-Jones Report and the Schlesinger Report.

psychologists and investigative reporters will be considered to identify the salient factors which can be attributed to the cause of abuse within Abu Ghraib and where culture played a part.

Disposition

Not all individuals behave the same way under the same conditions, as demonstrated by the thousands of military personnel who deployed to Iraq and did not commit abuse towards detainees or the local population. Dispositional factors are those individual characteristics that influence behaviour and actions, such as personality traits and temperament. The military was quick to attribute the blame for the abuse on the soldiers involved; stating that it was the actions of a few rogue soldiers and that there was no evidence of systemic failures or abuse elsewhere. It can be argued that some of the perpetrators involved, such as Corporal Graner, fit the bad apple descriptor. Graner had a history that included accusations of domestic abuse and violence in the workplace. He was identified as the ringleader who not only orchestrated the abuse but photographed it. He “far exceeded his role in abusing prisoners both physically and psychologically”⁵² and through his position in charge of the Tier 1A night shift, he influenced those around him to participate in the degrading treatment of the detainees.

Not everyone involved in the abuses at Abu Ghraib had such a predisposition, but their personality traits left them open to the influence of those around them. Research has identified that most young adults define themselves on the input of people

⁵² Zimbardo, *Lucifer Effect*, 359.

and the structures around them;⁵³ the military is no exception to this, especially where social conformity is the norm. Some of those individuals involved were much more susceptible than others to conform due to their vulnerability or lack of resilience.⁵⁴ Lynndie England can be categorised as such an individual, working in the prison as a clerk she had no reason to be in Tier 1A and had no authorisation to handle detainees, but the published photographs clearly depict her involvement and apparent amusement at the events she was participating in. A young, uneducated woman, England had embarked on a sexual relationship with Graner, a man superior in rank and age, whose actions heavily influenced her.⁵⁵

The Situation

Based on the work of Milgram and Zimbardo, situational factors have been widely argued as a leading cause for the erosion in moral standards within Abu Ghraib. Situational factors are when an individual's surroundings affect their behaviour, the more powerful or stressful a situation, the higher the behavioural impact. They can include "the physical environment, other people, social norms or constraints, and other types of physical or social stimuli."⁵⁶ No one situation

⁵³ Robert Kegan, *In Over Our Heads: The Mental Demands of Modern Life* (Cambridge, MA: Harvard University Press, 1995), 163.

⁵⁴ Bartone, "Preventing Prisoner Abuse," 167.

⁵⁵ John Howard and Laura Privera, "The Fallen Woman Archetype: Media Representations of Lynndie England, Gender, and the (Ab)Uses of US Female Soldiers," *Women's Studies in Communication* 31, no. 3 (2008): 298/9, doi: 10.1080/07491409.2008.10162544.

⁵⁶ Christina Maslach, Richard T. Santee, and Cheryl Wade, "Individuation, Gender Role, and Dissent: Personality Mediators of Situational Forces,"

can adequately explain “atrocities by situation.”⁵⁷ It is usually a combination of issues aligning which result in negative behaviours developing. In the case of Abu Ghraib, several situational factors contributed towards the destructive behaviour of the guards and interrogators.

Those working and living at Abu Ghraib were suffering a range of psychological stressors as a result of their environment. Manning and resource shortages meant the MPs were working twelve-hour shifts, seven days a week, living, eating and sleeping within the walls of the filthy prison complex.⁵⁸ The prison had an inadequate sewerage system which often backed up, a lack of running water and intermittent electricity. Security was at an all-time high with the overcrowded facility coming under daily mortar attacks along with attacks by prisoners on the guards. All this contributed to the feeling of isolation and powerlessness, creating a pressured environment where the guards rectified such feelings via the exertion of power over the prisoners.

Discipline throughout the prison was poor. Standards of dress deteriorated, and basic military discipline concerning behaviour and the conduct of daily duties was not enforced. The lack of clear rules of engagement, regulations and orders within the prison furthered the lack of discipline. Policies were unclear

Journal of Personality and Social Psychology 53, no. 6 (1987): 1088, doi: 10.1037/0022-3514.53.6.1088.

⁵⁷ Paolo Tripodi, “Understanding Atrocities,” in *Ethics, Law and Military Operations*, ed. David Whetham, (Basingstoke, Hampshire ; New York, NY: Palgrave Macmillan, 2011), 175.

⁵⁸ Eric Wargo, “Bad Apples or Bad Barrels? Zimbardo on ‘The Lucifer Effect’.” *APS Observer* 19, no. 8 (2006), 5.

regarding what interrogation procedures were authorised, creating confusion over the standards that should be applied.

The widespread practice of stripping detainees, which was initially intended to increase feelings of vulnerability and therefore compliance with interrogations, would have had a psychological impact on the guards and interrogators. The frequency of this practice would have normalised the situation within the prison as it had become routine. Routinisation⁵⁹ can obscure the relevance of moral principles. The act of depriving the detainees of their clothes would have dehumanised them. Dehumanising removes an individual's human qualities, and they are seen as not having the same values or feelings as others which enables the rationalisation that normal moral principles and rights do not apply to them increasing the risk of abusive treatment.⁶⁰

The System

For Zimbardo, atrocity by situation is a result of systemic failures.⁶¹ Systemic atrocity is “caused by structural forces, prior policy choices and institutional constraints.”⁶² They can range

⁵⁹ Jo-Ann Tsang, “Moral Rationalization and the Integration of Situational Factors and Psychological Processes in Immoral Behavior,” *Review of General Psychology* 6, no. 1 (2002), 30, doi:10.1037/1089-2680.6.1.25.

⁶⁰ Adam Lankford, “Promoting Aggression and Violence at Abu Ghraib: The US Military’s Transformation of Ordinary People into Torturers,” *Aggression and Violent Behavior* 14, no. 5 (September 2009): 394, doi: 10.1016/j.avb.2009.06.007.

⁶¹ Zimbardo, *Lucifer Effect*, 226.

⁶² Neta Crawford, “Individual and Collective Moral Responsibility for Systemic Military Atrocity,” *Journal of Political Philosophy* 15, no. 2 (2007): 189, doi: 10.1111/j.1467-9760.2007.00278.x.

from the tactics used, to the policies and practises implemented, and can sit from organisational up to state level. Within Abu Ghraib, there were clear systemic failures that contributed towards the immoral actions of those MPs working the Tier 1A night shift. There was confusion over what interrogation techniques had been authorised. This links back to the decision by the Bush Administration that Al-Qaeda and Taliban members were considered to be unlawful combatants, and if captured were not to be considered prisoners of war and provided with the rights as defined in the Geneva Convention.⁶³ This was exacerbated by the Secretary of Defence authorising interpretations of the Geneva Conventions that purposefully reduced the definitions of torture and enabled a more extensive range of interrogation techniques to be used. This enabled American intelligence organisations to “conduct interrogations of Iraqis and Afghans in detention using techniques that otherwise would have been deemed violations of the US and international law.”⁶⁴ The result was that those within Abu Ghraib had no clear guidance, and therefore, lines of acceptable behaviour became blurred. General Jones noted that had “doctrine and training been followed, the abuses at Abu Ghraib would not have occurred.”⁶⁵

Visits to Abu Ghraib by influential individuals such as General Miller, Commander Guantanamo Bay, had an impact. Miller

⁶³ United States of America, DoD, *Final Report of the Independent Panel to Review DoD Detention Operations*, (Office of the Secretary of Defense: Washington DC, 2004), 6.

⁶⁴ Cynthia Enloe “Wielding Masculinity inside Abu Ghraib: Making Feminist Sense of an American Military Scandal,” *Asian Journal of Women’s Studies* 10, no. 3 (2004), 93, doi: 10.1080/12259276.2004.11665976

⁶⁵ The Fay-Jones Report, “Executive Summary,” np.

recommended more aggressive interrogation techniques be used in Iraqi detention facilities.⁶⁶ He influenced the chain of command in Iraq, and within the Department of Defense, to utilise interrogation methods that were “the proximate cause of the torture and war crimes committed at Abu Ghraib.”⁶⁷ The intense pressure imposed on the intelligence community to obtain “actionable intelligence”⁶⁸ resulted in the MI staff encouraging the MPs guarding the prisoners to ‘soften up’ detainees ahead of interrogation. This undermined the MP’s chain of command and distorted the lines between guarding and interrogation. The impact was that some of the MPs overstepped the boundaries of their role, and with it the Geneva Conventions.

The lack of training for 800th MP was a critical factor and was exacerbated by the mobilisation period being rushed. Pre-deployment and in-theatre training on prisoner handling were lacking along with instruction on the Geneva Conventions. This was partly a result of an unclear mission for 800th MP and an extended tour once deployed. It resulted in a brigade that was inadequately trained and therefore reliant upon individuals who had civilian corrections experience,⁶⁹ unfortunately, Corporal Graner was one such individual.

⁶⁶ Janis Karpinski and Steven Strasser, *One Woman’s Army: The Commanding Officer of Abu Ghraib Tells Her Story* (New York; London: Miramax; Turnaround, 2006), 198.

⁶⁷ Zimbardo, *Lucifer Effect*, 413.

⁶⁸ The Fay-Jones Report, “Fay Report,” 8.

⁶⁹ United States of America, DoD, *Article 15-6 Investigation of the 800th Military Police Brigade – The Taguba Report*, 24.

Leadership

The investigations into Abu Ghraib highlight that the lack of leadership – from the Brigade Commander who was viewed as rarely there, to the ineffective Battalion Commander – exacerbated the problems within Abu Ghraib. There was no oversight of what individuals were doing and no appreciation of the pressures facing the guards and interrogators. Along with a lack of leadership came ambiguity over the chain of command. The ongoing dispute between 800th MP and 205th MI over who was in charge further aggravated the situation. It caused confusion, reduced accountability and created an ambiguous environment where troops started to take matters into their own hands, and without restrictions or reprimands, their behaviour deteriorated well below the accepted standard.

Culture

With regards to discipline and culture, Milgram's obedience studies helps explain how the military culture of discipline played a part in the Abu Ghraib atrocities. From initial training onwards, military personnel are socialised to obey orders and not to challenge superiors. At the same time, the individual starts to adopt the routine, habits and behaviours of their peers; they begin to conform to the military system.⁷⁰ This intrinsic action to obey authority, especially within a hierarchical environment such as the military can have a negative impact on moral behaviour as individuals focus on compliance and can fail to recognise or accept that moral or

⁷⁰ Milgram, *Obedience to Authority*, 115.

ethical principles are being violated,⁷¹ which is what happened within Abu Ghraib.

There is evidence of obedience to authority concerning the ‘softening up’ the detainees at the request of the interrogators. At no point did personnel question whether the orders were reasonable; the individuals involved believed their actions were serving a military purpose.⁷² The guards involved conformed to the actions of others, especially ringleaders such as Graner, and participated in the infliction of abuse to those detainees under their care.

To recap, professional ethos is the set of understandings which help define corporate identity and code of conduct. The personality traits of bravery and patriotism are viewed as desirable and can often contribute towards the creation of a masculine environment. Within Abu Ghraib, the culture was overtly masculine. The humiliation of the detainees via the removal of clothing, the forced wearing of women’s underwear and sexual degradation in front of female guards reinforced the masculine environment. Such an environment would have impacted on the behaviour of others, such as the actions of those women who participated in the abuse at Abu Ghraib, they are likely to have joined in “in order to gain the hoped-for reward of male acceptance.”⁷³

The culture of a close team can result in people losing their sense of individual identity; it is known as deindividuation. This group mentality can result in individuals partaking in behaviour

⁷¹ Tsang, “Moral Rationalization,” 27-28.

⁷² Rowe, “Military Misconduct,” 171.

⁷³ Enloe “Wielding Masculinity,” 99.

that does not accord with their personal standards.⁷⁴ Individuals, such as Staff Sergeant Frederick,⁷⁵ acknowledged in subsequent investigations that their behaviour had fallen well below that of their usual individual standards.

Baha Mousa

On 15 September 2003, an Iraqi hotel receptionist, Baha Daoud Salim Mousa, died while in custody at a British Army detention facility in Basra. The inquiry into his death identified that not only had he been subjected to numerous assaults over the thirty-six-hour period he was in British custody,⁷⁶ practices banned by law such as hooding, sleep deprivation and stress positions had been inflicted upon him and his fellow detainees. These actions resulted in the condemnation of the Ministry of Defence (MoD) for corporate failure and of the regiment involved for a “loss of discipline and lack of moral courage.”⁷⁷

On 14 September 2003, the 1st Queen’s Lancashire Regiment (1QLR) participated in Operation Salerno, a raid on hotels in Basra looking for former regime loyalists. Their search of Hotel Ibn Al Haitham uncovered weapons, ammunition and forged identity documents.⁷⁸ Seven men, including Baha

⁷⁴ Tsang, “Moral Rationalization,” 29.

⁷⁵ Graveline and Clemens, *Secrets of Abu Ghraib*, 164-172.

⁷⁶ James Gow, *War and War Crimes: The Military, Legitimacy, and Success in Armed Conflict* (New York: Columbia University Press, 2012), 7.

⁷⁷ Great Britain, Parliament, and House of Commons, *The Baha Mousa Public Inquiry Report* (London: Stationery Office, 2011), 1316.

⁷⁸ Huw Bennett, “The Baha Mousa Tragedy: British Army Detention and Interrogation from Iraq to Afghanistan,” *The British Journal of Politics and International Relations* 16, no. 2 (2014): 211, doi: 10.1111/j.1467-856X.2012.00539.x.

Mousa, were arrested on suspicion of being former regime loyalists. They were taken to the Battlegroup's Headquarters where they were detained in the Temporary Detention Facility (TDF) and tactically questioned before being transferred to the Theatre Internment Facility (TIF). During their detention, the men were hooded, forced to remain in stress positions and repeatedly assaulted. On the night of the 15 September, Baha Mousa stopped breathing, and despite the efforts of the medical team, he was pronounced dead. The post mortem attributed the cause of death to postural asphyxiation but also identified ninety-three separate surface injuries that had been inflicted.⁷⁹ Examination of the prisoners when they arrived at the TIF showed that a number of them had been subject to severe assaults, one was on the verge of fatal kidney failure as a result of his mistreatment within the TDF.⁸⁰

Seven individuals were tried at Court Martial in September 2006 in relation to Baha Mousa's death. One individual, Corporal Donald Payne, pleaded guilty to a charge of inhuman treatment and "became the first British soldier convicted of a War Crime under the International Criminal Court Act."⁸¹ He pleaded not guilty to the other charges of manslaughter and perverting the course of justice, as did the other defendants in relation to their charges of inhuman treatment or negligence. All remaining charges were either dismissed or individuals were found not guilty. The Judge Advocate acknowledged that Baha Mousa's injuries were the result of numerous assaults sustained during his time in British custody, but charges could not be

⁷⁹ The Baha Mousa Inquiry, 5.

⁸⁰ *Ibid.*, 112-5.

⁸¹ Rachel Kerr, "A Force for Good? War, Crime and Legitimacy: The British Army in Iraq," *Defense & Security Analysis* 24, Vol 4, (2008), 409. doi: 10.1080/14751790802569200

brought due to a lack of evidence “as a result of a more or less obvious closing of ranks.”⁸²

The death of Baha Mousa was reviewed in 2008 after the UK Government announced that a public inquiry into his death would be held.⁸³ This was a result of the relatives of six Iraqi civilians who had been killed by UK forces bringing a case against the Secretary of State for Defence seeking a review into the Government’s decision not to conduct independent inquiries into the deaths of these men. Prior to this decision, the Army had decreed in 2005 that they would conduct an investigation to consider what measures in light of the allegations of abuse in Iraq were required to improve the Army’s operational effectiveness. This investigation was tasked to Brigadier Aitken and his report was eventually published in 2008. This case study will use the Aitken Report and the Baha Mousa Public Inquiry, along with academic literature, to identify the main factors that led to the committal of abuse and identifying where culture played a part.

Disposition

As per the Abu Ghraib case study, some individuals, such as Corporal Payne, were instrumental in the mistreatment of Baha Mousa and inflicted abuse for their personal gratification and amusement.⁸⁴ The Public Inquiry labelled Payne as a “violent bully.”⁸⁵ Payne was in direct charge of the TDF and in a

⁸² The Baha Mousa Inquiry, 1.

⁸³ Kerr, “Force for Good?” 404.

⁸⁴ Kevin Laue and Adam Lang, *UK Army in Iraq: Time to Come Clean on Civilian Torture*. (London: The Redress Trust, 2007), 41.

⁸⁵ The Baha Mousa Inquiry, 269.

position of responsibility not just due to his rank but his position as a provost Corporal. He was personally responsible for many of the assaults that occurred and set an appalling example to those junior soldiers around him.⁸⁶ Payne admitted to the inhuman treatment of a person protected under the provisions of the Geneva Convention, most likely because a recording of such treatment was presented to the Court Martial. In the subsequent Public Inquiry, he admitted to not presenting the whole truth at Court Martial and that he had used gratuitous violence.⁸⁷

As per Abu Ghraib, some individuals were influenced by Payne to participate in the abuse, and like him, inflicted abuse for their own gratification. There were also a range of individuals highlighted who saw the abuse and failed to stop or report it, and those who should have known based on their visits to the TDF or the proximity of their living quarters. These individuals included the Padre, the Commanding Officer and other officers. Their lack of action to report or prevent the actions of others effectively condoned a “culture of strategic humiliation and torture”⁸⁸ within the TDF. Within 1QLR, there were some individuals with the disposition to inflict abuse for their gratification, a culture that tolerated it, and personnel lacking in moral courage to intervene or report the actions of others.

⁸⁶ *Ibid.*, 323.

⁸⁷ *Ibid.*, 131.

⁸⁸ Pat Lancaster, “Comment.” *Middle East*, no. 406 (December 2009): 4.

The Situation

The situation 1QLR found themselves in when they arrived in theatre was complex and dangerous. In Basra, the judicial system had collapsed, crime was rising, as was the threat of insurgency. The local population were increasingly frustrated with a lack of progress since the removal of Saddam Hussein and tensions were running high. 1QLR were responsible for conducting peace support operations in an increasingly hostile and pressurised environment. The stressful conditions were intensified by the high temperatures of over fifty degrees centigrade, the eighteen-hour working days and the recent deaths of colleagues at the hands of insurgents. Capacity was also overstretched due to an insufficient number of troops required for the role.⁸⁹ This created a melting pot of fatigued, overworked soldiers who felt under constant threat of danger. It should have been evident to the chain of command that something untoward could occur if there were no checks or balances in place to ensure discipline and good order.

There was evidence of a loss of discipline within the Battlegroup. Record keeping was poor; detainees were regularly held longer than the regulations stated prior to transfer to the TIF, there was no guard rota and most importantly, little supervision. 1QLR did not have full control of its personnel, nor was it enforcing order. This is likely to have been caused by their situation; they were operating at maximum capacity, under pressure, and with a reduction in standards. When reviewing the events that took place within the TDF, the

⁸⁹ British Army, *The Aitken Report. An Investigation into Cases of Deliberate Abuse and Unlawful Killing in Iraq in 2003 and 2004* (London: Ministry of Defence, 2008), 8-9.

number of individuals, the ranks involved and the flagrant disregard of the consequences of being caught, it is easy to identify the grave breakdown in military discipline. These warning signs existed before Operation Salerna and had they been acted upon by the chain of command, the events of the 14-16 September may have been prevented.

The System

Systemic failures can be identified as a cause of the abuse. The guards and tactical interrogators were using conditioning and interrogation techniques that had been banned in 1972 by the then Prime Minister, Sir Edward Heath.⁹⁰ To add further weight, the European Court of Human Rights confirmed in 1978 that the interrogation techniques of hooding, stress positions, subjection to noise, sleep deprivation and deprivation of food and drink were a breach of Article 3 of the European Convention on Human Rights. Somehow, the UK military had forgotten about the ban, and doctrine published after the 1972 decision regarding interrogation failed to identify the banned techniques. This failure allowed for soldiers to unknowingly carry out illegal conditioning techniques on civilian detainees.

Interrogation training and Conduct-after-Capture training are likely to have cross-contaminated what behaviour was required of British soldiers undertaking interrogation, and the treatment British soldiers could expect if they were captured. Those individuals who had completed Conduct-after-Capture Training were qualified to conduct interrogation and tactical

⁹⁰ Bennett, "Baha Mousa and the British Army," 176.

questioning, despite only receiving training on the illegal interrogation methods they could be subject to if captured.⁹¹ The differentiation was not made clear, therefore personnel deployed ignorant over a significant policy issue. This filtered into the brigades and with the increasing reliance on the Battlegroups to undertake tactical questioning ahead of transferring detainees meant that lines of responsibility were blurred between guarding and interrogation. This was exacerbated by 1QLR's "significant error of judgement"⁹² in allowing those soldiers who had arrested Iraqi civilians to then be responsible for not only guarding but also 'conditioning' them.

Conditioning describes the techniques applied to detainees to prolong or enhance the feeling of the shock of capture before they were interrogated; it was believed that it would help obtain information. The Inquiry identified that the legal practice of conditioning was far too ambiguous and could range from the guards not fraternising with the detainees, which is legal, to the use of coercive techniques such as the five banned techniques, which are unlawful.⁹³ The systemic failure to identify what conditioning techniques were and were not acceptable enabled individuals to step outside the boundaries, again made worse by 1QLR using the guards to implement conditioning without any direction or supervision.

1QLR deployed to Iraq with five weeks' notice and as a result, were unable to undertake the full pre-deployment training package nor did they have the full complement of specialists

⁹¹ The Aitken Report, 13.

⁹² The Baha Mousa Inquiry, 1317.

⁹³ *Ibid.*, 10.

deploying with them, such as tactical questioners.⁹⁴ Training on the treatment of civilian detainees was scant as the focus of the pre-deployment training was based on a war scenario, so concentrated on handling prisoners of war⁹⁵ which would have misled the members of 1QLR as they were undertaking peace support operations and predominantly dealing with Iraqi civilians.

Leadership

The lack of experience impacted on the leadership within the regiment. The Inquiry found Junior Officers responsible of turning a blind eye to misconduct and breaches of discipline, that more experienced officers failed to acknowledge the deteriorating conditions within the TDF and that there was a complete abdication when it came to the welfare of the detainees.⁹⁶ The Commanding Officer, Lt Col Mendonça, while found not guilty of his charge of negligently performing a duty, he does bear a great deal of responsibility for the events that happened.⁹⁷ His leadership was regarded as robust with a low tolerance towards ill-discipline. This command style could have made him difficult to approach, hence his lack of awareness of previous cases of violence prior to Operation Salerno. Something as a commander, he should have been aware of. Mendonça “had a non-delegable responsibility to ensure that detainees were treated humanely.”⁹⁸ He did not give enough due diligence to this responsibility; he failed to acknowledge

⁹⁴ Laue and Lang, *UK Army in Iraq*, 36.

⁹⁵ The Aitken Report, 12.

⁹⁶ The Baha Mousa Inquiry, Ch21.

⁹⁷ *Ibid.*, 373-394.

⁹⁸ *Ibid.*, 391

the unethical practices being implemented and he failed to appreciate the risk given the situational pressures his soldiers were facing on a daily basis. Mendonça was awarded a DSO for his leadership, bravery and successes during this tour, while this paper does not discredit his successes, it does pertain that his leadership was lacking in some critical areas. This lack of leadership, across all levels of the Battlegroup, contributed to the death of Baha Mousa.

Culture

As per Abu Ghraib there was evidence of a culture of obedience to authority. The soldiers undertaking guard duty undertook the request to condition the detainees at the request of the 1QLR intelligence staff, their actions to complete this task crossed the line of acceptable behaviour. The military's hierarchical structure and enforcement of discipline to obey orders would have made it very difficult, especially for the junior soldiers, to stand up to their chain of command, some of whom have been identified in the official investigations as intimidating characters.

As already suggested, cohesion is one of the greatest dangers to culture. Payne admitted to not telling the truth at the Court Martial, and that he sought to persuade others to say the death was accidental when he knew it was not.⁹⁹ Such misguided loyalty could be a result of military culture and the importance placed on cohesion. It prevented the truth about Baha Mousa and his fellow detainees coming out. The need to fit in and be part of the team would have intensified the pressures on each

⁹⁹ The Baha Mousa Inquiry, 1319.

soldier to gain acceptance from those more dominant members,¹⁰⁰ such as Payne, and would have prevented individuals standing up to them or reporting them.

The culture of group loyalty can often override emotions that should constrain criminal behaviour, emotions such as guilt, anxiety or fear.¹⁰¹ Loyalty to the group proved to be stronger than any moral emotion; nineteen members of 1QLR assaulted Baha Mousa and his fellow detainees, “in the middle of the Battlegroup’s main camp, in a building with no doors, apparently with little regard for the consequences of being caught.”¹⁰²

This chapter has identified that there was a range of factors that resulted in the committal of atrocities at Abu Ghraib and within 1QLR’s TDF. It has established that military culture was one of these factors, that culture facilitated the actions of individuals to participate with their peers and prevented the abuses being reported and stopped. The next chapter reviews the lessons identified in the official investigations and assesses whether they were sufficient to prevent further human rights violations from being committed and if there is more than could be done.

¹⁰⁰ Enloe, “Wielding Masculinity,” 100.

¹⁰¹ James Connor, “Military Loyalty: A Functional Vice?” *Criminal Justice Ethics* 29, no. 3 (2010), 284, doi: 10.1080/0731129X.2010.524040.

¹⁰² The Baha Mousa Inquiry, 329.

Chapter Three – Lessons Learnt?

‘If the British Armed Forces are not assiduous in complying with the laws of armed conflict and international humanitarian law, they would become no better than the insurgents and terrorists they are fighting’¹⁰³

Both cases studies are incredibly alike in respect to the behaviour displayed and the factors that influenced the actions of those involved. Unsurprisingly, the areas identified to be addressed by the official investigations were very similar. In addition to the tactical recommendations in relation to the handling of detainees and detention facilities, the recommendations can be categorised broadly under four categories: training on detainee handling and generic training on the Law of Armed Conflict (LOAC); reviews of doctrine and policy; addressing leadership shortcomings and the recognition that systemic issues played a role. There were no recommendations surrounding cultural changes required. The reports’ recommendations were either intended to immediately improve the situation in Iraq in relation to detainee handling or to minimise the occurrence of repeat incidents. This chapter will focus on the UK and what progress has been made to reduce the likelihood of repeat incidents.

The Aitken Report provided the MOD with a summary of the areas for improvement and detailed what changes had been made to doctrine, policy and training. It did not assess whether these changes had been successful, nor could it consider the Baha Mousa Inquiry recommendations as they had yet to be

¹⁰³ R v *Blackman* (2013) Sentencing Remarks CM00442, np.

published. Aitken reported that “the number of allegations of abuse in Iraq had been tiny”¹⁰⁴ and that it was likely that there would be an absence of further incidents due to the “wide range of corrective measures”¹⁰⁵ implemented since 2003 so it would be unwise to make radical changes unless there was “clear evidence that the faults we were seeking to rectify were endemic.”¹⁰⁶ His report focused on the bad apple explanation that the institution was working well with appropriate values and internal dynamics. That nothing needed to be reviewed or reformed in relation to the functioning of the organisation, that the punishment or removal of those individuals who had not played by the rules was sufficient.¹⁰⁷

A key takeaway from the reports into Abu Ghraib and Baha Mousa is that the majority of the recommendations and changes made across the UK’s Armed Forces only focused on Schein’s outer layer of culture – the artefacts – items such as doctrine, procedures and policy. Such changes should have made systemic improvements but they would not have been powerful enough to address the deeper cultural layers that impact on cultural change.

If Aitken’s view was correct and the recommendations in the Baha Mousa Inquiry were implemented it would be fair to conclude that the military had learnt its lessons and there would be an absence of repeat incidents. This paper argues that this was not the case, that lessons and recommendations from the UK and US investigations such as revised training packages and updated doctrine were not sufficient. That the changes

¹⁰⁴ The Aitken Report, 5.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ Enloe, “Wielding Masculinity,” 100.

introduced were insufficient to prevent the unlawful killing of an injured Afghan insurgent by a Royal Marine Sergeant in September 2011. That the lessons did not prevent a Royal Marine Captain and his Sergeant from assaulting an Afghan detainee suspected of planting a roadside bomb in 2009.¹⁰⁸ The recommendations and worldwide outrage at the treatment of detainees at Abu Ghraib did not prevent members of the US Marine Corps raping a fifteen-year-old girl before murdering her and her family in Mahmudiya, Iraq in March 2006¹⁰⁹ or the premeditated murders of Afghan civilians by the US Army in the Maywand District in 2011.¹¹⁰

Such examples demonstrate that the military had failed to appreciate all of the factors that caused the immoral behaviour, such as culture, and that it failed to implement sufficient measures in relation to situational and systemic shortcomings to prevent repeat occurrences. A review into the case of Marine A will examine the factors that caused him to unlawfully kill an Afghan insurgent to identify what lessons were missed or not implemented. Culture was identified in the previous chapter as being a factor that led to the atrocities being committed, but it was not considered in the official reports, nor were there any recommendations made to review or address military cultural shortcomings.

¹⁰⁸ BBC News, “Marines Dismissed for Assaulting Afghan Prisoner,” BBC News Corporation, 2010, <http://news.bbc.co.uk/1/hi/uk/8608204.stm> (accessed April 4, 2019).

¹⁰⁹ James Dao, “Ex-Soldier gets Life Sentence for Iraq Murders,” *New York Times*, May 21, 2009, <https://www.nytimes.com/2009/05/22/us/22soldier.html>.

¹¹⁰ Mark Boal, “The Kill Team: How US Soldiers in Afghanistan Murdered Innocent Civilians,” *Rolling Stone*, March 28, 2011, <https://www.rollingstone.com/politics/politics-news/the-kill-team-how-u-s-soldiers-in-afghanistan-murdered-innocent-civilians-169793/>.

Marine A

In October 2013 Marine A, identified as Sergeant Alexander Blackman, was found guilty at a Court Martial of the murder of an Afghan insurgent in September 2011; he was sentenced to life imprisonment with a minimum term of ten years. This sentence was reduced to seven years after an appeal in February 2017 reduced the charge to manslaughter by reason of diminished responsibility.¹¹¹ Blackman's actions were discovered on a recording made by a member of his patrol two years after the event and only came to light via a separate police investigation. The video footage showed Blackman and his patrol mishandle the injured insurgent, move him out of sight of the ground surveillance systems, discuss whether to administer first aid before Blackman shot the insurgent point blank in the chest saying to his patrol, *obviously this doesn't go anywhere fellas, I've just broken the Geneva Convention*.¹¹² Blackman knew that his actions were illegal, yet he did it anyway. Was this a case of a bad apple or were there similar factors as per the previous case studies that impacted upon Blackman's actions?

Examining Blackman's Court Martial reports, the subsequent Court of Appeals documents and the Royal Navy's Telemeter Report¹¹³ identifies similar causative factors as had been identified in the case studies of Abu Ghraib and Baha Mousa, suggesting that the military had not yet learnt its lessons.

¹¹¹ *R v Blackman* (2017) EWCA 190, paragraph 21(ii)

¹¹² Court Martial video footage disclosed to author during interview with Judge Advocate General, HHJ Jeffery Blackett, May 9, 2019.

¹¹³ The Royal Navy commissioned an investigation into the case of Blackman to identify lessons relating to culture, ethos and training.

In terms of situational factors, there are stark similarities to both Abu Ghraib and Baha Mousa. Blackman and the marines under his command were based at a remote and isolated checkpoint. The checkpoint was under constant enemy threat and was physically insecure, leaving its personnel feeling vulnerable to attack. This feeling was heightened after the deaths of colleagues while out patrolling. The patrol was undermanned, and as a result, those based there were working increased hours, patrolling for up to ten hours a day in high temperatures with a threat of ambushes and IED attacks. The marines were combat weary and sleep deprived.¹¹⁴ The failure to recognise the impact of situational factors post 2003's events contributed towards the loss of rational decision-making by Blackman and his multiple which resulted in the unlawful killing of the Afghan insurgent.

Blackman and his multiple were also let down by systemic failures. The importance of suitable and sufficient training had been identified in the Aitken Report. Despite this, Blackman had not received the full pre-deployment training package but was allowed to deploy. The benefits of support mechanisms, such as Trauma Risk Management (TRiM), introduced to alleviate the stresses of traumatic events and support psychological wellbeing had not been recognised by 42 Commando as essential. There were no TRiM practitioners within Blackman's checkpoint for the majority of his operational tour, nor had the checkpoint received any welfare visits from key individuals such as the Padre. The failure at the operational level to address systemic lessons resulted in the welfare and psychological condition of Blackman and those under his

¹¹⁴ *R v Blackman* (2017) EWCA 190, para 99.

command going relatively unchecked during the duration of a challenging tour, allowing them to go “feral.”¹¹⁵

In terms of leadership factors and failures, the lessons from Abu Ghraib and Baha Mousa regarding the influence and impact of leadership, or lack of it, had not been learnt. The leadership of Blackman’s chain of command came under criticism for a lack of supervision.¹¹⁶ This resulted in the warning signs of stress, fatigue and strain not being picked up on.¹¹⁷ Blackman’s “poor leadership”¹¹⁸ went unnoticed and therefore was not rectified; it was his leadership shortcomings that resulted in those under his command treating the insurgent in the inhuman manner in which they did.¹¹⁹

Culture was, again, a causative factor. The culture within the checkpoint and 42 Commando during Herrick 14 played a significant factor in the actions of Blackman and his subordinates. Anthony King identified in *Frontline* that groups often coalesce around unit identity and that overdeveloped regimental identities can become problematic, generating

¹¹⁵ Hayley Dixon, “Marine A: How six months of hell led to the killing of Taliban insurgent,” *The Telegraph*, March 28, 2017, <https://www.telegraph.co.uk/news/2017/03/15/marine-six-months-led-killing-taliban-insurgent/>.

¹¹⁶ The Telemeter Report was subject to a formal complaint regarding the leadership criticisms of the command chain. Whilst upheld by the MOD, the Appeals Court agreed with the Telemeter report concerning a lack of support by specific individuals within Blackman’s command chain.

¹¹⁷ Royal Navy, *Operation Telemeter Executive Summary*, (London: Ministry of Defence, 2016), 1.

¹¹⁸ Telemeter Executive Summary, 1.

¹¹⁹ HHJ Jeffrey Blackett (Judge Advocate General), interview with author, May 9, 2019.

“deviant forms of practice and solidarity.”¹²⁰ The approach undertaken by 42 Commando was perceived by others to be overly aggressive when compared to other units operating within Task Force Helmand at the same time.¹²¹ This culture had been challenged by a fellow Royal Marine, but the chain of command had not viewed the concerns as significant enough to require any action. Such a culture and manner in which they were permitted to operate increased the chances of wrongdoing taking place.

This aggressive culture is likely to have dehumanised the local Afghans along with the insurgents living and operating around them. This would have unwittingly condoned the contemptuous treatment of Afghans, as was demonstrated in the audio of the video footage in the handling of the insurgent, the reluctance to apply first aid and the discussion to kill him.¹²² An aggressive culture would have impacted on the extremely difficult challenge that faces all military personnel when in combat situations, that of stopping fighting and applying restraint in order to comply with the LOAC, Geneva Conventions and the military’s core values and standards.

As per the previous case studies, the military’s culture of obedience to authority was a factor. Blackman’s authority and position of leadership at the checkpoint heavily influenced the behaviour of his patrol members.¹²³ None of them questioned or challenged his behaviour. Cohesion also played a part. Not only did they not challenge him, they also colluded to cover up the event, and nobody subsequently thought his actions were

¹²⁰ King, *Frontline*, 318-9.

¹²¹ Telemeter Executive Summary, 1-2.

¹²² Blackman Court Martial video footage.

¹²³ Blackett, interview with author.

severe enough to report it. In the Court Martial video evidence, members of his patrol can be heard to agree that Backman's actions would not go any further and proposing that the shot, if questioned, was a warning shot.¹²⁴

At no point did it seem that Blackman or his patrol consider that their actions did not comply with core values and standards expected of a Commando. They had placed the culture of loyalty to their comrades over core values, which on this occasion led to behaviour which broke values and standards, along with regulations and laws. The training in LOAC had been implemented, Blackman clearly knew he had broken the Geneva Convention but either the training was not robust enough, or the culture was so misaligned with the military ethical standards expected, that there was no safety net in place to stop Blackman losing his self-control on that day in Helmand.

Until the Telemeter report, none of the reviews and subsequent recommendations explicitly mentioned culture; therefore, nothing had specifically been considered regarding how culture played a part or how to best address any shortcomings in this area. The Telemeter report recognised that the training at the time did not identify how situational factors can undermine regulations and morals. It highlighted the need to instil a deep understanding of values and standards to enable these principles to be applied when under the stress of operations.¹²⁵ Project Lovat is the Royal Marines response to the Telemeter findings. It sought to identify and develop improvements in performance against a 'Recruit, Train, Live'

¹²⁴ Blackman Court Martial video footage.

¹²⁵ Telemeter Executive Summary, Recommendations, 3.

framework. This involved a review of existing training and identified the requirement for specific formal ethics training at all levels, primarily focusing on leadership from Lance Corporal upwards. The Royal Marines have identified the benefit of better equipping its personnel with regards to ethics training and the benefits it brings. They have introduced a range of methods to educate personnel on how situational and systemic pressures can impact decision making and behaviour, including the use of field exercise scenarios to best prepare their personnel to make ethical decisions under all situations.¹²⁶ The positive action taken by the Royal Marines will better equip their personnel with the understanding and skills to combat against ‘ethical drift’, both in peacetime and on operations and should be considered by all services with field forces.

Leadership Implications

When taking into consideration the causal and cultural factors that led to the mistreatment of detainees in Iraq in 2003, along with the more recent examples of human rights violations, it is clear that more can be done by the military to minimise the chance of repeat occurrences in the future. There is a need for the military and its leaders to better appreciate how not only dispositional, situational, systemic and leadership factors impact on the behaviours of the individual and the group but also the impact of culture.

The argument that the bad apple cannot be prevented, that there are individuals with a disposition to commit crime

¹²⁶ Lt Col D Gilding RM, e-mail message to the author, May 7, 2019.

whatever the circumstances¹²⁷ is valid to a degree. However, the commander has the ability to influence all those under their command and create the conditions which mitigates such events. This paper agrees that “it is not possible for any organisation to prevent criminal activity or disgraceful behaviour absolutely. It is, however, possible to create the conditions which make the commission of criminal or disgraceful acts less likely.”¹²⁸ At a tactical level, commanders should be able to identify problem characters and deal with them. This can be achieved by establishing the right unit culture, one that supports “positive and ethical behaviours...as well as to quickly and effectively address any negative or unethical practices.”¹²⁹ Instilling discipline and setting the standards personnel are expected to adhere to provides “a unit with a strong sense of professionalism and discipline [which] would...be less likely to commit infractions. This is because the individuals are invested in an identity which has components of self-discipline and ethics embedded in it.”¹³⁰

Many situational factors are, to a degree, out of the hands of commanders such as the operational tempo or enemy actions. The military must remain cognisant that “rarely can commanders make a significant impact on the situation, yet they can shape the system so individuals who are part of it are better prepared to deal with situational forces.”¹³¹ Commanders

¹²⁷ Tripodi, “Understanding Atrocities,” 176.

¹²⁸ The Aitken Report, 10.

¹²⁹ Bartone, “Preventing Prisoner Abuse,” 170.

¹³⁰ Donna Winslow, “Misplaced Loyalties Military Culture and the Breakdown of Discipline in Two Peace Operations,” in *The Human in Command: Exploring the Modern Military Experience*, ed. Carol McCann and Ross Pigeau (Boston, MA: Springer US, 2000), 307.

¹³¹ Tripodi, “Understanding Atrocities,” 182.

cannot eliminate the fear of an enemy attack but what they can do is ensure they are aware of the pressures that affect their personnel and prepare them for it as best as possible to increase their mental and physical resilience. Training, education and communication go a long way in ensuring personnel have the right mind-set to cope and ability to adapt to the pressures, the uncertainties and complexities of the situations they find themselves in. At the strategic level, the military needs to recognise the lessons of under resourcing, inadequate planning and stressful situations to ensure that their personnel are better supported, which in turn reduces the probability of individuals acting irrationally.

To prevent systemic factors undermining the standards and behaviour of the Armed Forces, the military needs to better recognise the challenges that its personnel face when operating in complex situations. In roles outside of traditional warfighting, the rules are not always as clear and “the moral (and criminal) code can become opaque.”¹³² By recognising that the ill-treatment, and in the most shocking cases “the intentional killing of those detained by the armed forces in some form of military custody is one of the most common forms of military misconduct,”¹³³ more robust countermeasures can be introduced to prevent this.

The investigations identified that more task specific and better generic training was required and as such training has been updated accordingly. Effective training including education via practical scenarios will help, as personnel “are less likely to

¹³² Rowe, “Military Misconduct,” 172.

¹³³ Pascal Vennesson, “Cohesion and Misconduct,” in *Frontline: Combat and Cohesion in Twenty-First Century*, edited by Anthony King. Oxford: Oxford University Press, 2015), 242.

commit war crimes when they are trained in the law of war, understand that anyone who commits violations is a criminal and will be prosecuted, and realise that compliance benefits mission accomplishment.”¹³⁴ Although, as the case of Blackman has demonstrated, the military needs to remain cognisant that training alone is insufficient to prevent misconduct. Reinforcement of training, values and standards by those in a position of responsibility to provide guidance and set the culture is required to further mitigate against misconduct occurring.

All three case studies demonstrated that leadership styles influence the culture of an organisation. “Many factors influence military success, but the quality of leadership is one of the most crucial.”¹³⁵ Mendonça’s robust approach had unwittingly resulted in his subordinates taking an overly robust approach with detainees.¹³⁶ 42 Commando taking an aggressive approach affected the actions of Blackman and his multiple and undermined the Commando’s core values. Schein identified that “leaders are the primary agents by which an organisation’s culture and role norms are modelled, transmitted, and maintained.”¹³⁷ This paper has demonstrated the impact leadership has on culture. Leaders play a critical role with regards to cultural reinforcement and change. The military must endeavour to increase the awareness of this via training and education to ensure commanders and military

¹³⁴ United States of America, *War Crimes, Marine Corps Reference Publication 4-11.8B*, (Quantico: US Marine Corps, 2005), 7.

¹³⁵ Janice Laurence, “Military Leadership and the Complexity of Combat and Culture,” *Military Psychology* 23, no. 5 (2011): 498, doi: 10.1080/08995605.2011.600143

¹³⁶ The Baha Mousa Inquiry, 392.

¹³⁷ Schein (1985) in Winslow, “Misplaced Loyalties,” 307.

organisations use culture to their advantage to ingrain the military's core values and standards.

Military commanders have not only an ethical obligation to lead morally, but also a legal obligation. Article 28 of the Rome Statute of the International Criminal Court defines the legal responsibilities of commanders and superiors with relation to the committal of war crimes.¹³⁸ It holds the chain of command responsible with regards to the neglect of duty in relation to war crimes that they knew their subordinates were committing or within reason that they should have known about it.¹³⁹ While the commanders of Abu Ghraib prison, 1QLR and 42 Commando did not “commit, incite or order subordinates to commit LOAC or IHL violations.”¹⁴⁰ Their lack of awareness of events could have seen them being held responsible for war crimes, due to a failure of exercising “effective control.”¹⁴¹

This paper has demonstrated that the military needs to be attuned to the fact that culture has played a part in the committal of misconduct, and without the monitoring and understanding of a unit's cultural identity it could happen again. The military and its leaders need to remain mindful of the weaknesses of military culture (and subcultures) and how this can undermine the reputation of the Armed Forces. The values placed on the virtues of loyalty, discipline and team

¹³⁸ International Criminal Court, *Rome Statute of the International Criminal Court*, Article 28.

¹³⁹ Gary Solis, *The Law of Armed Conflict: International Humanitarian Law in War*, (Cambridge University Press, 2016), 381.

¹⁴⁰ *Ibid.*, 397.

¹⁴¹ Joint Doctrine and Concepts Centre, *JSP 383 - The Joint Service Manual of the Law of Armed Conflict*, (Shrivenham: JDCC, 2004), 438.

cohesion can be the very things that create destruction and bind individuals into doing wrong.¹⁴²

The ability to cultivate group identity within subcultures is important, but commanders must ensure it is balanced alongside respect for the military's authority and the rule of law¹⁴³ to ensure that it does not fragment from the organisation's core values. The military needs to facilitate an environment that enables the use and acceptance of reasonable challenge¹⁴⁴ across all levels of the organisation, from the tactical to strategic. This needs to start at initial training and be reinforced throughout an individual's career. An environment is required where cohesion facilitates the challenge a colleague before they make a mistake vice helping cover up for them after the event. The virtue of moral courage needs to be given greater importance across all ranks, which will help prevent future abuses from being committed.

Group or peer pressure within the military can stem from cohesion and "by the nature of the organisation [is] stronger than in comparable civilian occupations."¹⁴⁵ Cohesion brings great benefits to effectiveness, but it can also present a great risk. The perceived closing of ranks to protect their peers during the Baha Mousa investigation is one such example of where cohesion was not a positive attribute. "There is an inherent difficulty in exposing criminality or wrong-doing that takes place within a tightly knit institution such as the Armed

¹⁴² Milgram, *Obedience to Authority*, 188.

¹⁴³ Winslow, "Misplaced Loyalties," 307.

¹⁴⁴ Ministry of Defence, Chilcot Team. *The Good Operation: A Handbook for Those Involved in Operational Policy and its Implementation*, (London: Ministry of Defence, 2018), 62.

¹⁴⁵ Rowe, "Military Misconduct," 180.

Forces. Solidarity, stigma and fear naturally disinclines soldiers from testifying against comrades.”¹⁴⁶ Analysis of the case studies demonstrates that in instances of military misconduct individuals are unlikely to act alone, that individuals follow and conform to the norms of behaviour set by their group. The military needs to encourage esprit de corps and cohesion but also identify better mechanisms to encourage the reporting of wrongdoing. Individuals need to understand that they have a duty to inform of immoral activity and the military leadership needs to recognise that the barrier to doing so can be that such behaviour is “at odds with an institution characterised by respect for authority, duty, and loyalty.”¹⁴⁷

In order to reduce the likelihood of breaches of acceptable behaviour, the military has more to do. By recognising the range of factors that affect the actions of its individuals it can take practical steps to reinforce the standards of behaviour accepted, the core values and the rules and regulations that are required to be followed. Leadership has a pivotal role to play, in not just managing the situation but setting and influencing the organisation's culture. Culture plays a crucial role in the operational effectiveness and behaviour of the members of the military. This needs to be recognised, especially when personnel are operating under pressure, to ensure that the organisation's core values and standards are adhered to.

¹⁴⁶ N. Rasiah, ‘The Court-Martial of Corporal Payne and Others and the Future Landscape of International Criminal Justice’, *Journal of International Criminal Justice* 7, no. 1 (2009): 187, doi: 10.1093/jicj/mqn080.

¹⁴⁷ Colin T Sullivan, ‘The Responsibility to Dissent: Whistleblowing and Military Effectiveness,’ in *Responsibilities to Protect: Perspectives in Theory and Practice, International Studies on Military Ethics*, eds. David Whetham and Bradley Jay Strawser, (Leiden ; Boston: Brill Nijhoff, 2015), 137.

Conclusion

“Exemplary behaviour may be more common than the opposite, but even the slightest abuse of military power can have a catastrophic strategic effect.”¹⁴⁸

The purpose of this paper was to examine whether military culture was a key influence in the committal of human rights violations in Iraq in 2003 and if the military has learnt its lessons. The case studies of Abu Ghraib and the death of Baha Mousa were selected due to their high profile and as sufficient time has passed to analyse whether the UK military has learnt from these incidents and sufficient measures have been introduced to reduce the probability of repeat incidents. This paper has demonstrated that culture was a key influence and that there is more that could be done with regards to learning lessons from these events.

The research identified that military culture is impacted by values and practices, and that specific military cultural traits can be identified across all nations’ militaries. It is these traits that set the Armed Forces apart from civilian organisations. The examination of military culture identified the advantages culture offers such as teamwork, loyalty and discipline. However, at the same time, if allowed to fragment away from the organisation's core values and standards, these same traits can create issues and weaknesses, especially concerning conduct and behaviour.

¹⁴⁸ Paul Robinson, “Introduction,” *Ethics Education in the Military* eds. Paul Robinson, Nigel De Lee, and Don Carrick, (Aldershot, England; Burlington, VT: Ashgate Pub. Company, 2008), 11.

The examination of dispositional, situational, systemic, leadership and cultural factors provided explanations for the causes of misconduct in the case studies. The evaluation of the literature on these incidents also demonstrated that no one single factor could sufficiently account for why the misconduct occurred, but collectively they could provide a comprehensive explanation for the drop in values and standards of those involved.

The official reports and inquiries into Abu Ghraib and Baha Mousa identified a stark number of similarities suggesting that the factors that caused such misconduct could also be prevalent in other cases of human rights violations. Therefore, there are still valuable lessons to take from these case studies. This was demonstrated via the examination of an additional case study, that of Sergeant Blackman, where similar causal factors were again identified. Analysis of the Blackman case identified that the lessons implemented post Iraq 2003 did not address cultural issues such as cohesion, loyalty and ethical approaches. This was a result of the failure to identify culture as a key influence on the behaviour of those involved. Training and changes to doctrine inadvertently addressed the outer layer of culture but would not have been sufficient to challenge and address the inappropriate values and assumptions held by some military personnel. The work undertaken post the Blackman trial by the Royal Marines has identified the importance of setting the right culture at the very start and throughout an individual's career to help protect against human rights violations and other similar ethical shortcomings.

Efforts have been made to learn from these case studies, and positive steps have been taken since 2003 but there is scope for more to be done and the military should not become complacent that this matter has been addressed. The reliance on the bad apple analogy will remain a barrier to progress to the military for as long as it remains to be used to explain the unacceptable behaviour of its individuals. The preference to blame a few, rather than look at organisational failures, prevents the culture of the organisation being assessed and, if required, reformed. This paper has demonstrated that the military's assumption that in such cases "all that needs to happen to stop the abuse is to prosecute and remove those few individuals who refused to play by the established rules"¹⁴⁹ is flawed. This paper demonstrates that "organisations and leaders probably cannot prevent every act of abuse or moral degradation... [but more] can be done to increase the odds in favour of workers doing the right thing."¹⁵⁰

These case studies remain a valuable tool in understanding basic human and social psychology and demonstrate how a range of factors can impact behaviour. By understanding the impact of cultural factors and appreciating that in times of danger or stress the professional and moral character of service personnel can be eroded, will better enable the military to put measures in place to prevent repeat incidents in the future. The provision of training on core values at all ranks and the reinforcement by leadership of the positive traits of discipline, ethos and cohesion to reinforce the military's core values and standards, will better equip personnel with the understanding and skills to combat against ethical drift. This will help prevent

¹⁴⁹ Enloe, "Wielding Masculinity," 100.

¹⁵⁰ Bartone, "Preventing Prisoner Abuse," 171.

further occurrences of human rights violations by the UK Armed Forces.

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Judge Advocate General His Honour Judge Jeff Blackett, interview with author, May 9, 2019.

Fifteen years have passed since the human rights violations committed at Abu Ghraib Prison and the death of Baha Mousa at the hands of Western soldiers was exposed to the world. Despite the official investigations into these events, there have been similar repeat incidents. This paper examines whether military culture was a key influence behind the committal of these atrocities vice the bad apples explanation provided by both countries' militaries. The paper reviews the lessons identified against recent incidents to understand why there have been reoccurrences and what more should be considered. Using information obtained from the commissioned investigation reports and secondary source material, predominantly from social psychologists, the paper concludes that culture was an influence and that there is more the military could do to reduce the likelihood of such grave misconduct. This includes recognising the negative influence military culture can have on behaviour and implementing methods to address this.

This thesis has been awarded the second prize of the year 2020 in EuroISME's annual contest for the best student's thesis. For information about the contest, please visit www.euroisme.eu

