

Human Rights Centre Clinic

Oversight and Accountability of UK Special Forces (II)

Partner: [APPG on Drones and Modern Conflict](#)

About APPG on Drones and Modern Conflict

The All-Party Parliamentary Group (APPG) on Drones was founded in October 2012 to examine the use of military drones by governments, particularly the US and UK, with a focus on scrutiny and oversight of policy and practice, adherence to the rule of law, and understanding and mitigating civilian harm. In 2021, the Group evolved its framing to the APPG on Drones and Modern Conflict, drawing on lessons learned from drones to scrutinise and hold to account the use of force more broadly.

The [APPG on Drones and Modern Conflict](#) is an interest group that occupies a strategic and effective position within the UK Parliament. It is cross-party, with a minimum number of Parliamentarians from the Government and the official opposition; and cross-house, made up of both Peers (Members of the House of Lords) and MPs (Members of the House of Commons).

The Group's objectives are championing the protection of civilians in conflict as a top-line priority across governmental departments; ensuring the rule of law and international rules-based system is upheld by the UK Government and strengthening Parliament's role and ability to scrutinise policy and hold the government to account for UK and partnered operations.

Project overview

A core concern of the APPG on Drones and Modern Conflict is ensuring accountability of the use of armed force by the UK. The Special Forces are the only part of the UK military that are not subject to any form of external oversight or scrutiny. One of the reasons often given to exonerate Special Forces from this control is that any comment on Special Forces may compromise its personnel, operations or national security.

Against this background, the Human Rights Centre Clinic will continue mapping and carrying out an analysis of the mechanisms for oversight, scrutiny, and accountability of UK Special Forces, drawing from UK law and comparative practice, and in light of the UK's international human rights and humanitarian legal obligations.

This is the continuation of a project that began in 2021-22.

Background

This project will map the mechanisms for oversight, scrutiny, and accountability of UK Special Forces activities (hereafter Special Forces or SF), to provide recommendations for how the UK could ensure that Special Forces activities are subject to meaningful oversight and accountability, without compromising troops' safety or national security.

It will do this by identifying and mapping any existing mechanisms to scrutinise and oversee Special Forces activities overseas. Specifically, it will examine internal scrutiny, oversight, and accountability mechanisms within the Ministry of Defence (MOD), including of alleged wrongdoing, as well as external mechanisms available to Parliament or its Committees. Herein, it will examine the extent to which current policy and mechanisms for scrutiny and oversight enable Parliament to secure information, assess policy, and affect change when it comes to the kind of commitments the Special Forces take on. To aid analysis and shape recommendations, the project will also look at how other States and allies of the UK approach scrutinising their Special Forces.

The Special Forces are the only part of the UK military that are not subject to any form of external oversight or scrutiny. In light of repeated allegations of unlawful conduct by UK Special Forces overseas, the lack of scrutiny and oversight is of particular concern. For a number of years, the UK Government has consistently maintained that any comment on Special Forces may compromise its personnel, operations or national security. The experience of UK allies, however, suggests that it is possible to develop successful parliamentary scrutiny mechanisms to ensure democratic accountability and decision-making without any of the aforementioned negative consequences.

In recent years there have been increasing allegations of abuses carried out by UK and allied Special Forces, enhancing calls for appropriate scrutiny and oversight and resulting in a period of reflection by many of the States implicated. The UK, however, is yet to adequately address allegations against its Special Forces.

This is the continuation of a project that began in 2021-22. The research carried out in 2021-22 found that Parliament and its committees do not have access to information about the activities of, and policies that inform, the UK Special Forces. As such, they are unable to provide meaningful oversight or hold UK Special Forces to account. Indeed, the government has adopted a blanket 'no comment' policy on all parliamentary questions pertaining to UK Special Forces. Similarly, UK Special Forces are exempt from other mechanisms by which information about government activities can be obtained in the name of public interest, namely freedom of information requests. This is particularly concerning considering a growing number of allegations of unlawful conduct by UK Special Forces, the most recent coming to light in July 2022. The report found that close allies of the UK have developed oversight mechanisms that balance the public interest in scrutiny, oversight, and accountability, and the need to uphold national security and the safety of Special Forces.

The second part of the project, running from October 2022 to June 2023, will expand on these findings, examine tort law and interview subject matter experts to gain a deeper insight into the workings of the Special Forces, internal oversight mechanisms, and how to best implement effective, meaningful scrutiny, oversight, and accountability, without compromising national security or the safety of the UK Special Forces.

Project Output

The HRC Clinic project's findings will be presented in a 12,000-15,000-word report, which will be submitted to the APPG upon completion in June 2023.

This project will be conducted via desk-research using open-source material available on the internet. This includes, but is not limited to: UK Government policy documents, Ministry of Defence policy documents and reports, Parliamentary debates, questions and publications, civil society reports, datasets and public events, media reports and policy documents from other States. The research will also include an analysis of the relevant UK's international human rights and humanitarian legal obligations.

In addition, the APPG secretariat can set up interviews and/or roundtables with the Group's network of global experts. The Secretariat can assist with identifying and inviting experts, as well as framing and hosting these. The APPG may also table Parliamentary Questions to aid information-gathering.

The report may be edited and published at the discretion of the APPG. The project will feed into the APPG's work on Special Forces, informing the development of its strategy and activities.

Timeline

Phase 1: November – December 2022:

- Preliminary research, understanding the project and developing research/report outline.
- Identifying a list of experts for interviews and questionnaires.
- Securing ethical approval, if necessary.
- Outline and bibliography to be submitted to the APPG for comments.

Phase 2: January – March 2023

- Carrying out the interviews online.
- Research and data gathering.
- Report writing.

- Submission of the first full draft to the APPG.

Phase 3: April – June 2023

- Revision and finalising the research report based on input from partners.
- Potential for presentation in the Houses of Parliament.

Essential sources

- APPG on Drones and Modern Conflict and the All-Party Parliamentary Human Rights Group, [Joint APPG statement on BBC Panorama allegations of UK Special Forces abuses in Afghanistan](#), 15 July 2022
- APPG on Drones, '[Written evidence from the All-Party Parliamentary Group on Drones](#)', Public Administration and Constitutional Affairs Committee, The Role of Parliament in the UK Constitution: Authorising the Use of Military Force inquiry, 2019
- BBC, [UK government and military accused of war crimes cover-up](#), 17 November 2019
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- Dr Tara McCormack, [Written evidence from Dr Tara McCormack, Public Administration and Constitutional Affairs Committee](#), The Role of Parliament in the UK Constitution: Authorising the Use of Military Force inquiry
- Hannah O'Grady and Joel Gunter, [SAS unit repeatedly killed Afghan detainees, BBC finds](#), BBC, 12 July 2022
- HC Deb, [UK Special Forces: Iraq and Afghanistan](#), Vol 669, 7 January 2020
- Jon Moran, [Assessing SOF Transparency and Accountability](#), Oxford Research Group, July 2016
- Liam Walpole, Megan Karlshøj-Pedersen, '[Britain's Shadow Army: Policy Options for External Oversight of UK Special Forces](#)', Oxford Research Group
- Matt Bardo & Hannah O'Grady, [Did UK Special Forces execute unarmed civilians?](#), BBC, 1 August 2020
- Murray Jones, [Britain's Special Forces on active service in at least 19 countries since 2011](#), 19 July 2022
- Murray Jones, [Killing in the Shadows](#), Action on Armed Violence, July 2022
- Megan Karlshøj-Pedersen, '[The True Cost of Special Forces?](#)', Oxford Research Group

- Megan Karlshøj-Pedersen, [‘ORG Explains #14: The UK’s Special Forces’](#), Oxford Research Group, May 2020
- Oxford Research Group (ORG), [Written evidence from the Oxford Research Group, Remote Warfare Programme](#), Public Administration and Constitutional Affairs Committee, The Role of Parliament in the UK Constitution: Authorising the Use of Military Force inquiry
- Panorama (BBC), [SAS Death Squads Exposed: A British War Crime?](#), BBC, 12 July 2022
- The Public Administration and Constitutional Affairs Committee (PACAC) Inquiry report into [‘The Role of Parliament in the UK Constitution: Authorising the Use of Military Force’](#), 9 August 2019, in particular Chapter [‘5: Parliamentary Scrutiny’](#)
- Additional suggested reading:
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 - Andrew Feickert and Thomas Livingston, ‘U.S. Special Operations Forces (SOF): Background and Issues for Congress’ Congressional Research Service 2010
 - BBC, [‘Australian ‘war crimes’: Elite troops killed Afghan civilians, report finds’](#), 19 November 2020
 - British Army, Operations (Shrivenham: Development Concepts and Doctrine Centre 2010)
 - Claire Mills, Ben Smith and Louisa Brooke-Holland, ‘ISIS/Daesh: the military response in Iraq and Syria’ UK Parliamentary Briefing Paper Number 06995, 16 March 2016
 - Emily Knowles, Abigail Watson, [All quiet on the ISIS front? British secret warfare in an information age](#), Oxford Research Group, March 2017
 - Dr Frank Ledwidge, [Australia is reckoning with its war crimes allegations. Now the UK must step up](#), Guardian Opinion, 23 November 2020
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 - HL Deb, [Intelligence and Security Committee of Parliament](#), Vol 799, 9 September 2019
 - James Brown. [‘A Disconnect between Policy and Practice: Defence Transparency in Australia’](#) Security Challenges Vol. 11, No. 1 (2015), pp. 29-38
 - Jon Moran, From Northern Ireland to Afghanistan. British Military Intelligence Operations, Ethics and Human Rights (Farnham: Ashgate 2013)

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- Lumpe, L., Marx, J., 2017. Congress must know about special operations before tragedy strikes. The Hill.
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- Richard Norton-Taylor and Ewan Macaskill [‘Talking about Taliban killers is taboo in the UK’](#), Guardian, December 6 2011
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- Samantha Cromptvoets, [Australia’s special forces and the ‘fog of culture’](#), The Strategist, 18 November 2020
- Special Operations Chief: [“We are not a panacea”](#) [WWW Document], 2017. SOFREP.
- Sunday Times, [‘Rogue SAS killing squad’: the email cache](#)’, Insight Blog, 1 August 2021
- United Nations, United Nations Peacekeeping Missions Military Special Forces Manual (January 2015)

Focal Point

- Director of the APPG on Drones and Modern Conflict (name TBC).