



**4TH BATTALION  
ROYAL AUSTRALIAN REGIMENT ASSOCIATION,  
QUEENSLAND  
(4RAR ASSOC, QLD)**



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30 September 2010

Your Excellency,

As you would be aware there is a petition campaign circulating requesting that the charges against the three unnamed soldiers of the 1st Commando Regiment charged with manslaughter amongst other things, for their actions in Afghanistan be withdrawn.

It is imperative that the charges against these three soldiers be withdrawn. These charges are simplistic in the extreme and are being pursued by the same Government and Army that ordered them into Afghanistan in response to the attacks in the USA on 11 September 2001 in which people of all nationalities including Australians and of all religions including Muslim were murdered. Our soldiers, by being ordered into Afghanistan are retaliating against a fanatical, extremist religious system that intentionally killed and maimed innocent civilians in an area where no soldiers were evident or visible. Where were the Rules of Engagement employed by them in this instance?

Two wrongs do not make a right (if there are two wrongs involved) but to charge these soldiers for reactions in the heat of battle when being fired upon is obscene. If the Government and the Army are going to prefer charges against every soldier for his actions on the battlefield then the core of Army discipline will fail. A soldier being fired upon on the battlefield and his commanders may hesitate before retaliating, that hesitation may cost a soldier his life. Will Brigadier Lyn McDade, the person proffering the charges be the one to carry his body from the battlefield, will she be the one to inform his family that he will not be coming home, because of a precedence that she imposed? I very much doubt it. She will say that she is only following orders but it was she who decided to prosecute based on the evidence before her; evidence that must be considered circumstantial and totally unsupported based on evidence released to the public.

An SASR soldier in East Timor who, in the heat of battle kicked an opposing soldier to make sure that he was no longer a threat as his fellow warriors continued the assault, was subjected to a courts martial and found not guilty. His actions and those of the three warriors on the battlefield in Afghanistan are Standing Operational Procedure under Rule 5.56 of warfare. (It used to be Rule .303 but times change.)

This decision to prosecute is wrong. It is the Army now attempting to appease a family who lost lives at the instigation of actions and tactics initiated by and deliberately employed by the Taliban whereby Australians soldiers were forced to retaliate to defend themselves on the battlefield. It is the Taliban leaders who should be charged with war crimes; that of deliberately exposing and using innocent civilians as human shields, against all laws of warfare.

In war nobody wins, people get killed and injured on both sides; that is a fact of life that must be accepted when we send our warriors to defend our nation or our allies. In more simplistic terms, one must expect a bloody nose when confronting bullies. The Taliban do not care who they kill. Our Australian soldiers do their best to ensure that civilians are not injured and are prepared to accept a bloody nose in doing so!!!! They are however not expected to die when civilians are being used as human shields to allow the enemy to attempt to kill them.

If it was discovered after the firefight from after action reports that the three soldiers had broken the Rules of Engagement and deliberately killed civilians, why were they not arrested on the spot and confined? Why has it taken some 18 months of investigation to determine to proceed with charges and why were they allowed to remain on the battlefield to continue serving honorably as soldiers? Why? Probably because the episode of "JAG" referring to similar cases had not been aired on TV and the Army had no idea of what direction to take until the Army legal team had seen the show, perhaps they should have stayed awake to watch the end of the show when the accused were found not guilty. A ridiculous statement I know, but no more ridiculous than proceeding to charge these warriors with war crimes.

They will be found not guilty, as those previously charged with battlefield incidents have been in the past, we know that, as we know the integrity of the Australian soldier but when they are found not guilty it presupposes that someone other than these warriors, someone from the other side, are guilty. Will the government and the Army pursue the others to trial? I very much doubt it. If they are pursued, will the task be given to the very soldiers whose reputation and welfare are at stake now, with orders to either capture or kill? Are those soldiers and commanders now committed to obey those orders and risk a courts martial?

Our soldiers will be found not guilty but in the meantime, they are asking, "Why are we to be placed in this predicament, when all that we did was to attempt to protect the innocent on the orders of the Australian Government and by succession at the behest of the Australian people?" I ask the same question, why, why, why?

Will future appreciations, plans and orders for military operations in a war zone include a "What If", addressing possible courts martial proceedings for retaliatory actions? We had better believe it.

As a consequence of the impending courts martial it will now unfortunately be a consideration at all military levels and one that should be taught at all war schools. We have tied the hands of the Australian soldier behind his back and more families will possibly lose a son, brother or father because of it. I beg of you to stop this nonsense now and release these soldiers without prejudice. God knows they will forever be tainted by the threat of courts martial. Their careers are in tatters and so is the reputation of the Australian Army. They have been hurt enough by the people they swore to protect!!! Keep in mind that it is also the responsibility of you, the Commander in Chief and Governor General and of your generals, Your Excellency, to protect our soldiers.

Please do not give the Taliban another weapon to fight our soldiers with, that of further using civilians to hide behind and to kill and wound our soldiers because they know that if our soldiers retaliate that our soldiers will face a courts martial. That is a very potent weapon to use and use it the Taliban does. Think of what the morale of the Australian Army has sunken to as a result of this episode. Many who have worn a uniform especially an Australian uniform, believe that this action to prosecute is a public relations exercise to satisfy an ego and to appease an Afghani family who sadly lost members due to the infallibility of war and not because the soldiers are guilty of anything except attempting to free the Afghan nation from terror and subjectivity.

Former soldiers including my own members, former soldiers of the US, NZ and British Armies are bewildered by this action and to put it mildly are disgusted. An international petition, emails and letters on web sites confirm this.

Stop it now please, it has gone far enough.

Yours sincerely,

Alan Price  
President

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