

# More information that Australia's war crimes in Afghanistan were covered up

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Since a federal judge found on June 1 that it was legitimate to describe Ben Roberts-Smith, one of the country's most decorated soldiers, as a "war criminal," more information has emerged pointing to a protracted official cover-up of illegal killings and other violations of international law by Australian troops in Afghanistan.

Roberts-Smith, a recipient of the Victoria Cross, Australia's highest military honor, sued the *Sydney Morning Herald*, the *Age* and the *Canberra Times* for defamation, over stories they had published in 2018 imputing that he was a war criminal. The publications responded with a truth defence, which was upheld by the judge on a number of points, including four of six murders Roberts-Smith allegedly committed in Afghanistan.

Over the weekend, the *Saturday Paper* reported the comments of an anonymous Special Air Service Regiment (SAS) soldier who had served alongside Roberts-Smith.

In response to claims that military command was completely ignorant of the allegations against Roberts-Smith, the soldier "believes some more senior military figures were aware of the allegations circulating against the man who became a celebrity soldier, but they did not act. 'People above knew,' he alleges. 'And no one did anything.'"

The court judgment came after a protracted civil case, which included SAS soldiers and Afghan civilians testifying against Roberts-Smith.

But the anonymous soldier indicated that in a criminal trial, even more former troops would likely be willing to testify. They had viewed the defamation hearings as a contest between two different media companies, Nine Entertainment, which owns the papers that were being sued, and Seven West Media, which was Roberts-Smith's employer.

Commenting on discussions he had had with other former SAS fighters, the soldier reported: "They said, 'Mate, you put me in front of a judge for a criminal conviction, I'm there.' They said, 'We don't care about a defamation case.' They didn't care that it was about big money stakes. They

wanted to see the criminal conviction."

Those comments again raise questions as to why Roberts-Smith has not been charged over the alleged crimes. The first occurred in 2009, well over a decade ago, while the articles over which the defamation case was heard were published five years ago. The Commonwealth Director of Public Prosecution has reportedly been in possession of a criminal brief of evidence against Roberts-Smith for three years.

Instead of a criminal trial, the issues were allowed to play out in a defamation hearing.

A new Australian Broadcasting Corporation (ABC) investigation has raised further questions about the knowledge of military command, and governments, about the war crimes as they were occurring.

The ABC report last week concerned the SAS killing of Haji Raz Mohammad, an imam in Uruzgan province, in August 2012. Mohammad's death at the hands of the SAS provoked widespread anger in the province, and more broadly, prompting diplomatic recriminations between the Afghan and Australian governments.

As the ABC noted, at the time, the federal Labor government of Prime Minister Julia Gillard defended the actions of the SAS as a legitimate response to insurgent threats.

For the first time, the ABC has publicly revealed that Roberts-Smith was at the centre of the furore. He was alleged to have directed subordinates to carry out the killing. That incident is not among those that were heard in the defamation case.

And as per the ABC, "An internal military investigation found the shooting was justified because the imam was allegedly seen talking on a radio. It recommended that 'those soldiers directly involved... [including] CPL Roberts-Smith... be monitored for psychological injury.'"

However, the ABC's Defence sources rejected the official account. According to the ABC, they alleged that "Roberts-Smith told a subordinate to shoot the elderly imam, and it is alleged the imam was unarmed and under control at the time.

It's then alleged a radio was planted on the dead man by another soldier to conceal that he was not involved in hostilities." Roberts-Smith has denied all allegations.

Significantly, the ABC reported that the incident is now under examination by the Office of the Special Investigator, which was established after the official Breton Investigation into the Afghan war crimes, to examine potential criminal charges.

Roberts-Smith had received the Victoria Cross, the top military award, in 2011. It was given to him over a violent encounter with alleged Afghan fighters the previous year. Roberts-Smith was subsequently presented to the population as an exemplar of the "warrior spirit" of the military. He was hailed as a hero by successive prime ministers, including Gillard.

Roberts-Smith received his final military award in 2014, a Commendation for Distinguished Service. The commendation specifically referenced his leadership and fighting activities in 2012, the very year the disputed killing of Imam Mohammed occurred.

It was awarded, moreover, a year after SAS soldiers had first raised concerns with command over Roberts-Smith's conduct. They allegedly raised fears that he was commanding in a reckless manner and seeking to maximise the "kills" ascribed to his unit.

The timeline strongly indicates that the Defence Department, together with the Labor and then Coalition governments, simply decided to ignore indications of alleged wrongdoing. Clearly they had staked a considerable amount on the promotion of Roberts-Smith. He was a centrepiece of a broader campaign to cultivate an atmosphere of militarist nationalism, as Australia was aligning with a major US military build-up in the Indo-Pacific in preparation for war with China.

More generally, the incidents for which Roberts-Smith received commendations, and for which he stands accused of war crimes, were interlinked. They took place under conditions of Australian participation in a brutal "counter-insurgency" war, aimed at establishing neo-colonial domination over a hostile population.

The majority of the documented war crimes involving the SAS were committed after the Gillard government backed the Obama administration's military surge in Afghanistan. This included SAS troops participating, alongside other Coalition forces, in "capture or kill" raids, based on secret lists of alleged Taliban commanders. The lists, based on American intelligence, could clearly be viewed as hit lists.

In the wake of the defamation judgment, sections of the media and the political establishment have sought to ascribe any alleged crimes in Afghanistan to "bad apples." This is an attempt to cover-up the predatory, imperialist character of

the war, from which the crimes flowed, and to further whitewash governments and military command.

Another wing of the ruling elite, however, has more or less expressed its support for Roberts-Smith, whether he committed the crimes or not.

The bluntest articulation of this position appeared in several columns by Peta Credlin, a prominent conservative commentator and former chief advisor to Liberal-National Prime Minister Tony Abbott.

Writing in the Murdoch-owned *Australian*, Credlin noted that a defamation hearing is not based on a criminal burden of proof. She added that for some of the alleged war crimes, different soldiers had given conflicting accounts.

Then Credlin declared: "And even if he were to be convicted of a war crime, to what extent, if any, should that detract from his undoubted heroics in winning the ultimate military accolade? According to his citation, he twice stormed machinegun positions, exposing himself to enemy fire and enabling his troop to secure a village."

She wrote: "Our country sent him and his fellow soldiers on the hardest job of all: to kill people who would kill us for our beliefs, and to protect people who just wanted to live and worship in their own way."

Other comments in the conservative press have been along similar lines, though with more "nuance."

There is a perverse logic to the claims of the right-wing. It is true that the alleged actions of Roberts-Smith flowed from the nature of the war. The right-wing fully support the war and thus justify the war crimes involved.

For workers and young people, that only highlights the fact that the fight against war crimes and other barbarism is inseparable from a broader struggle against imperialist war and its source, the capitalist system.



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