# STATE CRIME, IRREGULARS AND COUNTER-INSURGENCY

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**Abstract:** This article examines state crime in the area of the use of irregulars in counter-insurgency. Irregulars are defined as local units who receive rudimentary training and act alongside more regular forces. They are also defined as more regular formal local units who act informally (and often unlawfully) as part of their counter-insurgency role (e.g. death squads). The article examines the important role that such irregulars have played in counter-insurgency in Iraq and Afghanistan and highlights the human rights violations that their use has encouraged. This area is an important area for future research.

> From the unlawful and uncivilised means by which these irregular warriors rewarded themselves on campaign and from their barbaric methods of fighting, the officers of the civilised states averted their gaze; yet without the services they offered, the over-drilled armies ... would scarcely have been able to keep to the field.
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> (John Keegan 1993: 5)

## Introduction

The development of large professional standing armies never obviated the need for local less organized and less controlled forces for a variety of reasons. Local irregulars knew the terrain, the opposition or possessed local intelligence. If they did not (being brought in from outside by regular forces), they could be relied upon to operate with brutality, leaving regular units free from accusations of war crimes. Irregular units were evident in the Napoleonic wars, the First World War (in the Middle East) and in the Second World War (employed by German occupying forces in the Balkans and the Soviet Union). They were also evident after 1945 in the wars and counter-insurgencies in Algeria, Kenya, Malaya, Vietnam, the former Yugoslavia, Chechnya and in the multiple wars in the Democratic Republic of Congo (Anderson 2005; Beevor 1999; Boot 2013a, b; Fellman 2010; Gortzak

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2009; Frémeaux 2012; McClintock 1992; Mazower 2008; Stearns 2012; Zamoyski 2005). This article argues that research into the use of irregulars would provide a fruitful area of research into state crime as practised by Western and other states in counter-insurgency (COIN). Much critical attention has been devoted to conventional forces (Williams 2013) and private military companies (Scahill 2008) in terms of human rights abuses, but irregulars are a crucial tactic by which the "dirty work" of COIN may be outsourced either by a local state or foreign states, or both. The actions of less regulated and less accountable local forces (even while they are trained, supported and equipped by Western actors) may be a form of state malfeasance employed by local states (in this case Iraq and Afghanistan) and encouraged or tolerated by the occupying or advising powers (the coalition in Iraq and International Security Assistance Force [ISAF] in Afghanistan). There is little hard evidence showing any direct connection between Western advisers and "dirty COIN" (e.g. direct orders and instructions), but there is sufficient evidence to show the links between Western COIN tactics and human rights abuses by local forces in the historical record and in the two case studies presented here.

There are two driving factors behind the development of state crime in this area. The first is that during a COIN campaign, the local irregular forces created by the state often receive little training and supervision but have a strong aim – to root out and destroy insurgencies, and they are sometimes actively encouraged to be aggressive and rule bending by their trainers or supervisory authorities. Irregular forces may have more freedom to use violence not only against opposing forces but civilians also, long a practice in COIN (Downes 2007; Slim 2007). Secondly, the use of local irregulars is criminogenic – irregular forces are provided with weapons and official power with little accountability. As a result, militias often assume informal power which may encourage human rights abuses against civilians and criminal activity such as extortion. These two factors often create a dynamic by which the state supports, sanctions or tolerates significant breaches of international humanitarian law or human rights law. For example, currently in the north of Nigeria, the military is conducting a campaign against the jihadist insurgent movement Boko Haram. Regular forces have been accused of human rights violations, but they also work with locally recruited militia groups known under the rubric "Civilian Joint Taskforce" (CJF). Funded by state governments in northern Nigeria, the militias receive little or no training, carry edged weapons such as maces, cutlasses and axes, and conduct stop and search operations in areas suspected of harbouring insurgents or supporters of Boko Haram. The CJF has received positive coverage for keeping Boko Haram out of certain towns (Nossiter 2013), but other sources show that there are credible reports of their engaging in beatings, torture and execution of suspects. However, both the military and the irregulars are publicly supported by the Nigerian federal and local states which

resist calls for investigation into any possible crimes committed by these forces (Channel 4 2014).

The offences which occur in armed conflict situations can be placed in the conceptual framework provided by state crime in a number of ways. Firstly, states are conducting COIN and have duties to uphold international humanitarian law. Therefore, their breaches in this area fit with the earliest definitions of state crime under the Geneva Conventions and under the law established both by the Nuremberg trials and in the subsequent legislation covering warfare (Taylor 1993). In cases where armed conflict is not defined, state security forces are still covered by the international human rights law instruments that have been enacted and ratified by most states across the globe, including the International Convention on Civil and Political Rights and the UN Convention against Torture. This fundamental area of law provides a core area for judging state crime (Bassiouni 2010). They will also generally be covered by their own domestic laws which have offences against basic criminal actions such as murder, extortion, torture and so forth.

But importantly, the frameworks developed by state crime researchers (see Green and Ward 2004; Chambliss, Michalowski and Kramer 2010) can be applied to the dynamics of these breaches of law by analysing the networks which support or engage in such activities. For example, state personnel may operate in networks stretching from the official to the criminal in terms of state corruption, economic crime and links between public officials and organized crime (Green and Ward 2004; Scott McIllwain and Leisz 2007; Michalowski and Kramer 2006). Similarly, in security terms COIN may see regular authorities and armed forces and irregular militias and even death squads in a broad network or with closer relationships in certain micro networks. Furthermore, state personnel and criminal actors may use shadow jurisdictions and informal networks to avoid financial regulation or employ complex regulation to disguise their activities – both during the commission of economic offences and as a defence afterwards (Doig 2010; Tombs and Whyte 2003). Similar tactics may be used by public authorities when organizing violence in COIN campaigns. There may be links between state authorities (including military and security personnel) and foreign state advisers in organizing violence, and in this grey zone, an accountability "merry go round" ensues with complainants referred to the international actors who then refer them to local actors and vice versa. There may be links between these actors and parallel forces such as militias or shadow units such as death squads. But the links are simply denied and little can be achieved in the absence of credible investigative independence or capacity at the international or local level. The next section deals further with these issues.

## State Violence, State Crime and COIN

State crime has had a long relationship with counterterrorism and COIN. In both forms of conflict, agents of the state have committed offences which breach international law and which breach their own domestic laws (Green and Ward 2004: chapters seven and nine). In terms of counterterrorism, Latin America provided stark evidence of the link between the excesses of state security and state crime. Following the military coups in Brazil (1964) and Chile (1973) and Argentina (1976), anti-communist regimes in these states engaged in illegal violence against widely defined "subversives." All three states' armed forces and police continued to receive training and support from the US following the coups. However, there was little need for classic COIN search and secure tactics in these countries or the employment of local paramilitaries. The security operations here were all urban counterterrorist operations. Within a short space of time, death squads emerged composed of members of the security forces who as well as targeting urban guerrillas also tortured and murdered leftist activists, union organizers and pro-democratic politicians (Pion-Berlin 1989; Pion-Berlin and Lopez 1991; Lopez and Stohl 1984; Stohl and Lopez 1986). In these cases, the state was far more clearly responsible for the human rights violations which took place (and following democratization a number of state officials have been convicted of human rights abuses), but even here, the death squads were formally disowned by the state for obvious reasons.

By their nature, terrorist groups (if they exist and are not state controlled fictions – see Andersen 1993) are limited. However, in terms of COIN, the conflict is wider and the opponents stronger. Larger state forces are often employed in COIN, including militias and paramilitary units. In contemporary times, the use of local paramilitary forces emerged after the Second World War in the struggles for decolonization in the 1950s and during the first "war on terror" conducted by the Reagan administrations (1981–89). There, the states concerned turned to the use of local paramilitary groups to buttress their security operations.

For example, in Kenya the British success is partly attributed to improvements in army and police performance, and to the massive cordoning and search in Nairobi (Operation Anvil) which broke the links between the rural Mau Mau and their urban supporters and led to an intelligence bonanza. What was also important was the creation of the Home Guard, a force of 250,000 irregulars officially sanctioned by the colonial authorities who defended fortified villages. While much attention is focused on the violent deaths of white farmers in Kenya, less attention has been focused on the casualties suffered by loyalist forces but also the illegal violence they meted out to the Mau Mau and their supporters. As Anderson argues, "Unable to grapple with the gangs from the forests, Home Guards took their vengeance on those they believed to be members of Mau Mau's passive wing.

Intimidation, victimisation, rough handling and beatings were already the norm by February 1953" (Anderson 2005: 255–256). A similar organization, the Kenya Police Reserve, was influenced by white settlers, some of them acting as vigilantes. Indeed, as Walton points out, "With such an enormous deployment of reservists and regular forces, it was difficult for either the British military or the colonial authorities to maintain discipline." (Walton 2013: 246–247). But the strategic usefulness of having irregular forces may have been also apparent (for a very critical view, see Elkins 2005), and the tactic would remerge in Vietnam and Algeria. In Vietnam, the French had first recruited hill tribesmen as auxiliaries, intelligence sources and local defence units by cooperating with their opium trade. Tribesmen and their villages were formed into Maquis, interconnected and defended units which were effective against the nationalist Vietminh but at the cost of corrupting the French military involved in protecting the opium trade as part of the collaboration (McCoy 1989: 98–101). In Algeria, native militias, termed *harkis*, "were probably the most efficient weapons used by the French. Recruited in the borderlands, among ethnic minorities, they created problems for the communist insurgent forces, not least because they operated on its rear lines" (Frémeaux 2012: 53). French army officer Roger Trinquier was behind both the use of tribesmen in Vietnam and *harkis* in Algeria, but in both conflicts, the behaviour of regular French forces became more like the irregulars. Later, the US adopted these tactics, not only recruiting tribesmen but also encouraging the Government of Vietnam to use Regional Forces-Popular Forces (RF-PF) in local defence and control. RF-PF units and other security forces were also used in the later Phoenix Programme which aimed to destroy the Viet Cong (VC) political infrastructure in South Vietnam. Overall, however, US commander General William Westmoreland relied on the US army as the battering ram with which to exterminate the VC and North Vietnamese Army (NVA), and as a result the US army itself became riddled with units that acted like brutal local marauding forces (Green and Ward 2004: 153–159; Greiner 2010; Turse 2013).

During the 1980s, the US military, despite its tactical distaste for irregular warfare, led the way in the use of local auxiliary units. In El Salvador, the US Military Advisory Group (USMAG) provided training and assistance to specialist and larger local forces, including the National Guard, Treasury Police and Police units which then went on to commit a series of horrific massacres of civilians to send out a signal to locals not to support the left-wing Farabundo Marti National Liberation Front (FMLN) guerrillas (McClintock 1992; Stanley 2010). The emergence of death squads at this time was also attributed to US tolerance or even support. Between 1980 and 1982, over 30,000 were killed without one FMLN prisoner being taken. Much of the killing was done by local paramilitary units or death squads operating within formal police and security organizations. In fact,

recruiting and training local forces did not professionalize them; it actually accentuated local political grievances and violence (McClintock 1992). Overall, an estimated 75,000–80,000 deaths resulted from the civil war with approximately 80% of them caused by security forces (including 8,000 who were "disappeared" by death squads (Karl 2012; al Jazeera 2014). The strategy failed to defeat the guerrillas. Nevertheless, this "COIN lite" approach did provide a model for future interventions, as did the experience of Nicaragua, where the US – in opposition to a Sandinista government elected through fair competition – organized and funded the Contras, a paramilitary force guilty of serial and extreme human rights abuses. The Contras were significant in wearing down the Sandinista government and in affecting the result of the 1990 elections. The US had publicly made it clear that a vote for the Sandinistas would see support for the Contras continue (Dillon 1991; Grandin 2010: 112–118, 142–145). The use of irregulars was not limited to the US, French or British, however. After its invasion of Afghanistan in 1979, Soviet forces contracted with militias for local security, and after the Soviets withdrew in 1989, the USSR-supported government leader Mohammad Najibullah used militia leaders such as Abdul Rashid Dostum to buttress his power. These groups were known for their brutal tactics (Giustozzi 2000: part four; Giustozzi 2009: chapter three). Elsewhere in its COIN struggle with black national liberation movements, the Rhodesian state established an auxiliary force *Pfumo reVanhu* composed of surrendered guerrillas and new local recruits. Some units fought effectively, but generally, "Any military value they may have had was offset by the political costs of periodic rampages and reins of terror inflicted on African populations in their areas of responsibility, so called 'frozen zones'" (Moorcroft and McLaughlin 2008: 59–60). In the 1980s and 1990s, in facing down the insurgency by FARC (Revolutionary Armed Forces of Colombia) elements of the Colombian state used, supported or tolerated parallel paramilitary forces. The largest of these, the AUC (Autodefensas Unidas de Colombia), applied horrific violence against the support infrastructure of the guerrillas, as well as engaging in extortion and other criminal activities (Spencer 2001; Richani 2007). A similar pattern was evident in the Philippines where the communist insurgency led to a range of right-wing militias engaging in local security duties, with associated human rights abuses towards widely defined "subversives" (Kowalewski 1992). The role of irregulars had therefore been established by the 1980s: local forces given looser training, attenuated accountability and tacit or open encouragement to use unorthodox measures against opponents, or regular forces provided with more training but facilitating death squads which often acted with even more violence and impunity. This kind of "model" would re-emerge, for example, in Chechnya in the 1990s where conventional Russian forces worked alongside local militias noted for their brutality (Cornell 1999; Kalyvas 2008).

**Irregulars and Security Writing: Stripping Out the Violence?**

When irregular forces are discussed, much of the policy-oriented writing is concerned with their "effectiveness" rather than their ethics. But since their unethical behaviour is central to the operations of irregulars, this approach is unsatisfactory. During the Vietnam War, Chomsky discussed in ironic fashion academic works which examined COIN tactics and effectiveness to the exclusion of any other factor. Chomsky highlighted the use of Japan's invasion of Manchuria in the 1930s as a template for the US forces in Vietnam in a RAND report written with not a trace of reflection or appreciation of the illegal tactics employed by the Japanese or the massive casualties and widespread atrocities caused by their invasion and occupation of "Manchukuo" (Lee 1967, quoted in Chomsky 1971). This pattern continued with Colombia cited as a successful example of COIN in terms of US support for the Colombian state and the state's use of irregulars such as the AUC "defence forces" (also known as the "head cutters"). Writing of right-wing paramilitaries in Colombia, an influential security writer states (in an overall approving analysis of their effectiveness),

> Because of the paramilitaries' successes, a number of individual Colombian army officers tolerated and encouraged them. This included the provision of intelligence and weapons, as well as putting them in touch with retired officers who provided training and technical assistance. Many retired officers and ex-soldiers also joined the various groups. (Spencer 2001)

The same psychological frame of analysis was employed when Iraq began to spiral out of control after 2003. Attention began to turn to previous paramilitary operations, and Thomas Ricks, in his first monograph on the Iraq invasion and aftermath, mentioned a State Dept. adviser in Anbar he spoke to who asserted that El Salvador was an important model for COIN. There, a small number of US advisers had successfully assisted the military's actions against the left-wing guerrillas (Ricks 2006: 147). Indeed, earlier examinations of El Salvador that had portrayed it as a success concentrated on the role of the small number of US advisers in El Salvador (USMAG), focusing on the training and professionalization of the El Salvadorean security forces as they are key to effective COIN (Cale 1996). Accounts such as these ignored the intense slaughter which accelerated after the USMAG became more involved with El Salvador after 1981 and ignores the genocidal massacre at El Mozote by a battalion of troops specifically trained by the US and who acted like a group of Quantrill's Raiders.[1] French experience in Algeria also began to be academically examined for experiences that might directly or by implication assist the coalition or the ISAF forces in Iraq and Afghanistan. Some of the research did provide context (e.g. Frémeaux 2012; Gortzak 2009; Hughes

2009). But other work either lacked detail (seeking quick policy fixes) or was more concerned with effectiveness and the organizational and other variables lying behind this (e.g. Clegg 2009; Rieper 2010). Indeed, the wheel turned finally back to Vietnam, and the Phoenix Programme was disinterred and examined for ideas that could be transferred to Iraq. The Phoenix Programme was part of a larger US civilian development and pacification initiative, Civil Operations and Revolutionary Development Support (CORDS). As Karnow describes it, during Phoenix "Saigon government, military, police and civilian officials, trained by US army advisors, were supposed to penetrate the peasant population to gather information or arrest or slay communist cadres" (Karnow 1986: 601–602). These groups operated in units known as Provincial Reconnaissance Units (PRUs). In practice, the programme became a system of extortion (arrests and threats could be avoided by paying bribes) and assassination without regulation. In one study of the Phoenix Programme, it is stated,

> There is no intention to deal with the moral aspects of this policy, but to show how the targeted killing served as a means of warfare and to demonstrate its place within the total complex of activities that are adopted by a state in the struggle against guerrillas/terrorists. (Tovy 2009: 3)

Considering nearly 10,000 VC were killed out of 34,000 "neutralised" from 1968 to 1969 (Tovy 2009: 14) and that nearly 27,000 were killed overall in the programme (Tovy 2009: 18), a moral perspective might have been necessary especially considering the criticisms that this became a mass assassination campaign with rather loose categories of who could be defined as VC operative or supporter. Even where activities might be effective, effectiveness and violence were part of the same process. For example, according to one US 25th Division commander tasked with escorting the PRU teams (they were usually escorted by CIA officers),

> we provided transport to two PRUs who went into a village looking for two VC leaders … They walked into the village and asked around. The people pointed and gave directions. One of my friends saw what happened. They went up to the hooch and called out. Someone came to the door and each PRU emptied a full magazine into the guy at point blank range. The dead man was the leader. His assistant was caught running across an open field and chopped to bits. The interesting part of the story is that after it was all over the people of the village pleaded and begged with these PRUs to stay … if you could have put a couple of guys like that in every village, your problems would be over. (Bergerud 1994: 250–251)

As El Salvador was mentioned increasingly as a model for Iraq studies, some critical memory resurfaced. Gibb argued, "The failure of US strategy in El Salvador is perhaps measured by its inability in 12 years to capture or kill a single top guerrilla commander in a country only the size of Belgium" (Gibb 2005). This is accurate but perhaps not the point – the COIN killed so many people it blunted the guerrillas from ever achieving power directly (and in liquidating progressive forces and intellectuals it distorted El Salvadorean society for years to come). It was arguably this aspect – the ability of irregular forces including death squads to mete out severe and concentrated violence – which was perhaps the key to its recommendation as a model for Iraq. This is the point at which this article will provide in more detail an account of how local irregulars became crucial to COIN in Afghanistan and Iraq, and the unlawful actions which followed.

## Using Irregulars in Iraq: A Shadowy Actor in the COIN "Success"

The chaos in Iraq after the US-led invasion in 2003 resulted from the gross negligence of the coalition forces to provide basic security after Saddam's defeat. An explosive mixture of criminal and political violence erupted. Religious militias became central to the violence, as they attacked coalition forces, sought political power and sought to liquidate religious/political rivals and those that did not conform to their ideology. There was no inevitability to their dominance. The split between Sunni and Shia in Iraq was not a trans-historical dispute waiting to reactivate following the defeat of the secular Baathist regime. Rather the religious or sectarian militia quickly became the dominant form of organization in an environment of limited security. Secular forces were either disorganized or effectively repressed and the local population allied itself with militias for some form of rudimentary security (Dodge 2004; Green and Ward 2009). However, once established, militias and their violence would also become crucial to the occupation authorities' attempts to regain some sort of stability in Iraq. This was because one major dynamic which fuelled a massive increase in violence came from a particularly radical group, Al Qaeda in Iraq (AQI). Although pledging allegiance to Bin Laden, AQI under its leader Abu Musab al-Zarqawi broke away from Al Qaeda's basic strategy and aimed to create a territory ("caliphate") in which Salafist ideologies could be implemented (Burke 2011). Beyond this protected zone, the movement aimed violence at Shia areas in an attempt to provoke a civil war and assaulted US forces in an attempt to make Iraq ungovernable. A series of ferocious car and other bomb attacks targeted Shia cultural shrines and civilians generally and police, army and civil service personnel. Shia militias attempted to respond, and Iraq seemed to be on the verge of civil war. Nearly 50,000 people died violently in the 2005–07 period (Rogers 2006a, b; https://www.iraqbodycount.org/).

It was here that the occupation authorities moved to let loose irregulars, assisted in this by the formal transfer of sovereignty to Iraq in 2004. US commanders issued "frago" (fragmentary) order 242 in 2004 which stipulated that breaches of international law were not to be investigated by coalition forces unless coalition personnel were involved. In all other cases, a report only was required, and any investigation would be at the direction of a senior coalition officer. Individual coalition troops and trainers did try to stop the abuse and reported it with regularity, but little was done at an organizational level (N. Davies 2010). This might be because a more fundamental change in tactics had been directed in the higher echelons of the occupation, and legal space was needed to allow local Iraqi forces more leeway to use unlawful tactics against suspected insurgents or their supporters. Indeed, at the same time, other US personnel were regularly handing over suspects to the Iraqi Wolf Brigade known to be ruthless with prisoners:

> The Wolf Brigade was created and supported by the US in an attempt to re-employ elements of Saddam Hussein's Republican Guard, this time to terrorise insurgents. Members typically wore red berets, sunglasses and balaclavas, and drove out on raids in convoys of Toyota Landcruisers. They were accused by Iraqis of beating prisoners, torturing them with electric drills and sometimes executing suspects. The then interior minister in charge of them was alleged to have been a former member of the Shia Badr militia. (Leigh and O'Kane 2010)

The Wolf Brigade's mentor was Colonel John Steele, who had also been an adviser in El Salvador in the 1980s. Working under General Petraeus in Iraq who was in charge of creating a new Iraqi Police Service, Steele, among others, facilitated the development of the Iraqi Police Commandos of which the Wolf Brigade was one unit. Other police units operated from the Ministry of Interior which was under Shia control after the elections in 2005. For example, the Badr Brigade was at this time supporting the US (despite being an Iranian-trained and -funded paramilitary organization) in order to increase its influence, and the US accepted this support in the cause of avoiding fighting multiple opponents.[2] Indeed, Bayan Jabr, a senior figure in the SCIRI (Supreme Council for Islamic Revolution in Iraq – a movement developed and supported in Iran), was made head of the Ministry of the Interior and began to recruit Badr Brigade members into the police. Police commando units overall eventually numbered nine battalions of 17,000 men, with 5,000 in Baghdad alone. This and the subsequent murders committed by some of these groups were downplayed by the US, as signified by the frago order 242 already mentioned which raised the barrier for reporting human rights abuses by Iraqi forces (D. Davies n.d.).

Critics plausibly see the development of police commandos and Shia influence in the police generally as part of a conscious programme to allow Shia forces – especially

those which had been cooperating with the coalition forces (including ironically the Badr Brigade, an Iraqi armed organization which had been based in Iran for years) to effectively meet Sunni violence with Shia violence (Beaumont 2010; Al Jazeera 2013; D. Davies n.d.; Mahmood et al. 2013). The aim of these commandos seemed to be the liquidation of insurgents or gaining intelligence on the insurgency through violent methods. According to one US solider stationed in Samarra in 2005,

> It was like the Nazis ... like the Gestapo basically. They [the commandos] would essentially torture anybody that they had good reason to suspect, knew something, or was part of the insurgency ... or supporting it, and people knew about that. (Cited in Mahmood et al. 2013)

In effect, the Iraqi Police Commandos can be termed irregular forces since the US was in de facto charge of security in Iraq despite the transfer of sovereignty. Coalition forces were in control of recruiting, training and supplying the police and army, setting their terms of engagement and accompanying them on operations. These were in effect not segments of a police service but an auxiliary paramilitary force under the coalition aimed at tackling the insurgency. However, from 2005 the police generally, if brutal enough in their open activities, seemed also to be the host for a plethora of death squads who worked in tandem with the official forces. (This was a very similar pattern to that which operated in El Salvador, where formal police or army units such as the National Guard or the Treasury Police had a parallel existence as the shells for ruthless death squads, attacking citizens viewed as direct or indirect supporters of the FMLN, or merely "too leftist" and troublesome in the view of security actors.) The death toll in Iraq rose to mammoth proportions and many of the murders involved grotesque torture, with the bodies displayed publicly on roadsides.

Indeed, Fuller, in a series of interesting pieces for Global Research, argued that the focus on special police commandos, particularly the Wolf Brigade, was in fact a misdirection to cover for a much more expansive programme by which Shia death squads were given support to take the war to Sunni groups (Fuller 2005, 2006). While caution is needed for Fuller's more extravagant claims about the US and UK intelligence services deliberately driving Iraq to civil war, his argument that formal special units have been focused on at the expense of looser irregulars (even if in the form of off-duty police officers) who were being tacitly encouraged to stop the insurgency is certainly plausible and given support by the later WikiLeaks revelations (O'Kane et al. 2010).

Furthermore, at the same time another policy of recruiting irregulars was taking shape in stuttering terms, the cooption of local Sunni tribes into the "awakening movement" or "Sons of Iraq." This had emerged clearly in 2006 when a local

tribal leader in Anbar Province, Sheikh Abdul-Sattar Abu Risha contacted Colonel Sean McFarland, a US combat commander in the provincial capital, Ramadi. Abu Risha had been concerned over the increasingly oppressive and predatory behaviour of AQI members in his locality as they aimed to consolidate a "caliphate" in Anbar. AQI issued draconian local orders on behaviour, took control of local revenue sources such as smuggling and also took local women for "temporary marriages." Tribal forces, beginning to chafe under this oppressive rule (and also concerned about the position of Sunnis in Iraq generally as they were facing assault from Shia violence and US forces), were coopted and formed into local security units with regular payments from the coalition. By 2008, the scheme had spread to two-thirds of Iraq's provinces (Bruno 2008).

These local militias were termed the awakening movement, "Sons of Iraq" and various other titles. They rose in numbers to 70,000–80,000 in a short space of time, but the pertinent point is their function in applying violence to AQI. According to Sean McFarland, US commander at Ramadi and a prime mover in the rapprochement, "I've read the reports. ... You don't get to be a sheik by being a nice guy. These guys are ruthless characters. ... That doesn't mean they can't be reliable partners" (quoted in McCary 2009). Much media comment focused on the violence meted out to these movements by AQI who clearly recognized them as a threat, but less is applied to the violence by the "Sons of Iraq" themselves. The locals knew in detail the hiding places and routines of Al Qaeda fighters. According to one observer,

> They hunted al-Qaeda down with a vengeance. They dragged al-Qaeda guys through streets behind cars ... they had videos of feet on the altars in mosques ... It was pretty much just a ruthless slaughter. (Quoted in Wilbanks and Karsh 2010: 62)

By the end of 2007, Al Qaeda had lost an estimated 8,500 operatives and stood 3,500 strong. Murders and attacks dropped precipitously in Anbar (Wilbanks and Karsh 2010: 62), and one BBC journalist summarized this diplomatically: "the Awakening had removed many of America's enemies" (Collyns 2010). In fact, there remain great difficulties in finding any sources which deal with the casualties inflicted by the awakening movements – they are treated as a success, and debate appears to end there. The employment of the various local defence militias conforms to classic COIN strategy which is to take the heat of the conflict away from outside forces and make it a local struggle. As part of this, it is unlikely that these militias will have been given any rules of engagement or any real accountability for the deaths they caused. Indeed, one of the reasons they were effective was precisely because they knew who and where AQI operatives were and when killing them could escape the limited accountability even within Iraqi security

forces. This is a model that would reappear albeit in much more muted form in Afghanistan when it became clear that conventional ISAF forces could not defeat the Taliban.

## Afghanistan: Militias and "Nation-Building"

The US had already deployed the irregular strategy after their invasion of Afghanistan in 2001. Following the 9/11 attacks and with international support, the US launched Operation Enduring Freedom (OEF) and invaded Afghanistan to topple the Taliban regime. The US sought to work with local paramilitaries as they had done in the past. Prime among these were the anti-Taliban warlords and their armed forces known as the "Northern Alliance" (NA). However, after the assassination of the leading northern warlord Ahmad Shah Massoud by Al Qaeda supporters in 2001, it was assumed that the NA would disintegrate and be of little use to the US (Scheuer 2004: chapter two). Nevertheless, the disbursement of large amounts of dollars to other local paramilitaries, coupled with the support given them by small numbers of CIA, special forces, psychological operations personnel and US air assets, allowed the NA to defeat the Taliban in their power base, the south of the country. By this time, the CIA and other actors had settled on promoting Hamid Karzai as an acceptable ruler for the new state. With only a small band of around 150 supporters but backed by US military assets, Hamid Karzai based himself in Tarin Kowt in Uruzgan Province. After US air power destroyed a Taliban convoy headed towards him, Karzai assembled an army largely of Pashtuns which numbered around 800 and took Kandahar as the Taliban retreated in disarray or surrendered. During a UN-organized conference at Bonn, Germany, the disparate militias of the NA agreed to Karzai becoming the interim president of Afghanistan with elections expected later. The Bonn Agreement also created the ISAF which would work in partnership with Afghan organizations and be responsible for security in Kabul, the site of the transitional government (Moran 2013: 117–118).

ISAF intervention stepped up after 2006 with the deployment of UK and Canadian troops to Afghanistan's eastern provinces. However, this move brought the Taliban in and set up a long running confrontation which after four years ISAF showed no sign of winning (Fergusson 2008: chapter four). Seeking new tactics to break the logjam (and enable an exit which could be claimed as a completed mission), the ISAF forces supported the development of local militias, known generally as "Afghan Security Guards." For example, even in the north which had previously been more secure, the threat by insurgent forces increased, and in 2009, the Afghan intelligence service (closely aligned with the US), the National Directorate of Security (NDS) and other authorities, such as governors, began reactivating some of the militia networks that were powerful during the anti-Soviet

resistance and civil war in a number of provinces, including Kunduz, Baghlan, and Takhar (Human Rights Watch 2011: 27). However, in Kunduz and Baghlan, local militias (*arbakai*) turned to extortion and kidnap of the locals. Plans to later incorporate them into the Afghan Local Police (ALP) were met with dismay by local leaders (Mashal 2011). Meanwhile in the east, in Paktika Province, one 400-man unit under "Commander Azizullah" was credited with bringing security to parts of the region. But it also engaged in execution style killings, extortion and sexual assault. Units like these were often staffed by local ethnic minorities as ISAF officials believed they were less likely to defect to the Taliban. Thus, Azizullah is an ethnic Uzbek in a predominantly Pashtun area (Cavendish 2011). Similarly in Kandahar in the southeast, Abdul Razzik, ostensibly a commander in the Border Police, effectively ran a 250 strong unit that kept the Spin Boldak area free from Taliban influence and was later provided with special forces assistance and more freedom to operate around Kandahar. His human rights record had caused ISAF to distance itself from him, but later in 2010, he was given a prominent security role despite credible allegations of extortion and violence. Razzik's position in the Border Police was less significant than his role as the commander of an auxiliary force seen as particularly effective in killing Taliban (Hastings 2012: 364–367).

Some concern over the loose nature of the militias coupled with the strategy of Afghanizing the conflict led to another organizational change, the ALP, created in 2010. As with the Iraqi Police Commandos, the "police" in the title of the ALP is a misnomer. The ALP to an extent brought the local irregular "defence" forces under one umbrella (Human Rights Watch 2011: 24), but its mission was and is fuzzy:

> The directive creating the ALP is vague about its powers. Rules about the ALP's right to search and detain, where individuals can be detained, the length and conditions of detention, and the process for handing over detainees to the national police are unclear. ALP units undergo three weeks of training compared to the six weeks (soon to be eight weeks) for basic patrol officers in the national police force. (Human Rights Watch 2011: 5; see also 56–57)[3]

By 2012, the ALP was 13,000 strong and then rose to over 16,000, and by 2013, over 30,000 ALP were operating in 92 districts (Cordesman 2013: 115). These groups are less effective than the "Sons of Iraq." They have provided rudimentary security, but in the four years since its inception, the ALP has lost over 1,000 men. This higher death rate than other security forces reflects their front line roles but also their limited effectiveness. Indeed, in late 2012, ISAF declared it was suspending recruitment and re-vetting ALP members because a number of them had killed the ISAF soldiers who were training them. They also caused 121 civilian casualties in 2013 (around 30 in 2012) (Stancati 2014), and there have

been credible reports of theft, extortion, sexual assault and extra judicial killings by them (Barr 2012; Felbab-Brown 2012; Human Rights Watch 2011: 29–42). This is of concern since ALP are recruited, trained and mentored by the Special Operations Forces. For example, Lal Mohammed, whose father and brother were killed by ALP in 2010, argued,

> I went to Special Forces and complained that one of the ALP commanders killed my father. They told me that this is not their business and that I should talk to the police. I went to the chief of police in Shindand and was told they cannot do anything because Special Forces are supporting ALP, we cannot go challenge them. (Quoted in Human Rights Watch 2011: 80)

Furthermore, in the absence of local accountability, more central authorities did not, according to critics, display a great concern with accountability. As the UN Assistance Mission in Afghanistan put it diplomatically,

> with most cases of serious human rights violations committed by the ALP to date, investigations and/or criminal proceedings were initiated only after intervention by the ALP Directorate in Kabul and, in some cases, after pressure from human rights groups. This suggests that district level oversight and accountability mechanisms have not developed to sufficient capacity. (Quoted in Cordesman 2013)

In one final twist, the ALP have recently been cut loose by the central government which under President Hamid Karzai was concerned the militias might become too powerful vis-à-vis the central state. The ALP now receives its only financial support from the US, leading ALP militias to seek their own funding, and this loosening from central government may see more offences and the risk of further capture by local political interests (Stancati 2014). The ALP has not functioned in the same way as the militias in Iraq, and the human rights concerns have been less intense. But it has still displayed the same risks of employing local irregulars as a solution to security problems.

## Conclusion

Irregulars are a recurring pattern in contemporary history; they have been a core part of civil conflict, imperial conquest and consolidation and now play a role in liberal interventionism, COIN and "nation building" or as Chandler (2006) terms it "empire in denial." The use of such forces opens up the area of state crime as a line of inquiry. Since they act at arm's-length from regular forces, irregulars can be tasked with ruthless operations. In addition, such forces are criminogenic – by

their nature, they are likely to commit offences, including against local civilians.

In Iraq, irregulars took various forms. Public institutions such as the Ministry of the Interior disguised cells of death squads and formally constituted units such as police commandos could also act as irregulars. These were central in attacking Sunni insurgents and in convincing the Sunni population to come to an agreement with the Iraqi state. In addition, the "Sons of Iraq" were a violently effective local militia which engaged in intra-Sunni conflict, rooting out and destroying Al Qaeda's presence in central Iraq. In Afghanistan, local militias were "converted" into the ALP. They suffered casualties and were also accused of oppressing civilians. Although they predated on the communities they were supposed to protect, they allowed ISAF to "Afghanize" the conflict and allowed special forces to continue roaming the provinces in search of high- and medium-value Taliban targets. In all these cases, international authorities and advisers were involved in recruiting, training, mentoring and supplying these forces. Regarding Iraq, information including WikiLeaks disclosures has pointed to the involvement of US officials in the unlawful actions of these forces or to their tolerating their actions.

In terms of state accountability, the turning over of security to local irregulars breaks or weakens links of responsibility. If foreign forces and advisers are present, the training and mentoring roles linking foreign advisers with irregulars mean it is unlikely that a case could be built that directly connects their orders with actions of irregulars. In addition, criticisms can be directed to the host government while the foreign forces maintain covert support and direction. If the host government is either complicit or weak in enforcement, this clearly presents challenges for any sort of legal accountability. The British army might be becoming "juridified," that is, subject to civilian legal systems (Forster 2012), and even US armed forces subject to more legal scrutiny compared with Vietnam (Williams 2013), but local irregulars tasked by the US or UK are not. Along with special forces (who can also to a lesser extent be shielded), irregulars and irregular warfare will remain core to US legal and unlawful COIN operations around the world. Libya provides one recent case study (one requiring more attention), but in the era when states such as the US and the UK are using remote tactics (Oxford Research Group n.d.) to pursue COIN and counterterrorism, official forces can declare their adherence to international law (and particularly human rights law which has expanded in scope after the end of the Cold War) while supporting local "shadow" forces and keeping their distance from their excesses. Finally, it should be noted that this article has not attempted to make a moral case over the conflicts presented here – AQI and the Taliban are hardly progressive forces. The point is to examine the way foreign and local COIN actors have related to forces which conduct illegal activities. If the argument is to be made that only loose militias can defeat brutal

insurgent networks, then this should be acknowledged openly rather than sidelined while the relevant public authorities profess adherence to the rule of law.

## Notes

1. Quantrill's Raiders were an irregular Confederate unit that massacred civilians and unarmed Union soldiers during the American Civil war (see Fellman 2010: 65).
2. Elements of the Mahdi Army were also permitted to join after declaring a truce in 2004.
3. "Afghan Local Police forces are drawn from the communities they protect in a way that balances tribal affiliations and village clusters, preventing one group from dominating others" (Green 2013).

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