

# **PRESENTATION TO OPERATION BURNHAM INQUIRY – PUBLIC HEARING WELLINGTON 4 APRIL 2019**

## **Opening Remarks**

Operation Burnham Inquiry team heads, Sir Terence Arnold and Sir Geoffrey Palmer, participants and their representatives in the Operation Burnham Inquiry, Ladies and Gentlemen.

Good Morning

First let me start by offering my condolences, sympathy and sorrow for the events that occurred last month in Christchurch. Let me also express how impressed and inspired I have been by the quality and sincerity of the New Zealand response – by your Government, your leaders, and your people.

Thank you for inviting me to offer some thoughts to this important Inquiry. It is important because it reflects our underlying belief in transparency and accountability within a democratic system – which Australia and New Zealand are privileged to live under and enjoy.

Before I start I think it important to both contextualise and caveat my remarks as I appreciate the appearance by an Australian, ex-Chief of Defence Force (CDF) at an independent New Zealand Inquiry around actions by the New Zealand Defence Force may not be the norm. While I have been invited by Sir Terence and Sir Geoffrey to speak to the nature of conflict in Afghanistan from a military perspective, this should not be seen as me endorsing in any way any perspective or view on the Operation Burnham Inquiry or any of its participants.

My experience and background in Afghanistan is based on ten years in senior Australian Defence Force appointments (as Chief of Air Force and Chief of the Defence Force) over 10 years from 2001 through 2011. As CDF I was directly accountable to my Government for the actions, conduct and involvement of ADF personnel in Afghanistan, and when requested, providing options and military advice to Government for how the ADF and the broader Department of Defence could contribute to Government's strategy and intent for Australian involvement in Afghanistan.

My remarks today are my personal recollections and thoughts; they do not represent the official view of the Australian or New Zealand Governments, or NATO or ISAF, the International Security Assistance Force, for that matter. My intent is not to pass comment or judgement on the why, how or what of policy, engagements and incidents: rather I hope my remarks provide an insight into one aspect of what was and still remains a complex, multi-faceted international problem. More specifically I will not be casting any judgement on the central focus of this Inquiry – an operation by the New Zealand Defence Force. To do so would be entirely inappropriate.

Similarly I will not be discussing, commenting or revealing any information that I know to be classified or sensitive. This is not to hide behind a veil of secrecy but rather because I know and have seen the very real repercussions of security breaches. In our democratic systems there is a natural tension between transparency (the public 'right to know') and national security (the nation's efforts to protect itself and its citizens). Each nation approaches this conundrum differently.

The views I will put forward today are mine, from my experience and from what I saw. I highlight, I never directly commanded troops on the ground in Afghanistan in operations, however, as the Australian Chief of Defence Force I retained full command of them and worked closely with our Chief of Joint Operations to provide effective oversight of their activities.

I conducted about 30 separate visits to Afghanistan where I engaged and discussed the campaign with the most senior coalition personnel, senior Afghan Government officials and our own service men and women. I regularly attended high-level international meetings for contributing nations where we engaged in detailed discussion on the Afghan campaign and discussed troop contributions. The welfare, the actions and the operations of our service personnel in Afghanistan were a part of my daily life as CDF. I am sure this is no different to any CDF with service personnel placed in harm's way.

Today I intend to offer some observations on Afghanistan, and the counter-insurgency (COIN) effort initiated circa 2008/9 – noting the background papers already presented I will not dwell on detail.

I will also cover a few areas that as a Chief of the Defence Force were common and enduring themes throughout the Afghanistan campaign from a coalition contributing nation perspective: command and control (C2), rules of engagement (ROE), the Joint Prioritised Effects List (JPEL) and civilian casualties.

## **Australian Involvement**

By way of context, I believe it relevant to the Operation Burnham Inquiry to recall Australia's military contribution to Afghanistan. This involved a diverse mix of military forces and capabilities deployed for over a decade and half. During my tenure as CDF we, like New Zealand, deployed a reconstruction capability, a mentoring effort, Special Forces, Chinook helicopters, individual augmentees, trainers and airlift support. And we amended their tasking, the structure of the forces, their command and control arrangements and their Rules of Engagement as the campaign progressed.

In contributing to Afghanistan, Australia and New Zealand shared a common perspective: we were both non-NATO partner nations, the only ones from the Southern hemisphere, similar domestic laws and approach to international agreements, and both making relatively modest troop contributions that required supplementation with other coalition assets. And we both shared similar, not identical, national reasons for committing military support.

Our ANZAC heritage as always underpinned our close relationship. While close we did not slavishly follow each other, rather we were able to assist each other and maintain our independence at the same time. For me, these similarities allowed us to consolidate and clarify our understanding of what was happening in the broader NATO/ISAF campaign. We were able to test our thoughts and proposals because we were in the main of common mind. In a large coalition such as ISAF this is extremely important. It was important also as it allowed us as relatively smaller stakeholders in the overall campaign to balance our perspectives and have them heard.

While we were both able to contribute highly trained and capable personnel we found it more difficult to furnish them with a complete set of enabling support assets and as such were very reliant on coalition, in the main US, support. This was particularly the case with rotary wing and specialist intelligence assets such as remotely piloted aircraft. Both of these were critical to the

force protection of our forces and enabling them to complete more complex missions on behalf of ISAF.

Australia did deploy a number of helicopters but we assigned them to the Regional Command level such that they were able to benefit all ISAF forces based on priorities - we saw this very much as being a coalition team player, as to reserve them exclusively for Australian use may have been nice, but would not have been the best use for them and also been counter to our interests.

This arrangement is part and parcel of being a member of the coalition – to receive support a nation rightly also had to be willing and able to provide support to others.

## **Afghanistan**

To do justice to all parties involved in Afghanistan and indeed the people themselves requires far more time than I have today in this presentation therefore I will keep my remarks brief and general in nature. Looking back over my tenure, the conflict and international commitment in Afghanistan can be seen in three periods.

The first period covers the years 2001-2002. This is the early stage and was underpinned by a very effective US-led Operation Enduring Freedom, commencing on 7 October 2001, under the banner of the International Coalition Against Terrorism (ICAT) and resulted in the initial defeat of the Taliban and al Qaeda in Afghanistan.

Our Prime Minister, John Howard invoked the mutual defence clauses of the ANZUS Treaty in deploying our initial contingents and our force composition (special forces) was aligned with many others in their focus on counter terrorism. This was about denying Afghanistan as a future safe-haven for terrorism in the wake of the September 11 terrorist attack.

In this period coalition forces were able to gain a firm foothold operate in the main with complete freedom and dominated through its modern technologies and equipment. Over the following years this international counter-terrorism mission evolved into a country wide effort focussed on critical areas such as security, governance, institutional development and reconstruction.

While the International Security Assistance Force, commonly referred to as ISAF, was established by a UNSCR Resolution (1326) in December 2001, its effectiveness was limited in the early period and its initial focus was very much security of Kabul and its immediate surrounds. The United Kingdom initially took the lead nation responsibility for this force.

This was very much a period of Special Forces – their capability to reach remote areas, their self-sufficiency and their flexibility made them a preferred option for nations to contribute and the Operation Enduring Freedom mission aligned to these skills. They were able to have a greater reach, generally work in smaller numbers and draw on their specialist skills in reconnaissance, offensive action, outreach and also capacity building.

The pace of change and impact of Operation Enduring Freedom is reflected in the swearing in of Hamid Karzai, just over two months in, on 22 December 2001, as the Head of an Interim power-sharing government.

The second period covers the years 2003 – 2007. While the United States focus shifted to the war in Iraq along with its significant military resources, much good work still occurred in Afghanistan.

Key in this period was the gradual establishment of Provincial Reconstruction Teams, or PRTs, around the country, including the successful New Zealand PRT in Bamiyan Province.

The ISAF mandate was expanded in late 2003 to cover beyond Kabul and importantly from a military perspective, NATO assumed leadership.

During this time operations in Iraq completely overshadowed Afghanistan and some of the gains from the early years were unable to be capitalised on, particularly in the Pashtun dominated south. The Taliban who were themselves overthrown by a 'US-led insurgency' a few years earlier regrouped among their traditional tribal bases, resurged, grew in strength and launched an insurgency against the appointed Government and its coalition support.

The coalition effort was mixed, not unified and lacked cohesion whereas the insurgency garnered local support, was relatively well organised, funded and had clear lines of authority and direction.

However it took from late 2003 through to July 2006 for ISAF to assume responsibility of the whole of Afghanistan. It did this through a staged process: establishing first in the quieter North, expanding to the West and then the more challenging Taliban homelands of the South and East.

By the time ISAF had established its initial four regional Commands (North, South, East and West) in late 2006 and increased its strength to around 60 000, the insurgency had taken hold and the fighting became quite intense. Throughout this period we also saw repeated calls to the international community for additional troop and financial contributions.

What we also saw during this period was the incremental transfer of conventional forces, who had been operating under Operation Enduring Freedom, to the command of ISAF and the weight of international coalition effort start to shift towards ISAF and its mission.

Included in this was the transfer of all Provincial Reconstruction Teams (PRT) under the one ISAF Theatre military command. The PRTs were central to ISAF efforts across Afghanistan and were the heart of the counter-insurgency effort, or more widely known as COIN. PRTs were mixed teams of military and civilian specialists whose skills and capabilities complemented one another. These teams facilitated delivery of tribal outreach, governance and development activities at the District and Provincial level.

In no way a criticism, towards the end of this period (circa 2006) we also saw the start of the appointment of United States General Officers as Commanders of ISAF – hitherto the post was filled by European nations. Singularly the US was far and away the largest troop contributor to ISAF – their capabilities and scale were critical to the effectiveness of the whole of ISAF. This is significant because it registered a growth in prominence of ISAF. Its mandate was becoming the primary US focus in Afghanistan and it gained greater US support.

This small distinction was important in terms of messaging to coalition partners and ensuring a greater synergy between the two military operations – ISAF and Operation Enduring Freedom.

The period 2008 through 2011 marks the third period in the Afghan campaign from my perspective. Shortly after the establishment of Regional Commands, ISAF also established an ISAF Special Operations Forces (SOF) Headquarters alongside its Kabul Headquarters. An Australian and British one-star officer headed this in alternate years.

While the Regional Commands were geographically confined, the ISAF SOF HQ commanded, coordinated and synchronised operations of SOF from 15 to 20 nations, across Afghanistan. It was the means through which Commander ISAF, (or COMISAF) was able to direct the use of coalition, including elements of United States, SOF, each of who had different and varying capabilities and each of who came with different national caveats. Of note, ISAF SOF operated under ISAF command and the ISAF mandate, as opposed to Operation Enduring Freedom that was ongoing with its extant remit and focus on counter-terrorism. Being under the ISAF mandate required these forces to adhere to a uniform set of guidelines for operational approvals, rules of engagement and targeting.

Uniquely, as a US officer, COMISAF both commanded ISAF and was also concurrently Commander of US Forces in Afghanistan.

In early 2009 additional force contributions from all ISAF contributing nations was requested to support the revised strategy for Afghanistan released by the Obama administration. This strategy recognised the deteriorating security situation in the south of the country and the concurrent requirement to increase the capability of the Afghan National Security Forces, the ANSF. Achieving these two goals was a focus of the ISAF COIN efforts, which I will move onto shortly.

The unified effort, greater coalition support and cooperation and a surge in troop numbers saw ISAF become one of the largest coalitions in modern times. This period in time also marks the beginning of the formal transition for security responsibility to the Afghan Government and ANSF.

What this very brief, high level over view tells us is that Afghanistan was an extremely complex international issue: it was not solely a military problem; it was and still is a political problem. In Australia we wrestled with maintaining an appropriate and sustainable commitment that both satisfied our national objectives but equally importantly was the best force for the circumstances in Afghanistan, and all the time balancing commitments to other operations.

Often we would be asked to provide additional forces, capabilities or individuals – no different I know to New Zealand and many other nations. These approaches would come through political and senior military channels, at the international meetings we attended or even direct from Afghanistan. Invariably we could not satisfy all requests. For each however we followed a process of testing the request against our current national objectives, checking it against Government direction and authorities and balancing with other requirements. It was standard that the Government of the day ultimately authorised any force contribution above what was currently mandated.

As with every other nation our forces carried out extensive pre-deployment preparation – as much as this focussed on the military capabilities it also gave significant attention to the cultural, religious, demographic, historical and political factors. We sought to educate as best as possible our personnel in all things Afghanistan and Afghan.

As a military commander I remained conscious of the requirement for a whole-of government approach, for the military effort to be supplemented and supported by a civilian effort. As difficult as the strategic situation was we should spare a thought for our personnel – civilian and military because Afghanistan was also very much a human endeavour.

Afghanistan comprises some hostile, complex and inhospitable terrain; the extremes of climate; the lack of any formal Government and governance as we know it; lines and means of

communications and infrastructure were non-existent – the extent of paved road outside the capital Kabul was minimal; and the prevalence of the opium/narcotics trade and the crime this manifested. If these conditions did not make conditions easy for our forces then there was also a highly capable, organised and decentralised insurgency seeking to evict the foreign forces.

And I hasten to add this was not all about the military – the local Afghan population, trying to go about their daily life contended with the same hostile environment, the insurgency and coalition forces. Afghanistan was and still is a complex operational space.

The environment that we placed our soldiers in weighed on my mind and I know successive Ministers and Governments.

### **COIN – Counter Insurgency**

In my mind General David McKiernan, COMISAF in 2008/09 commenced the turn around in Afghanistan by initiating a COIN focus and highlighting the centrality of the civilian Afghan population in success. General Stan McChrystal then implemented the COIN focus in Afghanistan following his assumption as COMISAF in June 2009 and backed by a surge in force numbers. He built on the embryonic strategy put in place by his predecessor, General McKiernan while General David Petraeus further expanded on the efforts of McChrystal. In essence Generals McChrystal and Petraeus super charged COIN into a coalition, inter-agency, country-wide effort.

Through the efforts of all three ISAF changed the way it did business. It refocused its efforts on giving ISAF a renewed operational culture that had a unity of purpose and unity of action – it was founded on population-centric operations, enabled by a networked force of counter-insurgents (ISAF) at its core all with the central and unified purpose of protecting the Afghan population.

What this change in approach, from focussing on the militants to focussing on the people, and winning and protecting the population, did, was put the Afghan people at the heart of solving the problem. Protecting the Afghan people became the mission. On an operational level this entailed shifting from the tactical defeat of insurgents to the protection of the population.

COIN in any setting is an exceptionally resource intensive warfare technique – it requires a whole-of-government effort, in particular the host government. It cannot be done by the military alone. In Afghanistan it required a vast number of people and troops, which, notwithstanding ISAF's increased numbers, were never really reached.

I was engaged closely during this strategic transformation and directly saw the change it had on the operations conducted by our forces and how they conducted them. It particularly impacted our special forces who adapted the manner in which they approached their operations and coincided with a change for us from a Reconstruction Task Force to a Mentoring and Reconstruction Task Force.

COIN was the underpinning means by which ISAF looked to enact three broad lines of effort throughout: governance, development and security. These lines of effort were all supported by the now pre-eminent COIN focus of ISAF.

Winning the support of the population necessitated building their confidence in the rule of law, the official Afghan institutions and agencies, and the Afghan government. It entailed the force working with local Afghans to enable transparency and accountable governance. It included

training Afghan National Police and the incorporation of civilian police officers in the overall ISAF effort.

Winning the support also depended on the coalition, with and through the Afghan Government demonstrating tangible progress in development. The centre of gravity in an insurgency is the support and will of the population. In Afghanistan, where the insurgents moved relatively freely and un-recognised within and throughout the population, the support of the people was critical to ISAF for security and building the legitimacy of the Afghan Government.

Whether it was simple infrastructure such as roads, bridges or schools or more complex undertakings involving sustainable local economic practices not reliant on the opium trade, development across Afghanistan was pivotal to winning over the population. Showing that a legitimate government was better at doing this than a Taliban shadow government required continual investment.

Finally to win the population ISAF had to protect them. This meant security operations, offensive operations and other operations targeted at specific individuals and organisations that threatened the population or threatened the viability and functioning of the Afghan Government. No one force or capability could do all three things and equally operations in only one of these three efforts (governance, development and security) was never going to result in success. That is where the combination and cooperation of military forces (both conventional and special forces) and civilian agencies, including police, became so important.

The strategic goal of COIN was to defeat the insurgency that threatened the security of Afghanistan and the means by which it would do this was by winning over the support of the population.

As many nations did, Australia contributed to all of these elements over the course of the campaign. With the introduction of the COIN focus by COMISAF, I was extremely conscious of the operational relationship between our conventional and Special Forces because it was so important that our efforts along the security and governance/development lines were aligned.

They operated within the same Province and Regional Command ((RC-South) however were under different command control, and tasking arrangements. Our Special Forces worked under the command of ISAF SOF whereas our conventional forces were under the operational control of Regional Command South. From an ISAF point of view this worked well however I was keen that, from a national perspective, they were able to support and assist each other in achieving their missions. I believe this synergy was not uncommon across many of the nations who contributed to both sets of forces. There were many occasions during my tenure when the reason for an operation by our special forces was to enhance the security or mission of the reconstruction and mentoring task groups.

Our conventional forces focussed on the training, development and mentoring of the Afghan National Security Force. While holding excellent military capabilities they were not equipped, enabled or authorised to execute the higher end targeting missions.

In this manner the operations of our Special Forces were designed to assist in creating a secure environment around the area of operations where our conventional forces focussed. Their operations, as with many other SOF operations, had a focus and end-state on preventing identified

insurgent threats undermining the development efforts of our conventional forces within the Province.

I would now like to turn to some of those enduring themes encountered as a coalition contributing nation.

### **Command and Control**

When I, with the authority bestowed on me as CDF by the Australian Government, deployed Australian forces to Afghanistan the command and control arrangements for them were always a key issue. The military has a unique language, not easily translated, for how it assigns forces and allows them to be commanded and controlled. Command in a military sense has a very particular meaning. In a coalition setting such as ISAF this is critical.

As a CDF, I always retained the full command of Australian forces – essentially this means I was always ultimately responsible for them and how they were employed. Importantly it did not entail me directing their daily operations in Afghanistan. I delegated the authority to direct the operational tasking of Australian forces to Commander ISAF – he was the appointment legally charged and authorised to execute the ISAF mandate. He was responsible for how the campaign was carried out on the ground.

In delegating this authority I also prescribed under what circumstances they could lawfully be employed and what and how they were not to be employed – this was the same across all nations within the coalition. When committing its forces in a coalition, nations seek to balance maintaining control from a national perspective and permitting their employment from an operational perspective. I hasten to add that not always do these align.

All nations contributing to the ISAF coalition assigned forces under specific command and control arrangements. These arrangements balanced who commanded the forces for what activity, or very simply, who could tell the force what they could and could not do. Likewise each force was assigned with specified freedoms and constraints. These freedoms and constraints quite rightly reflected the national policy of their Governments.

For example, some forces would only be authorised by their Government to participate in training and mentoring roles, or not permitted to be used for directed offensive operations, or permitted or not permitted to be involved in counter-narcotic operations.

Similarly forces may be geographically constrained – that is, only authorised to conduct operations in a specified Province, set of provinces or a Regional Command area. Alternatively they may have restrictions on involvement in aid programs or have only been assigned for a set duration.

These are national caveats and constraints, derived from national policy and individual Government decisions – they are not Rules of Engagement.

This is not unusual and ISAF and its Commanders would seek to integrate and use respective forces to maximise their benefit while recognising their individual nations' contribution to the coalition. In the early stages of ISAF these caveats and restrictions imposed by individual nations made it difficult for ISAF to become a truly effective force however cohesion soon came.



In the Australian example, our forces were assigned with caveats at various times about where they could operate and what type of operations they were permitted to undertake among other things. These reflected Government policy but did change over time as we reviewed operations. Should they see a need or ISAF request them to conduct an operation outside these parameters then they would seek my approval. If not within my delegation, I would seek Government approval.

This is what you could refer to as national command and every nation had a national command element in country or national line back to their capitals. The national commander of the force carried what is commonly known as a 'national red card'. That is, the authority to over-ride the operational commander's directions on the basis of national policy. In coalition warfare this is incredibly important. In my experience I saw on many occasions, the roles and authorities for operational and national commanders be confused by commentators and media.

Assigning one's military forces under the command and control of another nation is a significant and considered decision taken by a sovereign nation. It is a big step it actually does not happen frequently.

COMISAF, and through him his authorised delegates, had the authority to either approve or not approve operations conducted by Australian forces. COMISAF also held the authority to assign or not assign additional coalition resources and assets to our forces. As a rule when these additional resources are assigned they were done so for a specific task and duration and in the context of 'supporting' or in direct support or some other form of relationship that articulated respective roles. This occurs because with forms of command come differing responsibilities, powers and administrative requirements that are best retained by a permanent chain of command.

Additionally in many instances, COMISAF was also restricted to whom he could delegate the operational control invested in him by a country.

As the operational commander COMISAF also held the authority to dictate the processes, regulations and requirements for forces to follow. In this way he was the unifying appointment, to whom nations assigned forces. COMISAF was an international appointment so we were not assigning our forces for use in operations to a US General for use by the US, rather we assigned forces to a coalition appointment with a chain of command back through to NATO.

I highlight though, through our national command and my retention of full command we could at any time veto a proposed operation by our forces. The converse also held true – should Australia for some reason wish to conduct a specifically Australian focussed operation then COMISAF concurrence would have been required.

Working as part of a coalition has its unique challenges from a national perspective and one of those is garnering adequate and sufficient support for tasks that a nation perceives to be in its national interest. I hasten to add this national interest generally involved protection of one's own forces.

## **Rules of Engagement**

I would like to touch on a topic that is sometimes misunderstood, and sometimes represented incorrectly or too simplistically.

The decision by a nation-state to use military force is one that is given significant and detailed consideration given the potential lethal consequences of any decision. This does not make it wrong, but it emphasises the importance for having a governing mechanism around that use of force. Rules of Engagement, or ROE, are a fundamental control mechanism in the use of military force. ROE are not solely the preserve of the military and they are not a means by which the military authorises itself.

When Government directs the deployment or use of its military it is done so with objectives, restrictions, caveats and freedoms in mind. It is using the military as a means of enacting Government policy. In general, Government aims to provide the military with sufficient freedom to actually complete the task its assigns the military but it also caps how much force it is willing to be used.

Similarly the military seek to gain sufficient authority to use the required force it believes necessary to accomplish its assigned task, while also having mind to the safety and protection of its own people. The use of military force is also governed by many international or humanitarian agreements binding on the Government, such as International Humanitarian Law and the Laws of Armed Conflict enshrined through the Geneva Convention.

ROE are directions endorsed by Government and issued by commanders, which delineate the circumstances and limitations within which military force may be applied to achieve military objectives. They do not inhibit or replace, but are part of, the command function. ROE may be framed to limit certain actions; alternatively, they may authorise actions to the full extent permissible under domestic and international law.

Many factors are considered when drafting ROE. Some of the primary factors include: domestic and international law; political and military end-states; operational considerations; and diplomatic factors. Each circumstance will modify the weighting given by decision makers to these primary elements.

ROE provide authoritative guidance on the use of military force. This force must be reflective of the law, even though the ROE are not the law. International and domestic laws limit armed forces to actions that are lawful and therefore permissible. The Government and generally the chief of a defence force place further limitations upon the military force by issuing ROE.

Another way of viewing this is through military capability. The military has the capability (through its personnel, equipment, technology, and systems) to undertake a vast array of actions. Only some of these actions are permissible under law – the military cannot simply employ all its capabilities without regard for the law. ROE then form a subset of what is permissible under law – they further caveat and restrict what military force can be employed.

The ROE reflect the values and law of a nation. Some nations may not hold the sanctity of human (civilian) life to the same level we do, or subscribe to the same international conventions as us, or place a higher premium on operational outcome in a set situation, and therefore may permit their military proportionate latitude.

In my experience the formulation, drafting and authorising of ROE for our deploying forces was one of the most complex, considered and scrutinised processes. There was input from lower level commanders, military and civilian legal officers, policy officers, senior military officials and indeed Government. Any requests to change the ROE were equally stringently scrutinised and tested.

Ensuring your military forces have appropriate ROE when deployed unilaterally is one thing, it becomes manifestly more complex when deployed within an international coalition. Every nation, quite rightly and appropriately, develops and issues its own national ROE. Invariably national ROE do not neatly align; but as a rule national ROE enable that nation's military to achieve what their national Government intended when deploying them.

That ROE change should not be surprising. Should the situation on the ground change, government policy change or more relevant information become available then ROE should be reviewed.

What is common is that nations dictate that their national ROE always takes precedence over any other forms of ROE. Therefore when forces from various nations come together to execute an operation there will be numerous ROE applicable simultaneously. It has become common practice for coalitions of military to also formulate their own ROE. In the case of ISAF this occurred.

As with national ROE, these ROE are also constructed giving a view to such things as the lawful mandate of the military force; the authorised mission and tasking of that force, the political and military objectives of the coalition; and the operational environment. These ROE reflect the Operational Commander's intent. In this case in Afghanistan, Commander ISAF developed his own ROE. He does so bearing in mind how he wishes to employ military forces in support of his directed mission. As a contributing member to that coalition, individual nations were required to also adhere to these ROE in order to conduct operations within ISAF's area of operation and control.

On occasion national ROE and ISAF ROE will conflict, be contradictory or not aligned. And there was not always a corresponding ISAF ROE for a national ROE. In instances such as this we needed to decide:

- to change our ROE to match ISAF
- to maintain our ROE and thereby place a constraint on or maintain a freedom on what our forces were able to do, or
- to amend ROE such that they held to original intent but aligned with operational requirements in Afghanistan.

Over the duration I believe we did all of the above at some time.

Without highlighting specifics, an example of differing ROE within the international community is in the firing of warning shots. Some nations authorise them, some do not; some nations stipulate a requirement, and some nations offer the option. There is very good reason for any of the above options and the decision is based on such things as the individual nation's system, their doctrine and training and their assessment of risk. What is common, almost universal, however is the inherent right of the military to use force in self-defence.

A question posed frequently is why are ROE not released publicly? Primarily and very simply this is for the protection of one's own forces. Nations and their military forces closely guard their national ROE for good reason.

ROE inform a soldier, sailor, or pilot both what they can do, but also what they cannot do. They dictate when they are able to use force and to what extent (lethal or non-lethal) and when they

are not able to use force. Should an adversary know and understand when, how and to what degree a soldier may respond in any given circumstance, that adversary is able to temper and contrive his actions to his advantage. I can assure you that this was no more real than in Afghanistan. In the already ambiguous, chaotic and dangerous environment that war presents, soldiers should not be further exposed to any more risk to their lives than absolutely necessary.

### **Joint Prioritised Effects List (JPEL)**

In any military campaign or operation there are invariably more tasks and things to do than there are resources available. This is true whether it be human resources, financial, equipment or systems. Afghanistan was no exception in this regard and Commanders at all levels continually re-assessed priorities and their ability to complete tasks. As a general rule, the more scarce or more strategically important the military asset, the higher the command level at which it was held.

Our forces would deploy with much of what they required however in order to undertake some types of missions for which they were capable they required additional support. This additional support we called 'enablers' as they enabled the force to complete the assigned task. Aircraft, helicopters, and intelligence assets are some of the resources whose allocation was prioritised by higher level commands, namely the Regional Commands or Headquarters ISAF, and for which we required support.

I have seen the term 'JPEL' widely referred to, and used in the media, academia, books and within our own militaries and it is often used without relevant and important context and understanding. The JPEL, or the Joint Prioritised Effects List, is essentially what the title conveys. It is a mechanism, a process, through which military commands and staff seek to prioritise their efforts and resources.

It is a very formal, highly oversighted and controlled process. In different doctrines there are varying approaches however all fall under a targeting banner. In a dynamic and fluid environment like Afghanistan it assisted in giving order, rigour and process to what a force was using scarce military resources for. A JPEL is part of a broader military targeting methodology and doctrine.

A target in a military sense could be an area, an object, a capability, a person or even an organisation. Effects in a military sense refers to what the military force (the Commander) wants to achieve by conducting a specific operation – it can vary from seeking information, denying access or movement, surveilling to neutralising, or killing a target. The process underpinning the JPEL sought to assign the right asset to the right target at the right time.

It also sought to ensure that those persons or capabilities or targets presented on the JPEL were legitimate and lawful targets in accordance with all ROE and informed legal advice. This includes ensuring that this form of targeting did not violate the Laws of Armed Conflict (LOAC).

By way of example, the insurgency in Afghanistan relied upon a variety of actors for its success: at one end there were the fighters themselves, those that conducted the operations against the Afghan and coalition forces while at the other end were the key strategic leaders who commanded and directed when, where and what operations would occur. In between there were facilitators; people who supported the insurgency achieve its aims. These included: specialist Improvised Explosive Device bomb makers; suppliers of materiel, explosives and ammunition; local area commanders and leaders; people who transported, accommodated and logistically supported; and people who arranged financing to name a few. The insurgency was a system.

Therefore our forces would seek to target vulnerabilities in that system wherever they occurred and whenever they were able to obtain the appropriate resources. This is where a JPEL comes to the fore. I can appreciate how people can perceive this process differently however we should remain cognisant of the unique and difficult situation Afghanistan presented. The war in Afghanistan did not involve a fight against a known and formally organised adversary – it was not conducted against formed military units and adversaries wearing uniforms who had set orders of battle of which we already had well documented intelligence.

Rather there were very few set piece battles. There were no easily demarcated front lines. This was irregular, guerrilla, asymmetric and counter-insurgency warfare. Quite literally a soldier could be standing beside someone in an Afghan village who hours or days later might take up arms against him. Similarly there was a vast civilian population whose tribal and ethnic structure was intricate and complex.

Over a long time coalition forces and ISAF gradually increased their local knowledge and understanding of their specific geographic areas and the variety of stakeholders. Some stakeholders supported the Afghan Government and the international coalition, some of these did not. From an intelligence and local area knowledge perspective I always found that PRT members were as well versed as anyone and by virtue of ongoing continuing presence were able to deepen their knowledge.

From a national perspective the JPEL and other formal targeting processes used by ISAF gave a degree of assurance. The process and requirements were rigorous and sometimes restrictive. In this regard, there was a requirement imposed on our forces to confirm at a set interval that the particular target listed on the JPEL still met all criteria – that is, the target was still active in fighting against the Afghan government and ISAF.

For as much as the process of a JPEL sought to target it also sought to discriminate; it assisted the coalition separate the insurgents from the broader population in a chaotic and ambiguous environment.

### **Civilian Casualties and Incidents**

The single greatest setback to operational success in Afghanistan was civilian casualties. By far and away it is the innocent civilian population that has suffered the most in Afghanistan. For every new well put in, new school opened or road paved, the death of a civilian set the cause back. In terms of COIN success this was magnified. Potentially for every civilian killed by coalition forces, the saying went you created five to ten more insurgents.

Sadly, we also know that on occasions the allegations of civilian casualties was also used by the insurgency as a very effective propaganda tool. This at times made the inquiry into allegations extremely difficult.

Within our own planning processes and then again within the ISAF operational approval process the protection of civilians and the prevention of civilian casualties were critical components. At each stage of the process their welfare and safety were paramount and indeed consideration of the impact and consequences for the civilian population were at various times go and no-go criteria. Personally, I can attest to our command chain not permitting some operations and actions because the potential risk for civilian casualties or damage to civilian properties or infrastructure was too great.

Notwithstanding these precautions and training, regrettably civilian casualties still occurred. Without doubt the people most affected by these were the immediate families and friends.

In the early years we did not have any formal scheme for offering recompense – not that one can ever recompense a family for the death of a loved one or place a value on a human life – however in time we did devise a policy that allowed us to offer compensation payments for destruction of property, injury or death. It is hard to quantify the success or otherwise of this but it was the right thing to do.

Civilian casualties also impacted the soldiers involved. As a commander this was also on my mind, as I know they did not go to Afghanistan to cause the death of innocent people. And I know we now have some soldiers still bearing those scars. Again I emphasise this is secondary to the pain of families but still a tragic consequence of war.

In Australia, while I was CDF we conducted an inquiry or investigation whenever there were confirmed or alleged civilian casualties. This was important from a transparency and accountability aspect. This was in addition to any other investigation by other bodies or agencies, including ISAF, the United Nations, and the International Committee of the Red Cross.

Separately I would add that In Australia there is currently an ongoing independent inquiry by the Inspector-General of the Australian Defence Force into rumours of possible breaches of the Laws of Armed Conflict by members in Afghanistan between 2005 and 2016. This Inquiry is ongoing and I am not privy to it and therefore unable to offer any further comment.

## **Conclusion**

Afghanistan represents one of the most complex, ambiguous, difficult and challenging operational environments that modern military forces have operated. It has a harsh physical terrain and environmental factors, complex human and cultural terrain and involved an adversary that employed irregular, guerrilla and asymmetric methods.

These all combined to place pressure on an international coalition effort – a coalition comprising fifty one nations, each with differing national objectives, policy, ROE and caveats for the employment of their military forces. With over 130 000 troops from NATO and non-NATO nations, ISAF was a significant undertaking by the world community.

It took some time to reach full operational effectiveness but once there it was able to bring together the contributing nations under a common banner, with a common goal and governed by common rules, practices and procedures.

Thank you for your time this morning and I hope this has been helpful in providing context to the military contribution to Afghanistan.