

Thursday, 19 November 2020

Law Council President, Pauline Wright, response to reports of war crimes by members of the ADF

All comments to be attributed to Pauline Wright.

The murder, torture and abuse of civilians and prisoners of war is abhorrent.

The Law Council of Australia is concerned by the findings of the [Report released today](#) by the Inspector-General of the Australian Defence Force (IGADF), which reveals alleged breaches of the Laws of Armed Conflict by members of the Australian Defence Force (ADF) in Afghanistan, between 2005 and 2016.

The Law Council notes that the Report of the Inquiry, which is not a criminal trial, cannot and does not find guilt in any individual case, and the findings are limited to whether there is 'credible information' of breaches of the Laws of Armed Conflict.

The Law Council condemns war crimes wherever they are committed and welcomes the establishment of a special investigator office to explore these allegations against members of the ADF.

The government has an obligation to deal with the allegations in a timely way; however, the investigation process must be thorough and fair – not only for the victims of the alleged crimes but also for the people being investigated. This investigation team will need to be adequately resourced to achieve this.

Whether any of the soldiers referred for investigation have committed war crimes has not been determined, and they are entitled to the presumption of innocence.

The question of their guilt or innocence can only be determined by a court.

The Law Council supports the Report's conclusion that payment of compensation does not need to be contingent on establishing criminal liability. Compensating a person for harm suffered should not depend on a finding of guilt to the criminal standard.

It is the belief of the Law Council that the charges against whistleblower David McBride should be reconsidered, given the report suggests that Australian soldiers may have been involved in war crimes.

ENDS

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