

THE JARJEES CASE: BOMBING OF A
FAMILY OF CHILD AND ADULT SHEPHERDS

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Introduction

This case arises in the context of the operation of the Northern no-fly zone over Iraq. We propose to represent a family of victims who were innocent civilian targets during the course of an ongoing intentional and malicious campaign, operated jointly by the American and British Governments.

Our research into the legal basis of the proposed case (against the British Government in the English jurisdiction) reveals that there are good merits in an argument that the Government is liable jointly and severally (with the US Government) for the acts of the Anglo US coalition (referred to below in greater detail) for the unjustified killings. We wish to further our efforts in this case to demonstrate the gross violation of all relevant limits imposed by the law (both international and national) by the British Government. Corresponding actions may follow, in due course in the United States.

This case is intended, in accordance with the family's wishes, not only to recover compensation - which can never return the lives of those lost or even be a measure of the pain suffered by the next of kin - but also to expose the gross and flagrant disregard for human life. The case must also shake consciences and it is the feeling of those involved in this case; the families of the victims, professional advisors and others that it is inexcusable to say; what change can we make?

We say respectfully, that every person with the ability must be encouraged to do whatever they legitimately can to lay bare the injustice.

The Northern no-fly zone over Iraq

During April 1999 a unilateral agreement was signed by the United States, the United Kingdom and France, the object of which was to form the Northern no-fly zone. It was established as part of Operation 'Provide Comfort' to allegedly give humanitarian assistance to the Kurds. This operation was subsequently renamed to 'Operation Northern Watch.' The operation is carried out by a body called the United States European Command ('USEUCOM'). Although a founder party of the Northern no-fly zone, France withdrew from operations as far back as December 1996.

The purpose of the Northern no-fly zone, as alleged by the American and British Governments, was to guard rebel Iraqi Kurds from attacks by Iraqi armed forces. US and British warplanes enforce, both the Northern and Southern no-fly zone.

The reality however, is something quite different. Far from offering any sort of protection, or humanitarian relief, or fulfilling any other legitimate purpose the no-fly zones constitute an illegal unilateral operation created by a self declared US/UK coalition. The no-fly zones are not operated pursuant to any Security Council mandate, nor are they derived from legitimate authority sourced elsewhere in international law.

The incident

On the 24th February 2003 we travelled to Iraq for a period of two weeks. Our mission was to gather evidence and in particular, statements from witnesses, concerning a well documented attack on a civilian target on 30th April 1999, killing four children and two adults. These were a family of shepherds living in the region of Bashiqa in northern Iraq. They were one of the many targets regularly used for “shooting practice” by US and UK military aircraft, stationed in Turkey, whilst patrolling the no-fly zone in Iraq.

A pattern of these types of strikes, namely on shepherds and their flock developed throughout the region and was subsequently documented by various individuals (including by a former senior UN official).

A report prepared by the UN Security Section – UNOHC1 – Baghdad entitled “Airstrikes in Iraq 28 December 1998 – 31st May 1999”, catalogues bombings of Iraq during this period in the Northern and Southern no-fly zones. The report documents a number of attacks on civilian targets resulting in deaths and injury of civilians and destruction of their property.

The entry for 30th April 1999 (in the report) confirms an attack near a village called Qoban, some 30 kilometres away from the city of Mosul, on a family of shepherds, killing them and their livestock.

In fact on this day the Jarjees family, Sultan (aged 6), Mohammed (aged 12), Luqman (aged 13)¹, their cousin Idris (aged 11), their father Ahmed (aged 36) and their grandfather Jarjees Ayoub (aged 68)² were tending their sheep in open country far from any built up area. They had with them a water tank, towed on a trailer by a tractor and a pick up truck and tents to seek shelter in.

There were a handful of villages, some distance away, also situated on open plains, comprising groups of small homes built of mud.³ The inhabitants of this vast agricultural region, are of very limited means and look to the land for basic necessities.

Around 3.30 pm on the day in question the first missile struck the group of child and adult shepherds. They were killed instantly along with over half of their flock⁴. The pick up truck was also destroyed.⁵ The onslaught continued when coalition aircraft circled the area and returned to fire further missiles. Witness accounts also report that, apart from bomb and fire damage, the water tank was riddled with, what appear to be, bullet holes.⁶ There is therefore an indication that not only did the aircraft return to unleash repeated attacks with bombs on the civilian targets, but the pilot flew

¹ A photograph of Luqman. See page 1

² A photograph of Jarjees Ayoub. See page 2

³ Photographs of the location of the attack. See pages 3 to 6. Pages 4 and 5 show where the missiles were fired. Page 6 shows in the distance (in the centre of the photograph) the nearest village of Qoban from where the first witness who arrived at the scene came.

⁴ Photographs of the sheep that were killed (pages 7 to 11), a sheep dog (page 12). These were the only remains of approximately 110 dead sheep (and two sheep dogs).

⁵ See page 13

⁶ See pages 14 and 15

sufficiently low thus having the victims in clear view in order to open up gun fire. Alternatively the holes could have been created by shrapnel.

The first witness on the scene recounts (in a statement given to us) that:

“At around 3.30 pm on 30th April I heard a huge blast. I was inside my house, with my family at the time. The windows were open and the window frames shook. There had been recent bombings in our area and I knew this was another ...”

We were first to arrive at the scene. I got out and the others returned to the village to fetch others. At first I could not believe what I saw, I stood in the middle of the sheep and saw pieces of burned flesh, then I saw Murtada, he had no legs, but I recognised him from his face, the only other part I recognised, was, I think, was a piece of the chest of Jarjees – the grandfather – because the hair on the skin – the size of my hand – was white. There were dead sheep lying everywhere, pieces of blackened flesh were scattered as far as I could see ...

We searched for the remains of the bodies, it was hard to tell the difference between the sheep and the human flesh. I saw many pieces of flesh like raw meat in a butcher’s shop, also many of the pieces of flesh were burnt.

We collected as carefully as we could what we thought were human parts and placed them in the back of a pick up truck. Many of the pieces were blackened, stiff, burnt out. Like roasted; no blood.

When we thought we had finished, the pile of flesh in the back of the truck was nearly a metre high ...

We bury people in shroud cloth, but apart from Murtada we divided the remains into six equal portions in bags made out of the shroud cloth ...”

There are no known military sites in the area where the attack took place.

The former Humanitarian Co-ordinator for Iraq, Graf Hans Von Sponeck, undertook an investigation some days later. He visited the site and subsequently stated “I was deeply affected by what I saw – the total destruction of a shepherd’s family and all their possessions”. He compiled a report which was simply swept under the carpet by his successor at the UN.

Count Hans Von Sponeck and other senior UN officials, who resigned out of disgust with what they witnessed happening to Iraq during the sanctions imposed on the country and during the term of their office, have agreed to be witnesses in the case against the Government.

The Mayor’s office also investigated the incident.⁷

⁷ A series of photographs and newspaper cuttings were collected. See pages 16 and 17. Page 17 is the remains of the tractor which was used to tow the water tank. It was the subject of a direct strike.

This is not the only incident of grossly negligent, if not intentional, targeting of civilians. The well known attack on the Amiriya Shelter on the 14th February 1991, is one of numerous examples that have been recorded over 12 years of appalling human tragedy.^{8 and 9} A legal case in this particular matter is being pursued to obtain redress

⁸ Amiriyah Shelter - Dresden Revisited. Felicity Arbuthnot.

The Ameriyah Shelter in Baghdad was bombed on the night of the 13th/14th February 1991 - the bodies were brought out in the dawn of the 14th - the Feast of Eid, St Valentine's Day - and the anniversary of the bombing of Dresden..

..... The Shelter has become a shrine now, the faces of the dead gazing from gilded frames, row upon row, 402 in all: Firas Abbas, nine years, his brother Amjad, eight, their sisters Nibras and Inas six and three, the mothers, the aunts, the seven teachers from the school which overlooks the shelter - the fifteen day old baby has no photograph - she had not yet had one taken, her tiny, fleeting life, dissolved unrecorded.

In early 1992, less than a year after the war there were no photographs, the horror was of a different kind, I wrote then:

The Al Ameriyah Shelter on the outskirts of Baghdad, looks near unscathed from the outside. Blazing sun reveals just traces of smoke damage at the entrance - and a semi-blackened brass plaque.

We were a group from a number of different countries. Leaving the bus, there had been laughter in the post-dawn heat. Entering the Shelter, there was a still, stunned silence. The horror is so tangible that the eyes fill and the spine chills. We were, I noticed, all tiptoeing; picking our way through agony beyond comprehension. Through the screams.

Purpose built, to withstand a nuclear attack, walls and ceilings are two metres thick, minutely reinforced with for cm thick steel cable of the kind used in the construction of major road bridges. Great circular Corinthian pillars further uphold the roof, adding to the stability of the vast windowless bunker. The final protection was provided by double steel doors, five centimetres thick, operated by self locking aircraft door type handles.

A shaft of light from the perfect spherical hole in the roof (the steel cables protruding, jagged and sheared) illuminated the five metre crater in the floor. The bomb had passed through both as effortlessly as a scalpel through warm flesh. A surgical strike indeed.

Walls, floors ceilings are furnace blasted - between had been those seeking safety - steel pipes and fittings melted. The sickening, acrid smell of inferno, of flesh, still hangs in the air.

In the shadows, in soot darkened corners, by pitted pillars, are wreaths, small bunches of plastic flowers, pink and white carnations, greens, purples, yellows, each marking a life departed or vaporised in the inferno which the Shelter became.

Locked in for their own protection, there was no escape for the women and children who sought sanctuary from the bombs that February night.

It was apocalypse encapsulated. Dresden revisited.

Walking alone through the impenetrable, windowless cavern, small indications of frailty, humanity, still remained. Scraps of charred gauze, discarded, bloodied, unutterably pathetic. Invisible presences became too much, the screams too loud, I fled into the sunlight.

Returning to the brass plaque on the wall, I asked a friend, a Jordanian ophthalmic surgeon, what it read. He struggled with the translation from Arabic for a moment then said: It is when there is a crisis, disaster and special civilians put on a uniform to help the people Civil defence? I said, Yes, yes, it says Civil Defence Shelter no 25.

⁹ Photographs of the point of entry into Amiriya shelter of the first bomb and of some of the victims. See pages 18 to 25.

on behalf of some of the victims of gross human rights violations and to highlight the ongoing brutality. Official recognition of wrongdoing is of considerable importance to the victims and their families in Iraq, in addition to any reparation. There is room to argue, accordingly, that the enforcement of international human rights standards should be a matter for a national Court, in England.

The unjustifiable stance by the illegal Anglo US Coalition

Both the US and UK Governments have acted together, hand in glove, to establish and patrol the no-fly zones. They have given a variety of contradictory statements purporting to justify the legality of their actions. Their reasons have included reliance, to varying degrees, on Security Council Resolutions (SCR) 678 and 688, the right to self-defence and humanitarian intervention.

Resolution 678 authorises Member States to use force to uphold and implement Resolution 660 which was intended to restore sovereignty to Kuwait. SCR 678's purpose was to put an end to the Iraqi occupation of Kuwait. It did not refer to the creation of no-fly zones over Iraq.

The issue of no-fly zones was not raised or debated by the Security Council as part of SCR 688 – which deals with humanitarian issues and condemns the repression of the Iraqi civilian population and the consequences of this which threatens international peace and security. The resolution calls on Member States to contribute to humanitarian relief efforts. The preamble of the resolution reaffirms the sovereignty, territorial integrity and political independence of Iraq. [SCR 688 does not refer to SCR 678.]

Boutros Boutros Ghali, the former UN Secretary General has stated that the Security Council Resolutions "...offer no legitimacy to countries sending their aircraft to attack Iraq", in the context of the no-fly zones. In response to the question "Does that mean they are illegal?", he said, "They are illegal".¹⁰

Resolution 688 does not authorise the use of force.

Notwithstanding this, this had not stopped the US and the UK from claiming that their actions in the no-fly zones were "consistent with", "supportive of", "in implementation of" and "pursuant to Resolution 688".¹¹

A variety of astonishing explanations or responses have been given on behalf of the respective Governments for the atrocity:

A US Statement issued shortly after the attack admitted that US warplanes flew from an air base in Southern Turkey and bombed Iraqi missile sites in the Northern fly zone on the 30th April 1999 after US aircraft had been targeted by Iraqi radar and fired on.¹²

¹⁰ Interview conducted by John Pilger, in the film 'Paying the Price – Killing the Children of Iraq' broadcast by ITV on 6 March 2000.'

¹¹ For Example, S/PV 3105;64 BYIL (1993) 728; 65 BYIL (1994) 683.

¹² BBC New Online, Monday, May 3, 1999, Published at 23.10 GMT, 00:10 UK Iraq says two killed in air strike.

When questioned about the attack (on 30th April 1999) the British Ministry of Defence has stated “we reserve the right to take robust action when threatened”.

Former British Minister of Defence, George Robertson, remarked in 1999: “We have to continue making these air strikes in order to carry on with our humanitarian work”.¹³

A statement by USEUCOM¹⁴ confirms: “30th April 1999 between approximately 3.00 pm and 5.30 pm Iraqi time today, Operation Northern Watch (ONW) aircraft were targeted by Iraqi radar and fired upon by Iraqi anti-aircraft artillery. Responding in self defence, US air force F-15E Strike Eagles and F-16C Falcons dropped GBU-12 laser guided bombs on Iraqi radar and anti-aircraft artillery sites South and Northeast of Mosul. In addition, US airforce F-16CJ Falcons launched AGM-88 high speed anti-radiation missiles (HARM) at Iraqi radar and anti-aircraft artillery sites South and Northeast of Mosul.”¹⁵

There have also been unequivocal statements by both the UK and US governments unambiguously confirming that they have pursued the operation of the no-fly zones as a ‘joint enterprise’.

Claims by the UK Government that their actions as to the operation of the no-fly zones being based on the notion of humanitarian intervention are far from satisfactory. It is not settled whether humanitarian intervention is part of customary international law and recognised so as to offer a legitimate justification for the Government to seek to rely on. In any event, whatever the legal analysis, the killing of shepherds and their sheep hardly triggers the right to rely on this sort of defence, even with the wildest stretch of imagination. At the time the no-fly zones were established, Iraq was already sitting round the table at the UN agreeing to intervention for humanitarian relief. The actions of the self-styled coalition were therefore all the more bizarre in the circumstances and motivated by malevolent self-interest.

The reliance on ‘self-defence’ is likewise wholly misconceived, particularly as the coalition do not have a right in the first place to fly over Iraq – the no-fly zones are illegal. Moreover what possible ‘self-defence’ needs to be invoked in the context of this case, against defenceless civilians (who are not acting aggressively in the first place).

It is worth emphasising that if the “establishment and patrolling of the zones was not legal then there can be no justification for the use of force by the US and UK aircraft; they have no right of self-defence if they are illegally violating Iraqi sovereignty over its airspace.”¹⁶

¹³ Mirror newspaper (UK) 20th December 2002. The Secret War on Iraq by John Pilger

¹⁴ <http://www.eucom.mil/Directorates/ECPA/index>.

[Http://www.eucom.mil/directorates/escpa/operations/onw/chronology.%2DO1.htm](http://www.eucom.mil/directorates/escpa/operations/onw/chronology.%2DO1.htm) &2

¹⁵ <http://www.eucom.mil/Directorates/ECPA/index>.

[Http://www.eucom.mil/directorates/escpa/operations/onw/chronology.%2DO1.htm](http://www.eucom.mil/directorates/escpa/operations/onw/chronology.%2DO1.htm) &2

¹⁶ From Unity to Polarization: International Law and the Use of Force against Iraq by Christine Gray.

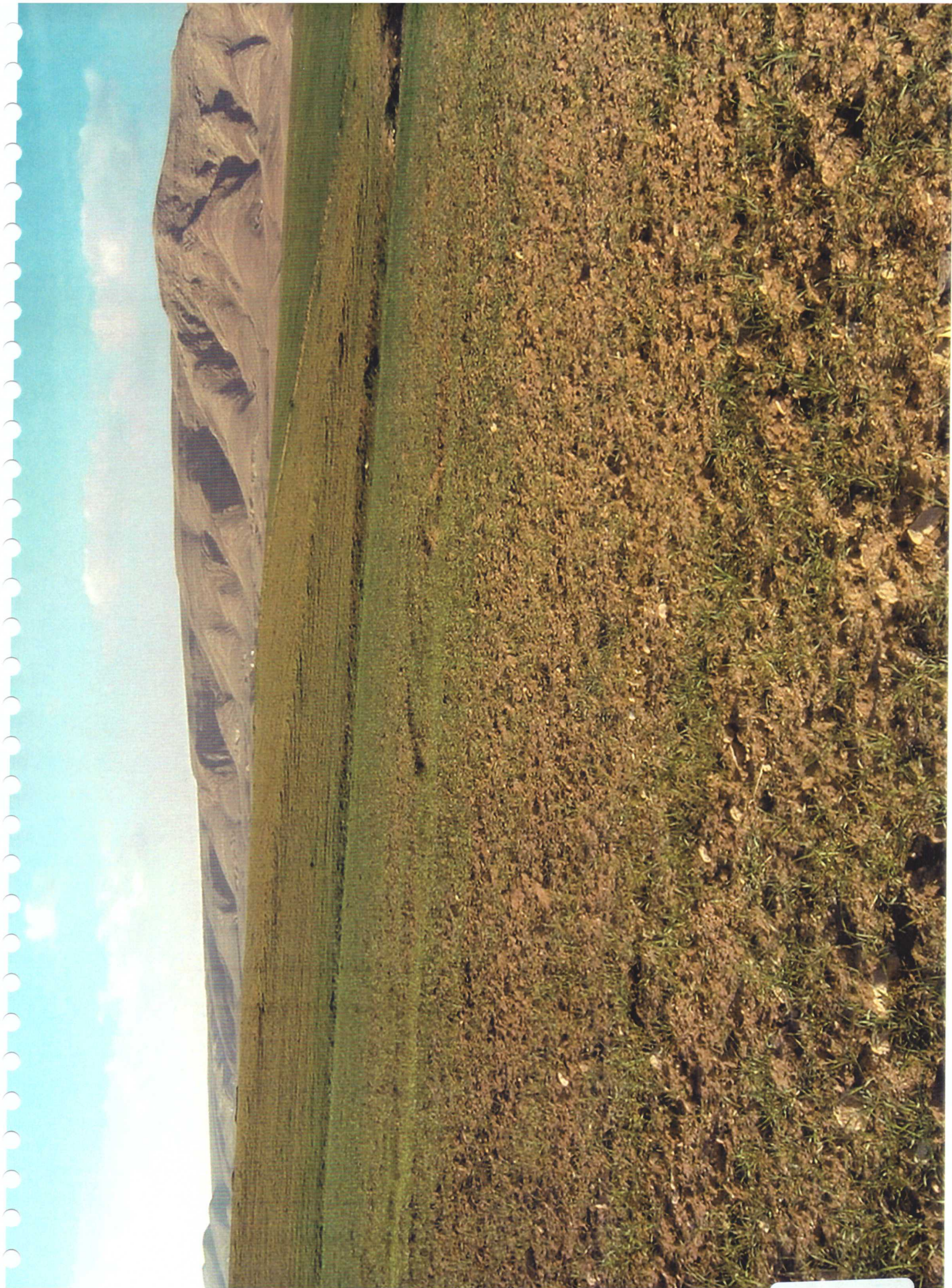
Conclusion

In conclusion therefore, we have sought to establish in this paper, that in present times, whilst efforts in Iraq of those sympathetic to the suffering of innocent civilians are limited by virtue of the prevailing circumstances, this should not deter vigorous activity (in other countries) to expose the plight of those who have suffered at the brutal hands of foreign governments, by exhausting all avenues that remain available – which in this case means attempting to bring the British Government to justice.

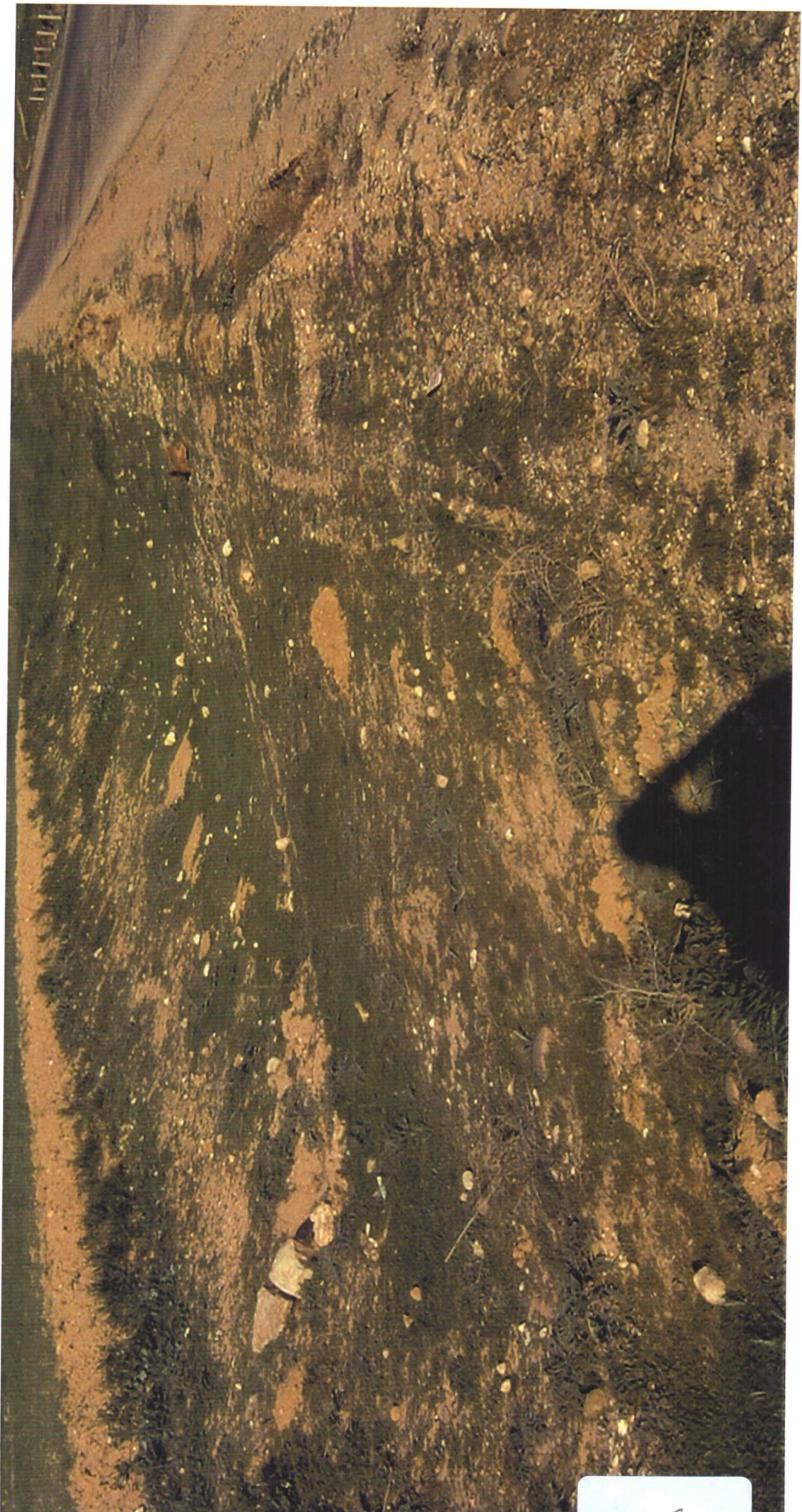


















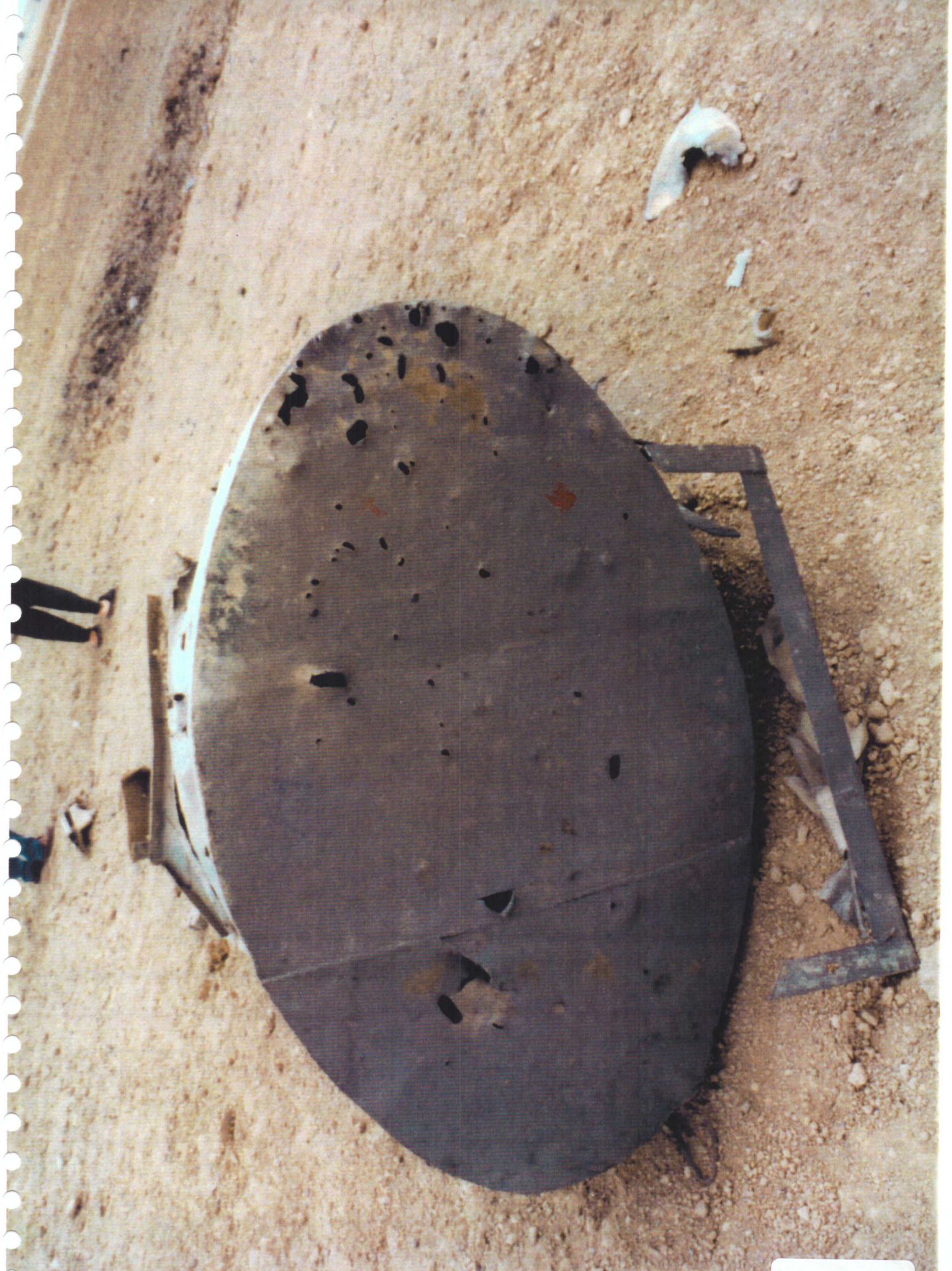












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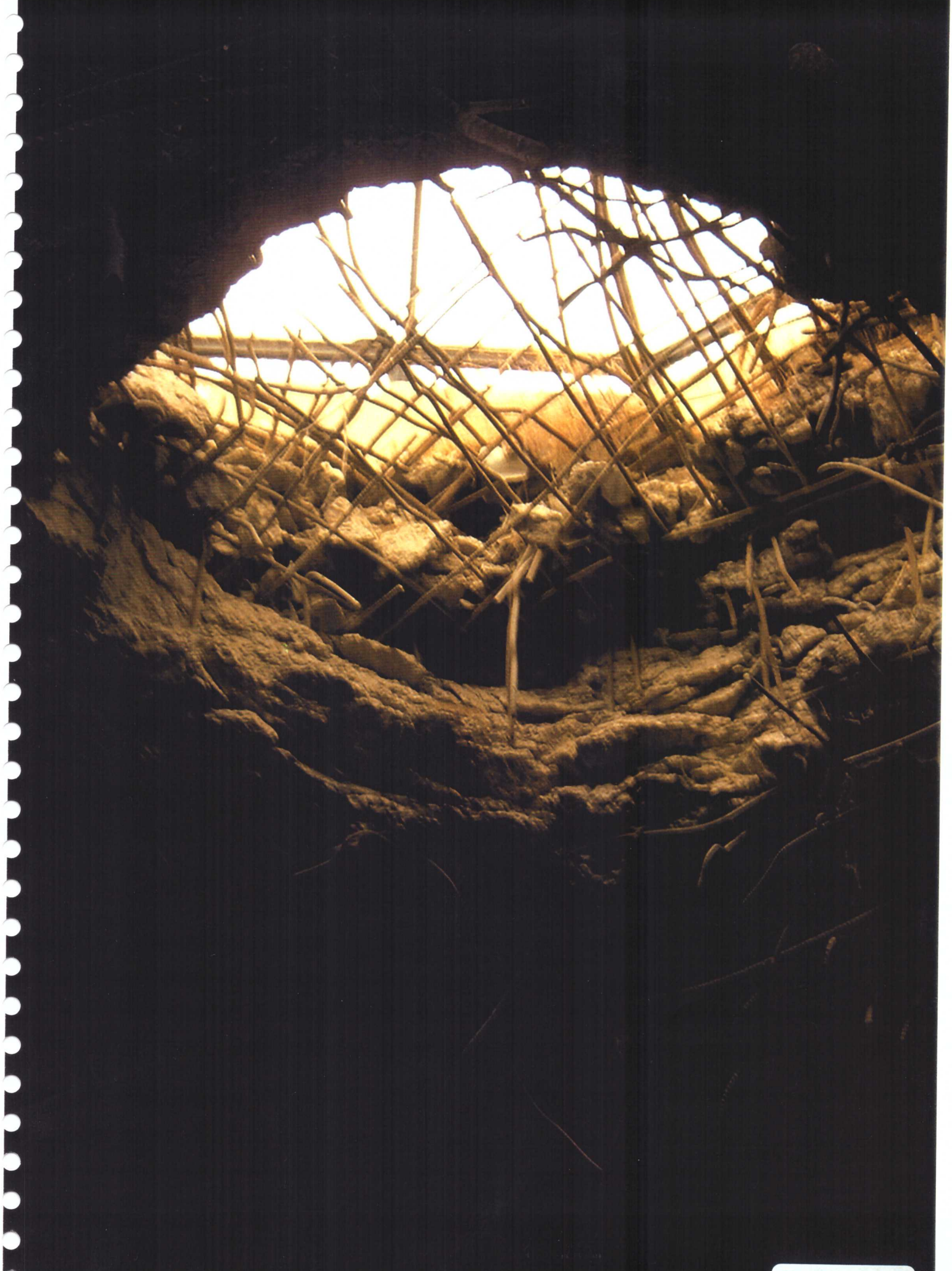


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نقوه ٢٥٠ رأس فخف

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صبيحة راضي رحيم



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نضال محمود موسى



مصطفى عبد الكريم محمد



منار عبد الكريم محمد فتحي



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مالة عبد الكريم محمد















ملجأ النازية... وصمة عار بوجه ادعاء الديمقراطية

Amiriya Shelter A Disgrace to the advocates of democracy