

RESPONSIBLE ARMS SALES: PROMOTING CIVILIAN PROTECTION WITH PARTNER FORCES

“What sets us apart from our enemies... is how we behave.” - General David Petraeus, 2007

In 1991, the US-led coalition in Iraq led a precise and decisive campaign that was described as a new way of war: technologically advanced forces working with networked intelligence and precision weapons. Almost 30 years later, there is now another “new way of war”: working with partner forces. This approach is seen in all the major armed conflicts today: Afghanistan, Syria, Iraq, and Yemen. Countries such as the US and UK have long provided security assistance to a large set of countries, aiming to improve the capacity and proficiency of the recipient nations’ security forces.

However, when a partner is conducting combat operations, that assistance can lead to legal, moral, and/or reputational risks for the assisting state, resulting from humanitarian concerns such as civilian casualties or violations of international humanitarian law (IHL). For example, the US has provided weapons, training, intelligence, and refueling to the Saudi-led coalition in Yemen, while the UN and others have raised concerns about the lack of discrimination and proportionality in airstrikes. This situation has affected the perception of US legitimacy and tarnished its reputation.

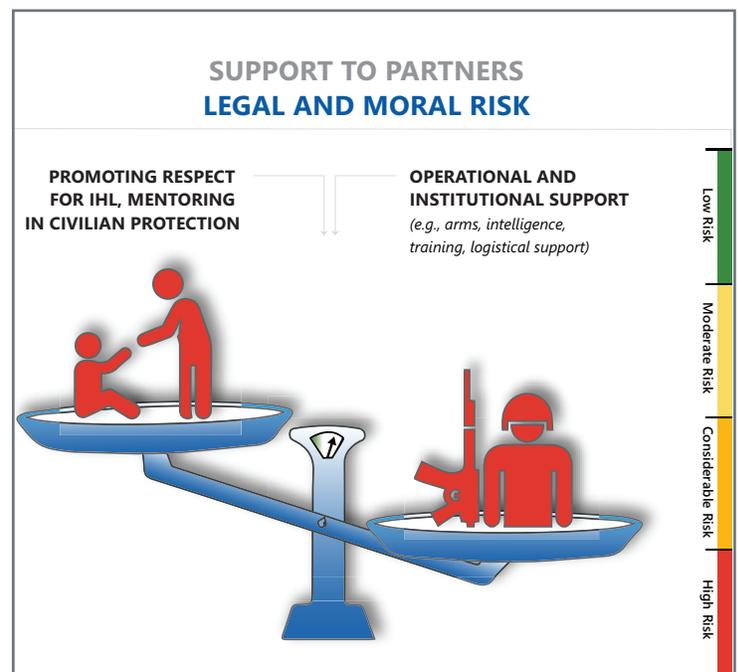
Although the US has had no direct involvement with the coalition’s target selection, its overall support raises questions for the US about legal risks and responsibilities for the coalition’s actions. This is not simply a question of whether the US is a party to the conflict. IHL in Common Article 1 notes that states should ensure respect for IHL by other states. This is generally viewed as an obligation of donors to encourage recipient partners to adhere to IHL and to assess the lawfulness of overall assistance based on the recipient’s compliance or lack thereof.

Besides mitigating risks to the assisting partner, these safeguards can ease tensions at the point of conflict. History shows that poor behavior in conflict can create grievances that fuel further conflict, form barriers of fear and resentment that alienate local communities and increase local support of armed opposition groups. As a result, conflicts may be

exacerbated rather than resolved. For all of these reasons, assisting countries have a policy interest in effectively promoting IHL compliance and civilian protection with their partners in the course of providing security assistance.

But the case of Yemen illustrates how states have not thought through how to manage the risks of partnering. This management effort can be represented as a “scale of risk,” depicted below. There are two ways to mitigate these risks. The first is to decrease the weight on the operational support side of the scale: restricting assistance in targeting, training, refueling, and supplying equipment in the face of potential IHL and civilian-protection concerns. The second is to provide a counterweight on the other side of the scale: increasing involvement with partners to promote respect for IHL and civilian protection. This counterweight can also reduce legal and reputational concerns.

This second option for managing risk differs from the calls by some for absolute curtailment of support of any kind in the face of concerns about the conduct of recipient partners. While it may be prudent to cease all operational support in some cases, in others it may be preferable to continue



support in order to remediate partner shortfalls. This is seen in the analogous case of the Leahy law. Under current US law, some national decisions to conduct security assistance include restrictions based on humanitarian considerations; gross violations of human rights can halt military training to units and even entire nations. At the same time, affected units are still eligible to receive remedial training regarding human rights, with the goal of improving partner behavior. Thus, managing legal and reputational risk from partner operations can include both curtailing security assistance and maintaining assistance that promotes improved partner behavior.

To mitigate risk in the broadest possible manner, **we need to take deliberate steps to ensure our partners have the ability and the tools they need to protect civilians.**

There are three critical elements that should accompany security assistance to better ensure that our training and equipment is used in a manner that limits civilian harm to the maximum degree possible:

1. **Assessment of partner capabilities.** The general capabilities of partner forces differ, and this is true of their ability to mitigate civilian harm. It is essential to tailor support in consideration of their strengths and weaknesses with regards to civilian protection.

2. **Steady-state training and education.** In all cases where security assistance is provided, it should include training, education, and development of doctrine and processes regarding civilian protection. This can include support for developing operational and tactical strategies, procedures, and rules of engagement for civilian harm mitigation, as well as assistance with civilian casualty investigations, tracking, and strategic communications approaches.

3. **Advisory and mentoring support in combat operations.** Once a partner security force enters into a combat role, support can be expanded to include civilian-protection advisors working closely with partners to help them refine their strategies and tactics for protecting civilians. This can also include promoting IHL compliance, tracking and investigating civilian harm, and learning effectively from mistakes to foster improved behavior.

Collectively, these efforts can improve partner conduct, as was seen, albeit temporarily, with US mentoring of the Saudi coalition in their Yemen campaign in early 2016. These efforts also help inform decisions about possibly curtailing operational support to partners when desired behavior is not observed. Overall, this process is a tool for navigating the “scale of risk,” managing the legal, moral, and reputational risks of working with partners in war.

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Dr. Larry Lewis has worked extensively to reduce civilian casualties in military operations, leading multiple studies to determine the causes of civilian casualties and to develop tailored, actionable solutions. This includes his role as lead analyst and coauthor (with Dr. Sarah Sewall) for the Joint Civilian Casualty Study (JCCS), which Gen. David Petraeus described as “the first comprehensive assessment of the problem of civilian protection.” Dr. Lewis contributed to U.S. national policy on civilian casualties and has worked to improve policy and practice to better protect civilians with partners, including the United Nations, Afghanistan, and Saudi Arabia. Dr. Lewis directs the Center for Autonomy and Artificial Intelligence at CNA.

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